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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, October 5, 2010
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Notice of September 16, 2010

Continuation of the National Emergency With Respect to Persons Who Commit, Threaten to Commit, or Support Terrorism

On September 23, 2001, by Executive Order 13224, the President declared a national emergency with respect to persons who commit, threaten to commit, or support terrorism, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). The President took this action to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks on September 11, 2001, in New York and Pennsylvania, and against the Pentagon, and the continuing and immediate threat of further attacks against United States nationals or the United States. Because the actions of persons who commit, threaten to commit, or support terrorism continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on September 23, 2001, and the measures adopted on that date to deal with that emergency, must continue in effect beyond September 23, 2010. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to persons who commit, threaten to commit, or support terrorism.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
September 16, 2010.

[FR Doc. 2010–23557
Filed 9–17–10; 8:45 am]
Billing code 3195–W0–P

Rules and Regulations

Federal Register
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Monday, September 20, 2010

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–FV–10–0029; FV10–930–2 FR]

Tart Cherries Grown in the States of Michigan, et al.; Increased Assessment Rate for the 2010–2011 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Cherry Industry Administrative Board (Board) for the 2010–2011 fiscal period from $0.0066 to $0.0075 per pound of assessable tart cherries. The Board locally administers the marketing order which regulates the handling of tart cherries grown in Michigan, New York, Oregon, Pennsylvania, Utah, Washington, and Wisconsin. Assessments upon tart cherry handlers are used by the Board to fund reasonable and necessary expenses of the program. The 2010–2011 fiscal period year begins October 1, 2010. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* September 21, 2010.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (301) 734–5243, Fax: (301) 734–5275; E-mail: *Kenneth.Johnson@ams.usda.gov*.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, tart cherry handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable tart cherries beginning October 1, 2010, and continue until amended, suspended, or terminated.

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

This rule increases the assessment rate established for the Board for the 2010–2011 and subsequent fiscal periods from $0.0066 to $0.0075 per pound of assessable tart cherries. The 2010–2011 fiscal period begins on October 1, 2010, and ends on September 30, 2011.

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

Authority to fix the rate of assessment to be paid by each handler and for the Board to collect such assessments appears in § 930.41 of the order. That section also provides that each part of an assessment rate intended to cover administrative costs and research and promotional costs be identified. Section 930.48 of the order provides that the Board, with the approval of the USDA, may establish or provide for the establishment of production research, market research and development, and/or promotional activities designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of cherries. The expense of such projects is paid from funds collected pursuant to § 930.41 (Assessments), or from such other funds as approved by the USDA.

For the 2006–2007 fiscal year, the Board recommended, and USDA approved, an assessment rate of $0.0066 per pound of tart cherries handled that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Board or other information available to USDA.

The Board met on January 26, 2010, and recommended 2010–2011 expenditures of $1,665,000 and an assessment rate of $0.0075 per pound of tart cherries. The Board's recommendation was unanimous. In comparison, last year's budgeted expenses were $1,558,900. The Board recommended that the assessment rate be increased to cover increases in administrative expenses. The assessment rate has not been increased

in four years. The current assessment rate to cover administrative costs is $0.0016. The increase will raise the assessment rate for administrative expenses to $0.0025. In addition, a portion of the assessment rate ($0.005 per pound of cherries) will continue to fund the Board's research and promotion program. The total assessment rate for 2010–2011 and beyond will be $0.0075, an increase of approximately 14 percent over the current rate of $0.0066.

The major expenditures recommended by the Board for the 2010–2011 year include $1,150,000 for promotion, $213,000 for personnel, $109,000 for compliance, $102,000 for office expenses, $86,000 for Board meetings, and $5,000 for industry educational efforts. Budgeted expenses for major items in 2009–2010 were $1,150,000 for promotion, $175,900 for personnel, $92,800 for Board meetings, $44,200 for compliance, $58,400 for office expenses, and $2,500 for industry educational efforts, respectively.

In deriving the recommended assessment rate, the Board estimated assessable tart cherry production for the fiscal period at 230 million pounds. Therefore, total assessment income for 2010–2011 is estimated at $1,725,000 (230 million pounds × $0.0075). This will be adequate to cover budgeted expenses. Any excess funds will be placed in the financial reserve, which is estimated to be $267,000, well within the approximately six months' operating expenses as required by § 930.42(a).

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

Although the assessment rate will be effective for an indefinite period, the Board will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Board's 2010–2011 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the USDA.

Final Regulatory Flexibility Analysis

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

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

There are approximately 40 handlers of tart cherries who are subject to regulation under the tart cherry marketing order and approximately 600 producers of tart cherries in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. A majority of the producers and handlers are considered small entities under SBA's standards.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. During the period 1997/98 through 2008/09, approximately 96 percent of the U.S. tart cherry crop, or 244.4 million pounds, was processed annually. Of the 244.4 million pounds of tart cherries processed, 61 percent was frozen, 27 percent was canned, and 12 percent was utilized for juice and other products.

Based on National Agricultural Statistics Service data, acreage in the United States devoted to tart cherry production has been trending downward. Bearing acreage has declined from a high of 50,050 acres in 1987/88 to 34,650 acres in 2008/09. This represents a 31 percent decrease in total bearing acres. Michigan leads the nation in tart cherry acreage with 70 percent of the total and produces about 75 percent of the U.S. tart cherry crop each year.

This rule increases the assessment rate established for the Board for the 2010–2011 and subsequent fiscal periods from $0.0066 to $0.0075 per pound of assessable tart cherries. The 2010–2011 fiscal period begins on October 1, 2010, and ends on September 30, 2011.

The Board discussed continuing the existing assessment rate, but concluded that the rate needed to be increased in order to meet recommended expenses. The assessment rate has not been increased for four years.

A review of preliminary information pertaining to the upcoming fiscal period indicates that the grower price for tart cherries for the 2010–2011 season could range between $0.15 and $0.20 per pound. Therefore, the estimated assessment revenue for the 2010–2011 fiscal period is expected to range between 3.75 and 5 percent of grower revenue.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This rule will impose no additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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

A proposed rule concerning this action was published in the **Federal Register** on May 27, 2010 (75 FR 29684). Copies of the proposed rule were also mailed or sent via facsimile to all tart cherry handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the **Federal Register**. A 60-day comment period ending July 26, 2010, was provided for interested persons to respond to the proposal. No comments were received.

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 2010–2011 fiscal period begins October 1, 2010, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable tart cherries handled during such fiscal period and the Board incurs expenses on a continuing basis. Further, handlers are aware of this action which was unanimously recommended by the Board at a public meeting. Also, a 60-day comment period was provided for the proposed rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

■ 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 930.200 is revised to read as follows:

§ 930.200 Assessment rate.

On and after October 1, 2010, the assessment rate imposed on handlers shall be $0.0075 per pound of tart cherries grown in the production area and utilized in the production of tart cherry products. Included in this rate is $0.005 per pound of cherries to cover the cost of the research and promotion program and $0.0025 per pound of cherries to cover administrative expenses.

Dated: September 13, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–23336 Filed 9–17–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[Docket No. TD–9497]

RIN 1545–BI97

Guidance Regarding Deferred Discharge of Indebtedness Income of Corporations and Deferred Original Issue Discount Deductions

Correction

In rule document 2010–20060 beginning on page 49394 in the issue of Friday, August 13, 2010 make the following corrections:

1. On page 49397, in the third column, the heading should read "2. Exception for Distributions and Charitable Contributions Consistent with Historical Practice —In General".

2. On page 49400, in the third column, in the second full paragraph, in line six "occurring prior to August 11, 2010 by taking a return position consistent with these provisions" should read "occurring prior to August 11, 2010, by taking a return position consistent with these provisions".

§1.108(i)–0T [Corrected]

3. On page 49402, in the second column, (b)(2)(i), on the fifth line, "2010 However, an electing corporation " should read "2010. However, an electing corporation".

§1.108(i)–1T [Corrected]

4. On page 49403, in the first column, (b)(2)(B)(*iv*), in line six "deemed dividend all the earnings and" should read "deemed dividend the all earnings and".

[FR Doc. C1–2010–20060 Filed 9–17–10; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

32 CFR Part 1701

Privacy Act Systems of Records

AGENCY: Office of the Director of National Intelligence.

ACTION: Final rule.

SUMMARY: The Office of the Director of National Intelligence (ODNI) is issuing a final rule exempting fourteen (14) new systems of records from subsections (c)(3); (d)(1), (2), (3), (4); (e)(1) and (e)(4)(G), (H), (I); and (f) of the Privacy Act, pursuant to 5 U.S.C. 552a(k). The ODNI published a notice and a proposed rule implementing these exemptions on April 2, 2010. The enumerated exemptions will be invoked on a case-by-case basis, as necessary to preclude interference with investigatory, intelligence and counterterrorism functions and responsibilities of the ODNI. This document addresses comments received regarding the proposed rule as applied to the fourteen new systems of records.

DATES: This final rule is effective September 20, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Hackett, Director, Information Management, 703–275–2215.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 2010, the Office of the Director of National Intelligence (ODNI) published notice of fourteen new Privacy Act systems of records: Manuscript, Presentation and Resume Review Records (ODNI–01), Executive Secretary Action Management System Records (ODNI–02), Public Affairs Office Records (ODNI–03), Office of Legislative Affairs Records (ODNI–04), ODNI Guest Speaker Records (ODNI–05), Office of General Counsel Records (ODNI–06), Analytic Resources Catalog (ODNI–07), Intelligence Community Customer Registry Records, (ODNI–09), EEO and Diversity Office Records (ODNI–10), Office of Protocol Records (ODNI–11), IC Security Clearance and Access Approval Repository (ODNI–12), Security Clearance Reform Research Records (ODNI–13), Civil Liberties and Privacy Office Complaint Records (ODNI–14), National Intelligence Council Consultation Records (ODNI–15). These systems of records contain records that range from Unclassified to Top Secret. Accordingly, in conjunction with publication of these systems notices, the ODNI initiated a rulemaking to exempt the systems, in relevant part, from various provisions of the Privacy

Act (enumerated above), pursuant to exemption authority afforded the head of the agency by subsection (j) of the Privacy Act. The systems notices and proposed exemption rule are published at 75 FR 16853 and 16698.

Public Comments

The ODNI received comments on its proposed rule and notice of fourteen systems of records from the Electronic Privacy Information Center (EPIC). EPIC's concerns and ODNI's responses are set forth below. The full text of EPIC's comments are posted at that organization's Web site, *http://www.EPIC.org*. In general, EPIC questions the appropriateness of the ODNI's proposal on national security grounds to exempt these systems of records from various provisions of the Privacy Act that embody fundamental tenets of information privacy.

In light of EPIC's comments, the ODNI re-examined the systems notices, the nature of the records maintained, and the exemptions proposed. ODNI is sensitive to EPIC's view that the fourteen new system notices on their face do not obviously implicate intelligence equities, including the counterterrorism mission of one of ODNI's major components, the National Counterterrorism Center (NCTC). However we conclude that EPIC has not considered the possible inclusion of classified records in these systems, which the exemptions invoked are intended to protect.

ODNI has determined that the comments received do not warrant changing the proposed exemptions or systems notices prior to implementation. Read in conjunction with the ODNI's Exemption Policies, as set forth in section 1701.20 of the ODNI's Privacy Act Regulations, published at 32 CFR part 1701, the fourteen new systems notices reflect that ODNI seeks to serve, whenever feasible, the dual imperatives of maximizing individual record subjects' participation in maintenance of the records and of protecting important intelligence equities.

Detailed Response

EPIC's comments reflect concern about ODNI's action to exempt the new systems of records from the accounting, access, amendment, redress and accuracy provisions of the Privacy Act, as well as from the requirements to establish and make public the procedures by which individuals may seek access to records about themselves. EPIC observes that the referenced provisions of the Privacy Act fulfill the important objective of promoting accountability, responsibility, oversight and openness with respect to the federal government's maintenance of personal information. The ODNI also supports fair information principles and, as a matter of published policy, honors these principles to the full extent circumstances permit.

ODNI maintains that its proposed rule is consistent with privacy principles for the following reasons:

1. ODNI policy is to apply exemptions narrowly.

EPIC's main concern is that ODNI will rely on the stated exemptions to exempt apparently non-sensitive records on a blanket basis, thus denying record subjects important provisions of the Privacy Act.

On initial review, and as confirmed on re-examination, we have determined that these systems of records may contain sensitive records. Therefore, in practice, claiming the exemption is a prophylactic measure enabling the ODNI to protect intelligence equities (e.g., sources, methods, subjects of intelligence interest) when national security considerations dictate. However, record subjects will still be able to obtain access to non-sensitive records. Each published system notice expansively describes notification procedures, record access procedures, contesting record procedures and record source categories. In addition, each systems notice references the ODNI Privacy Act Regulation, which also fully describes these procedures. 32 CFR Part 1701.

Published ODNI policy on exercising exemptions provides that an asserted exemption applies only to records that meet the exemption criteria, and that, even then, discretion is retained to supersede the exemption where complying with a request for access would not interfere with or adversely affect a counterterrorism or law enforcement interest, or otherwise violate applicable law.[1]

The ODNI Office of Information Management (IM) conducts access/disclosure reviews under the Privacy Act and the Freedom of Information Act, as well as pre-publication review pursuant to IC elements' secrecy agreements. IM personnel are trained classification specialists who conduct detailed reviews to ensure record subject/requester access to information in accordance with this policy and fair information principles, to include an accounting of disclosures under subsection (c)(3).

The systems notices, read in conjunction with the Privacy Act regulation, show that ODNI intends to provide record subjects access to records about them to the extent feasible on a case-by-case basis, and not to rely on a blanket assertion of an exemption to preclude access.

2. Material may be classified for national security reasons pursuant to Executive Order.

As noted, the fourteen new system notices potentially include records specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy or that are in fact properly classified pursuant to such Executive order. Such records are exempt from the operation of Section 552 of Title 5 of the United States Code, see 5 U.S.C. 552(b)(1), and subsection (k)(1) of the Privacy Act specifically contemplates exemption under this circumstance.

EPIC cites the Public Affairs Office Records, the Executive Secretary Action Management System Records and the Civil Liberties and Privacy Office Complaint Records as examples of ODNI's excessive use of exemption authority. Our review has determined that each of these systems of records, as well as the other eleven, could contain classified records retrieved by a record subject's name or unique identifier.

The exemption permits ODNI to protect access to the classified material and thereby prevent compromise of sensitive national security-related information. ODNI policy would be to provide the record subject access to the entirety of non-classified records (subject to the "mosaic" analysis),[2] as well as to portions of classified records that, upon line-by-line review, have been determined not to implicate national security interests.

3. No per se exclusion from redress.

EPIC comments that ODNI inappropriately seeks to bar record subjects from challenging denial of an access request. The Privacy Act, subsection (g)(1)(B), does not permit agencies to exempt themselves from access challenges; ODNI agrees that

[1] *See* § 1701.20 of ODNI's Privacy Act Regulation (32 CFR).

Additionally, in its Notice to Establish Systems of Records (75 FR 16853, April 2, 2010), ODNI indicated in the Supplementary Information section of the Notice that it would apply the exemption only as specifically necessary, and not as a blanket exclusion: "To protect classified and sensitive personnel or law enforcement information contained in these systems, the Director of National Intelligence is proposing to exempt these systems of records from certain portions of the Privacy Act where necessary, as permitted by law."

[2] Non-classified data points that, taken together, create a mosaic disclosing a matter properly classifiable under an Executive Order would be withheld from access.

precluding individuals from challenging the basis of a denial to a request for access to information would violate information fairness principles. Subsection (g)(3)(A) of the Privacy Act provides for de novo review of such denial, including in camera examination of records to ensure consistency with the claimed basis for exemption from access, i.e., that the records reflect a national security interest subject to classification under Executive order, or that access would disclose to the subject the identity of a confidential source of information in the record (judgments contemplated by subsections (k)(1), (2) and (5) of the Act). ODNI does not seek to deny record subjects the basic right to challenge access determinations.

However, EPIC's position that ODNI should afford redress for all amendment denials demands the impractical result of requiring the agency to permit "correction" of records to which it properly has denied the subject access based on expert judgments regarding national security or witness/source identification. This practice would afford individuals "back-door" access to records via amendment challenges. Accordingly, ODNI will narrowly construe the proposed exemption from redress to apply only to denials to amend exempt records (i.e., records that are classified, or determined to be not disclosable under other provisions of subsection (k)).

4. ODNI does not use these systems of records for decision-making about record subjects.

EPIC articulates a concern that subjects' inability to access and amend exempt records undermines the fundamental principle (under subsection (e)(5) of the Privacy Act) that records used in making agency determinations about record subjects must be sufficiently accurate, relevant, timely and complete to ensure fairness to the individual.

ODNI does not in fact propose to exempt its fourteen new SORNs from the (e)(5) requirement. Indeed, subsection (k) of the Privacy Act does not permit exemption from subsection (e)(5).[3] Additionally, records maintained in these systems are not used in personalized agency determinations of the kind for which access and amendment rights are intended to ensure data accuracy and relevance. With the possible exception of the Civil Liberties and Privacy Office Complaint Records, the Equal Employment Opportunity and Diversity Office Records and the Office of General Counsel records, the recently published notices reflect agency internal administrative functions, but not activities "affecting the rights, benefits, entitlements or opportunities (including employment) of the individual)."[4] By and large, the systems at issue permit the agency to track communications and external relations using the record subjects' name as an easy "handle." They are record-keeping files, not decision-making files. Where claims are involved (civil liberties/privacy, disability accommodations, or actions against the agency), it is the record subject who determines what facts to report in the first instance, obviating his/her need for a check on accuracy. Nonetheless, the claimant/litigant would receive all official administrative or court filings, and obtain access to other non-exempt records in the pertinent system.

5. "Necessary and relevant" is a fluid standard, properly subject to exemption.

The provision from which ODNI does seek exemption is (e)(1): "Maintain [in agency] records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President." The purposes which these systems serve are authorized by the National Security Act of 1947 as amended by the Intelligence Reform and Terrorism Prevention Act of 2004, and generally reflect routine agency functions. Because of the transactional nature of most of these systems, relevance is a function of happenstance, i.e., whatever communication is received or transmitted, and can not be determined once and for all time. The information collected will not likely be the same for every individual who is the subject of a record in the system. With respect to claims requiring investigation (e.g., Civil Liberties/Privacy complaints) relevance often can not be determined until all materials have been collected and analyzed. Moreover, because these systems of records generally are house-keeping-type files, and not likely to be disclosed outside the agency or serve for decision-making purposes, the importance of "relevance" as a data quality criterion is diminished.

6. Exemptions do not curtail subjects' access to complaint status or disposition.

EPIC is especially troubled by ODNI's proposal to exempt the Civil Liberties and Privacy Office Complaint Records (alleging violations of civil liberties or privacy arising from an ODNI or IC program or activity), and argues that:

> [A]n individual who submitted a complaint would not be able to view any records pertaining to his complaint, such as records of review, investigation, or acknowledgement or disposition of allegations received. A complainant would be left without any means to inquire about the status of his complaint or to help facilitate the resolution of his complaint.

EPIC posits that, by virtue merely of their being maintained in the exempt system, all records would be shielded from the subject's access, including the agency's acknowledgment of receipt of the complaint and any disposition of the complaint. However, complainants routinely receive acknowledgement of receipt of their complaints, a copy of which is maintained as part of the complainants' official records in the noticed Privacy Act system of records. Similarly, complainants receive notice of resolution or disposition of their cases, with as much specificity as is feasible under the circumstances. The Civil Liberties and Privacy Office articulates in writing why the allegation is, or is not, sustained by the facts as presented by the complainant and as investigated by the agency, and what the ODNI's follow-on action may be (for example, remedying a flaw or gap in agency process that the complaint has brought to light). The written disposition is also maintained as part of the official record in the noticed Privacy Act system of records. ODNI would provide access to these acknowledgement and disposition records at the complainant's request. The complainant would obtain access to other portions of the complaint file as well, to the extent they do not implicate national security interests, and do not reveal the identity of individuals providing statements or information to the investigation pursuant to assurances of confidentiality.

ODNI believes that current policies address EPIC's concern that "the complainant is left without any means to inquire about the status of his complaint." Complainants may at any time amend their statements, provide additional facts or seek explanation about the operative law, regulation or policy allegedly violated. Indeed, the exemption framework does not preclude a complainant from inquiring about, or learning of, the status of his complaint. Nor does it preclude the ODNI from seeking additional input from claimants.

[3] Subsection (k) states that the head of any agency may promulgate rules to exempt any system of records with the agency from subsection (c)(3). (d). (e)(1), (e)(4)(G)(H), and (I) and (f) of that section.

[4] Office of Management and Budget, Privacy Act Implementation, Guidelines and Responsibilities, Standards of Accuracy, Subsection (e)(5), 40 FR 28948, 28964 (July 9, 1975).

Final Rule: Implementation of Exemption Rule and Systems Notices

After consideration of the public comments, the ODNI has determined to issue the proposed exemption rule in final form and to implement the fourteen new systems of records without change. The exemptions proposed for the fourteen noticed systems of records are necessary and appropriate to protect intelligence equities undergirding ODNI's mission and functions and narrowly applied, they do so consistent with privacy principles. By restrictively construing the exemptions to apply only to records that satisfy thresholds articulated in subsection (k), ODNI achieves the goal of balancing intelligence-related equities with fair information principles and values.

Regulatory Flexibility Act

This rule affects only the manner in which ODNI collects and maintains information about individuals. ODNI certifies that this rulemaking does not impact small entities and that analysis under the Regulatory flexibility Act, 5 U.S.C. 601–612, is not required.

Small Entity Inquiries

The Small Business Regulatory enforcement Fairness Act (SBREFA) of 1996 requires the ODNI to comply with small entity requests for information and advice about compliance with statutes and regulations within the ODNI jurisdiction. Any small entity that has a question regarding this document may address it to the information contact listed above. Further information regarding SBREFA is available on the Small Business Administration's web page at *http://www.sba.gov/advo/laws/law-lib.html.*

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 944 U.S.C. 3507(d)) requires that the ODNI consider the impact of paperwork and other burdens imposed on the public associated with the collection of information. There are no information collection requirements associated with this rule and therefore no analysis of burden is required.

Executive Order 12866, Regulatory Planning and Review

This rule is not a "significant regulatory action," within the meaning of Executive Order 12866. This rule will not adversely affect the economy or a sector of the economy in a material way; will not create inconsistency with or interfere with other agency action; will not materially alter the budgetary impact of entitlements, grants, fees or loans or the right and obligations of recipients thereof; or raise legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order. Accordingly, further regulatory evaluation is not required.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995), requires Federal agencies to assess the effects of certain regulatory actions on State, local and tribal governments, and the private sector. This rule imposes no Federal mandate on any State, local or tribal government or on the private sector. Accordingly, no UMRA analysis of economic and regulatory alternatives is required.

Executive Order 13132, Federalism

Executive Order 13132 requires agencies to examine the implications for the distribution of power and responsibilities among the various levels of government resulting from their rules. ODNI concludes that this rule does not affect the rights, roles and responsibilities of the States, involves no preemption of State law and does not limit state policymaking discretion. This rule has no federalism implications as defined by the Executive Order.

Environmental Impact

This rulemaking will not have a significant effect on the human environment under the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4347.

Energy Impact

This rulemaking is not a major regulatory action under the provisions of the Energy Policy and Conservation Act (EPCA), Public Law 94–163) as amended, 42 U.S.C. 6362.

List of Subjects in 32 CFR Part 1701

Records and Privacy Act.

■ For the reasons set forth above, ODNI amends 32 CFR part 1701 as follows:

PART 1701—ADMINISTRATION OF RECORDS UNDER THE PRIVACY ACT OF 1974

■ 1. The authority citation for part 1701 continues to read as follows:

Authority: 50 U.S.C. 401–442; 5 U.S.C. 552a.

Subpart B—[AMENDED]

■ 2. Add § 1701.24 to subpart B to read as follows:

§ 1701.24 Exemption of Office of the Director of National Intelligence (ODNI) systems of records.

(a) The ODNI exempts the following systems of records from the requirements of subsections (c)(3); (d)(1),(2),(3) and (4); (e)(1); (e)(4)(G),(H),(I); and (f) of the Privacy Act to the extent that information in the system is subject to exemption pursuant subsections (k)(1), (k)(2) or (k)(5) of the Act as noted in the individual systems notices:

(1) Manuscript, Presentation and Resume Review Records (ODNI–01).

(2) Executive Secretary Action Management System Records (ODNI–02).

(3) Public Affairs Office Records (ODNI–03).

(4) Office of Legislative Affairs Records (ODNI–04).

(5) ODNI Guest Speaker Records (ODNI–05).

(6) Office of General Counsel Records (ODNI–06).

(7) Analytic Resources Catalog (ODNI–07).

(8) Intelligence Community Customer Registry (ODNI–09).

(9) EEO and Diversity Office Records (ODNI–10).

(10) Office of Protocol Records (ODNI–11).

(11) IC Security Clearance and Access Approval Repository (ODNI–12).

(12) Security Clearance Reform Research Records (ODNI–13).

(13) Civil Liberties and Privacy Office Complaint Records (ODNI–14).

(14) National Intelligence Council Records (ODNI–15).

(b) Exemption of records in theses systems from any or all of the enumerated requirements may be necessary for the following reasons:

(1) From subsection (c)(3) (accounting of disclosures) because an accounting of disclosures from records concerning the record subject would specifically reveal an intelligence or investigative interest on the part of the ODNI or recipient agency and could result in release of properly classified national security or foreign policy information.

(2) From subsections (d)(1), (2), (3) and (4) (record subject's right to access and amend records) because affording access and amendment rights could alert the record subject to the investigative interest of intelligence or law enforcement agencies or compromise sensitive information classified in the interest of national security. In the absence of a national security basis for exemption, records in this system may be exempted from access and amendment to the extent necessary to honor promises of

confidentiality to persons providing information concerning a candidate for position. Inability to maintain such confidentiality would restrict the free flow of information vital to a determination of a candidate's qualifications and suitability.

(3) From subsection (e)(1) (maintain only relevant and necessary records) because it is not always possible to establish relevance and necessity before all information is considered and evaluated in relation to an intelligence concern. In the absence of a national security basis for exemption under subsection (k)(1), records in this system may be exempted from the relevance requirement pursuant to subsection (k)(5) because it is not possible to determine in advance what exact information may assist in determining the qualifications and suitability of a candidate for position. Seemingly irrelevant details, when combined with other data, can provide a useful composite for determining whether a candidate should be appointed.

(4) From subsections (e)(4)(G) and (H) (publication of procedures for notifying subjects of the existence of records about them and how they may access records and contest contents) because the system is exempted from subsection (d) provisions regarding access and amendment, and from the subsection (f) requirement to promulgate agency rules. Nevertheless, the ODNI has published notice concerning notification, access, and contest procedures because it may in certain circumstances determine it appropriate to provide subjects access to all or a portion of the records about them in a system of records.

(5) From subsection (e)(4)(I) (identifying sources of records in the system of records) because identifying sources could result in disclosure of properly classified national defense or foreign policy information, intelligence sources and methods, and investigatory techniques and procedures. Notwithstanding its proposed exemption from this requirement, ODNI identifies record sources in broad categories sufficient to provide general notice of the origins of the information it maintains in its systems of records.

(6) From subsection (f) (agency rules for notifying subjects to the existence of records about them, for accessing and amending records, and for assessing fees) because the system is exempt from subsection (d) provisions regarding access and amendment of records by record subjects. Nevertheless, the ODNI has published agency rules concerning notification of a subject in response to his request if any system of records named by the subject contains a record pertaining to him and procedures by which the subject may access or amend the records. Notwithstanding exemption, the ODNI may determine it appropriate to satisfy a record subject's access request.

Dated: September 10, 2010.

John F. Kimmons,

Lieutenant General, USA, Director of the Intelligence Staff.

[FR Doc. 2010–23320 Filed 9–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0842]

RIN 1625–AA00

Safety Zone; CLS Fall Championship Hydroplane Race, Lake Sammamish, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Lake Sammamish, WA for the Composite Laminate Specialties (CLS) Fall Championship Hydroplane Race. This action is necessary to ensure public safety from the intrinsic dangers associated with high-speed races while ensuring unencumbered access for rescue personnel in the event of an emergency. During the enforcement period, no person or vessel will be allowed to enter the safety zone without the permission of the Captain of the Port or Designated Representative.

DATES: This rule is effective from 9 a.m. on October 1, 2010, through 7 p.m. on October 3, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0842 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0842 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 Ashley M. Wanzer, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206–217–6175, e-mail *SectorSeattleWWM@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 to do so would be impracticable since the Hydroplane Races would be over by the time the notice could be published and comments taken.

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 cause a safety hazard to the public.

Basis and Purpose

This temporary safety zone is necessary to ensure the safety of participants, vessels and spectators from hazards associated with high-speed hydroplane races. Hydroplane races have the potential to result in serious injuries or fatalities. This rule is intended to restrict vessels, vessel operators, and swimmers from entering the designated hydroplane race area during times of enforcement of this zone.

Discussion of Rule

Hydroplane races pose significant risks to participants, spectators and the boating public because of the large number of spectators, and vessel congestion occurring in the vicinity of the hydroplane race course. This rule establishes a safety zone on Lake Sammamish, WA encompassed by all waters south to land from a line starting at 47° 33.810′ N. 122° 04.810′ W. then east to 47° 33.810′ N. 122° 03.674′ W. This temporary safety zone is necessary

to ensure the safety of participants, spectators and vessels from hazards associated with high-speed hydroplane races. The rule will be enforced from 9 a.m. through 7 p.m. on each day from October 1 through October 4, 2010.

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. This rule is not a significant regulatory action because it is short in duration and minimal in size.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the affected portion of Lake Sammamish during times of enforcement of this safety zone. This rule will not have a significant effect or economic impact on those small entities because this safety zone is located in a remote area with low vessel traffic, is short in duration and limited in size.

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. This rule involves the establishment of a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–162 to read as follows:

§ 165.T13–162 Safety Zone; Composite Laminate Specialties Fall Championship Hydroplane Race, Lake Sammamish, WA

(a) *Location.* All waters encompassed on the waters of Lake Sammamish, WA, south to land from a line starting at 47° 33.810′ N 122° 04.810′ W then east to 47° 33.810′ N 122° 03.674′ W.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel operator may enter or remain in the safety zone without the permission of the Captain of the Port or Designated Representative. The Captain of the Port may be assisted by other federal, state, or local agencies with the enforcement of the safety zone.

(c) *Authorization.* All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or Designated Representative by contacting the on-scene patrol craft. Vessel operators granted permission to enter the zone will be escorted by the on-scene patrol craft until they are outside of the safety zone.

(d) *Enforcement Period.* This rule is effective from 9 a.m. to 7 p.m. on October 1 through October 3, 2010, unless canceled sooner by the Captain of the Port, Puget Sound.

Dated: September 2, 2010.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2010–23358 Filed 9–17–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2009–922; FRL–8839–7]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 25 chemical substances which were the subject of premanufacture notices (PMNs). One of these chemical substances is subject to a TSCA section 5(e) consent order issued by EPA. This action requires persons who intend to manufacture, import, or process any of these 25 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This rule is effective on November 19, 2010. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on October 4, 2010.

Written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs must be received on or before October 20, 2010 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**).

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2009–922, by one of the following methods:

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

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Hand Delivery*: OPPT Document Control Office (DCO), EPA East, Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2009–922. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2009–922. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in

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

FOR FURTHER INFORMATION CONTACT: *For technical information contact*: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; e-mail address: *moss.kenneth@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after October 20, 2010 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

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

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

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

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

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

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

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

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

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

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

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

II. Background

A. What Action is the Agency Taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

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

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

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees

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

Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611 (b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

III. Significant New Use Determination

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

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

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

To determine what would constitute a significant new use for the 25 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to this Rule

EPA is establishing significant new use and recordkeeping requirements for 25 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- CAS number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) consent order or, for non-section 5(e) SNURs, the basis for the SNUR (i.e., SNURs without TSCA section 5(e) consent orders).
- Toxicity concerns.
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VIII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of this rule specifies the activities designated as significant new uses. Certain new uses, including production volume limits (i.e., limits on manufacture and importation volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

This rule includes one PMN substance (P–04–269) that is subject to a "risk-based" consent order under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that activities associated with the PMN substance may present unreasonable risk to human health and the environment. The consent order requires protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The so-called "5(e) SNUR" on this PMN substance is promulgated pursuant to § 721.160, and is based on and consistent with the provisions in the underlying consent order. The 5(e) SNUR designates as a "significant new use" the absence of the protective measures required in the corresponding consent order.

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) consent order usually requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) consent orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose § 721.30 requests to use the NCELs approach for SNURs are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) consent order for the same chemical substance.

This rule also includes SNURs on 24 PMN substances that are not subject to consent orders under TSCA section 5(e). In these cases, for a variety of reasons, EPA did not find that the use scenario described in the PMN triggered the determinations set forth under TSCA section 5(e). However, EPA does believe that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a "significant new use." These so-called "non-5(e) SNURs" are promulgated pursuant to § 721.170. EPA has determined that every activity designated as a "significant new use" in all non-5(e) SNURs issued under § 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities, "(i) are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental

concerns identified" for the PMN substance.

PMN Number P–04–269

Chemical name: Cobalt lithium manganese nickel oxide.

CAS number: 182442–95–1.

Effective date of TSCA section 5(e) consent order: May 12, 2009.

Basis for TSCA section 5(e) consent order: The PMN states that the substance will be used as a battery cathode material. The order was issued under sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) of TSCA based on findings that this substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires use of dermal personal protective equipment, including gloves demonstrated to be impervious, use of respiratory personal protective equipment, including a National Institute of Occupational Safety and Health (NIOSH)-approved respirator with an assigned protection factor (APF) of at least 150 or compliance with a NCEL of 0.1 mg/m^3 as an 8–hour time-weighted average, establishment of a hazard communication program, and prohibits releases to water. The SNUR designates as a "significant new use" the absence of these protective measures.

Toxicity concern: Based on test data on nickel, lithium and cobalt, EPA has concerns for developmental toxicity, mutagenicity, oncogenicity, pulmonary oncogenicity, and lung overload for workers with inhalation and dermal exposure to the PMN substance. EPA set the NCEL at 0.1 mg/m^3 as an 8–hour time-weighted average. In addition, based on test data on analogous nickel containing compounds, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 part per billion (ppb) of the PMN substance in surface waters.

Recommended testing: EPA has determined that the results of the following tests would help characterize the human health and environmental effects of the PMN substance: A 90–day inhalation toxicity test (OPPTS Test Guideline 870.3465); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400). All aquatic toxicity testing should be performed using the static method with measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results. The order does not require submission of the aforementioned information at any specified time or production volume. However, the order's restrictions on manufacturing, import, processing, distribution in commerce, use, and disposal of the PMN substance will remain in effect until the order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10201.

PMN Number P–08–701

Chemical name: Benzoic acid, 4-chloro-2- [(substituted)azo]-, strontium salt (1:1) (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a pigment for plastics. Based on test data on analogous substances, EPA has concerns for oncogenicity, developmental toxicity, and blood and spleen effects from exposure to the azo reduction products of the PMN substance via inhalation. Since significant worker exposure is unlikely for the uses described in the PMN, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as described in the PMN may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).

Recommended testing: EPA has determined that results from the following tests would help characterize the human health effects of the PMN substance: A bacterial reverse mutation test (OPPTS Test Guideline 870.5100) with prival modification, and an unscheduled DNA synthesis in mammalian cells in culture test (OPPTS Test Guideline 870.5550) for the azo reduction product of the PMN substance. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10202.

PMN Number P–08–742

Chemical name: Phosphonium, tetrabutyl-, hydroxide (1:1).

CAS number: 14518–69–5.

Basis for action: The PMN states that the substance will be used as a chemical intermediate for manufacturing tetrabutylphosphonium salt, as an export for industrial use, and additional confidential chemical intermediate uses. Based on test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i).

Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400). Fish and daphnid testing should be performed using the flow-through method with measured concentrations. Algal testing should be performed using the static method with measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10203.

PMN Number P–08–754

Chemical name: Aryloxyacrylate (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a monomer. Based on ecological structural activity relationship (EcoSAR) analysis of test data on analogous acrylates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 3 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 3 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 3 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that results of the following tests would help characterize the environmental effects of the PMN substance: A fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) using the flow-

through method with measured concentrations; an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) using the flow-through method with measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method with measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10204.

PMN Number P–09–4

Chemical name: Formaldehyde, polymer with 1,3-benzenediol and 1,1′-methylenebis[isocyanatobenzene].

CAS number: 1067881–45–1.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a rubber additive. Based on EcoSAR analysis of test data on analogous esters and polyphenols, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that results of the following tests would help characterize the environmental effects of the PMN substance: A fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) using the flow-through method with mean measured concentrations; an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) using the flow-through method with mean measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10205.

PMN Number P–09–19

Chemical name: 4-Cyclohexene-1,2-dicarboxylic acid, 1,2-bis(2-oxiranylmethyl) ester.

CAS number: 21544–03–6.

Basis for action: The PMN states that the substance will be used as an epoxy resin for filament winding and electrical encapsulation of motors and generators. Based on test data on analogous esters and epoxides, EPA identified concerns for lung and dermal sensitization, mutagenicity, oncogenicity, male reproductive toxicity, liver and kidney toxicity, and eye corrosion to workers exposed to the PMN substance. As described in the PMN, worker inhalation exposure is expected to be negligible and dermal exposure is expected to be minimal due to the use of adequate personal protective equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without the use of dermal protection where there is potential for dermal exposure, or without the appropriate hazard communication may result in serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).

Recommended testing: EPA has determined that results of the following tests would help characterize the human health effects of the PMN substance: A 90–day dermal toxicity study (OPPTS Test Guideline 870.3250) with attention to the pathology of the reproductive organs and a carcinogenicity study (OPPTS Test Guideline 870.4200). Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10206.

PMN Number P–09–38

Chemical name: 1,3-Cyclohexanedimethanamine, N1,N3-bis(2-methylpropylidene)-.

CAS number: 173904–11–5.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a curing agent for polyurethane systems. Based on EcoSAR analysis of test data on analogous Schiff bases and aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not expected to be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that results of the following tests would help characterize the environmental effects of the PMN substance: A water solubility: column elution method; shake flask method (OPPTS Test Guideline 830.7840); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) using the flow-through method with mean measured concentrations; an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) using the flow-through method with mean measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method and mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10207.

PMN Number P–09–71

Chemical name: Amines, di-C11-14-isoalkyl, C13-rich.

CAS number: 1005516–89–1.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a chemical intermediate. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts that toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 2 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 2 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that results of the following tests would help characterize the environmental effects of the PMN substance: A fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) using the flow-through method with mean measured concentrations or a fish acute toxicity mitigated by humic acid (OPPTS Test Guideline 850.1085) using the flow-through method with measured concentrations; an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) using the flow-through method with mean

measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10208.

PMN Number P–09–120

Chemical name: Epoxy terminated, hydrolyzed trialkoxysilane and glycidyl ether of phenol-formaldehyde resin (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a polymerizable component of adhesive formulations. Based on EcoSAR analysis of test data on analogous alkoxysilanes and polyepoxides, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 81 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not expected to be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) using the flow-through method with mean measured concentrations; an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) using the flow-through method with mean measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10209.

PMN Number P–09–130

Chemical name: Soybean oil, epoxidized, reaction products with diethanolamine.

CAS number: 1002761–12–7.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a polyol for flexible and rigid polyurethane foam applications. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 6 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A ready biodegradability test (OPPTS Test Guideline 835.3110); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) using the flow-through method with mean measured concentrations; an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) using the flow-through method with mean measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10210.

PMN Number P–09–172

Chemical name: Octadecanoic acid, reaction products with diethylenetriamine and urea, acetates.

CAS number: 84962–05–0.

Basis for action: The PMN states that the substance will be used as a softener padded on cotton fabrics. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. For the annual manufacture and import volume described in the PMN, the substance is not expected to be released to water. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that exceedance of the annual maximum manufacture and import limit of 10,000 kilograms, could result in releases to water, which may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of the followings tests would help characterize the environmental effects of the PMN substance: A fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400). Fish and daphnid testing should be performed using the flow-through method with mean measured concentrations. Algal testing should be formed using the static method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10211.

PMN Number P–09–241

Chemical name: 1,2-Ethanediol, reaction products with epichlorohydrin.

CAS number: 705265–31–2.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an industrial reactant. Based on test data on analogous epoxides, EPA identified the following toxicity concerns from exposure to the PMN substance: Irritation and sensitization to eyes, skin, and lungs; mutagenicity; oncogenicity; and developmental, liver, kidney, and male reproductive toxicity. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii). At the production volume stated in the PMN, worker exposure and general population exposure are limited. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk under TSCA section 5(e). However, EPA has determined in accordance with TSCA section 5(a)(2)(A) and (C) and 40 CFR 721.170(a), that exceedance of the annual maximum manufacture and import limit of 100,000 kilograms may result in significant human exposures or environmental release.

Recommended testing: EPA has determined that the results of the following tests would help characterize the human health effects of the PMN substance: Aerobic mineralization in surface water - simulation biodegradation test (Organisation for Economic Co-operation and Development (OECD) 309 test guideline) using the receiving water where the discharge will occur; an acute oral toxicity test (OPPTS Test Guideline 870.1100 or OECD 425 test guideline); a bacterial reverse mutation test (OPPTS

Test Guideline 870.5100); a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395) using the intraperitoneal route; and a repeated dose 28–day oral toxicity test (OPPTS Test Guideline 870.3050 or OECD 407 test guideline) in rodents. The 28–day oral study should include, for all test doses, a neurotoxicity functional observational battery (FOB), as described in neurotoxicity screening battery (OPPTS Test Guideline 870.6200). Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10212.

PMN Number P–09–253

Chemical name: Polyether polyester copolymer phosphate (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an additive for molding compounds. Based on EcoSAR analysis of test data on analogous organic phosphates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 22 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that results of the following tests would help characterize the environmental effects of the PMN substance: Ready biodegradability test (OPPTS Test Guideline 835.3110); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) using the flow-through method with mean measured concentrations; an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) using the flow-through method with mean measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10213.

PMN Number P–09–286

Chemical name: Poly(oxyalkylenediyl), .alpha.-substituted carbomonocycle-.omega.-substituted carbomonocycle (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a coatings resin. Based on EcoSAR analysis of test data on analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A ready biodegradability - CO_2 in sealed vessels (headspace test) (OECD 310 test guideline); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400) using the flow-through method with measured concentrations; a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) using the flow-through method with measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method with measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10214.

PMN Number P–09–385

Chemical name: Benzenepropanol, .beta.-methyl-.

CAS number: 7384–80–7.

Basis for action: The PMN states that the substance will be used as a raw material to manufacture another chemical. Based on test data on the PMN substance, EPA identified possible skin sensitization concerns from dermal exposure to the PMN substance. Based on test data on analogous substances, the Agency identified concerns for liver toxicity, kidney toxicity, neurotoxicity, and possible developmental toxicity to workers exposed dermally to the PMN substance. For the uses described in the PMN, worker inhalation exposure is not expected and EPA does not expect significant dermal exposure due to the use of impervious gloves. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance other than as an intermediate, or without the use of impervious gloves where there is potential for dermal exposure, may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(i) and (b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90–day oral toxicity test (OPPTS Test Guideline 870.3100) in rodents would help characterize the human health effects of the PMN substance. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10215.

PMN Number P–09–411

Chemical name: 2-Propenoic acid, 3-(5,5,6-trimethylbicyclo[2.2.1]hept-2-yl)cyclohexyl ester.

CAS number: 903876–45–9.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a thermoset adhesive component. EPA has identified health and environmental concerns because the substance may be a persistent, bio-accumulative, and toxic (PBT) chemical, based on physical/chemical properties of the PMN substance, as described in the New Chemical Program's PBT category (64 FR 60194; November 4, 1999) (FRL–6097–7). EPA estimates that the PMN substance will persist in the environment more than two months and estimates a bioaccumulation factor of greater than or equal to 5,000. Also, based on test data on analogous acrylates, EPA believes exposure to the PMN substance may cause systemic human health effects and predicts toxicity to aquatic organisms. As described in the PMN, significant worker exposure is unlikely, and the substance is neither released to surface waters nor landfilled. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any predictable or purposeful release containing the PMN substance into the waters of the United States or any disposal of the manufacturing, process, or use stream of the PMN substance other than by incineration may cause serious health effects and significant adverse environmental effects, since the PMN substance has been characterized by EPA as a PBT substance that can migrate to ground water. Based on this

information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii), (b)(4)(ii), and (b)(4)(iii).
Recommended testing: EPA has determined that the results of the tiered testing described in the New Chemicals Program's PBT Category would help characterize the PBT attributes of the PMN substance. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.
CFR citation: 40 CFR 721.10216.

PMN Number P–09–426
Chemical name: Branched and linear alcohols (generic).
CAS number: Not available.
Basis for action: The PMN states that the substance will be used as a site-limited raw material. Based on structure activity relationship analysis of test data on analogous neutral organic chemicals, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: Based on the results of the potential solubility pretest either a water solubility: column elution method; shake flask method test (OPPTS Test Guideline 830.7840) or a water solubility: generator column method test (OPPTS Test Guideline 830.7860) and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using static method and mean measured concentrations. Based on the results of these tests, a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075), and an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) may also be recommended. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.
CFR citation: 40 CFR 721.10217.

PMN Number P–09–436
Chemical name: 2-Propenoic acid, 2-methyl-, C12-15-branched and linear alkyl esters, telomers with alkyl 2-[[(alkylthio)thioxomethyl]thio]-2-alkanoate, aminoalkyl methacrylate and alkyl methacrylate, tert-Bu 2-ethylhexanoperoxoate-initiated (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a lubricant additive. Based on EcoSAR analysis of test data on analogous polycationic polymers, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 410 ppb of the PMN substance in surface waters. As described in the PMN, during manufacturing the substance will not be released to surface waters. During processing and use, releases of the substance are not expected to result in surface water concentrations that exceed 410 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any predictable or purposeful release to surface waters of a manufacturing stream associated with any use of the substance may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); a fish acute toxicity test mitigated by humic acid (OPPTS Test Guideline 850.1085); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400). Fish and daphnid tests should be performed using the flow-through method with mean measured concentrations. Algal testing should be performed using the static method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.
CFR citation: 40 CFR 721.10218.

PMN Number P–09–451
Chemical name: Butanamide,N-[substituted phenyl]-[(alkoxynitrophenyl)diazenyl]-3-oxo- (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a dispersion additive. Based on test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A fish early-life stage toxicity test (OPPTS Test Guideline 850.1400) and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300). Both tests should be performed using the flow-through method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.
CFR citation: 40 CFR 721.10219.

PMN Number P–09–478
Chemical name: Phosphoric acid, polymer with cycloaliphatic diglycidyl ether, alkylethers (generic).
CAS number: Not available.
Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a component of a coating. Based on EcoSAR analysis of test data on analogous polynonionic phosphate polymers, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 8 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in release to surface waters may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) using the flow-through method with mean measured

concentrations; an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) using the flow-through method with mean measured concentrations; and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400) using the static method with mean measured concentrations. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed to facilitate solubility in the test media, because of the PMN's low water solubility. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10220.

PMN Number P–09–542

Chemical name: 3-Nonen-1-ol, 1-acetate, (3Z)-.

CAS number: 13049–88–2.

Basis for action: The PMN states that the substance will be used as a fragrance in the manufacture of scented consumer products. Based on EcoSAR analysis of test data on analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 9 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 9 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 9 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of the following tests would help characterize the environmental effects of the PMN substance: A fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test, tiers I and II (OPPTS Test Guideline 850.5400). Fish and daphnid testing should be performed using the flow-through method with mean measured concentrations. Algal testing should be performed using the static method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10221.

PMN Number P–09–581

Chemical name: Styrenyl surface treated manganese ferrite (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a raw material intermediate used in the manufacture of polymerized pigments. Based on test data on analogous respirable, poorly soluble particles, subcategory titanium dioxide, EPA identified concerns for lung toxicity from lung overload if workers inhale the PMN substance. As described in the PMN, worker inhalation exposure will be minimal due to the use of adequate personal protective equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that serious health effects may result from use of the substance without a NIOSH-approved respirator with an APF of at least 10 where there is potential inhalation exposure or use of the substance other than as a raw material intermediate used in the manufacture of polymerized pigments. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90–day inhalation toxicity test (OPPTS Test Guideline 870.3465) with a 60–day holding period would help characterize the human health effects of the PMN substance. A carcinogenicity test (OPPTS Test Guideline 870.4200) conducted via inhalation may be recommended, if the 90–day inhalation toxicity test indicates carcinogenic potential. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10222.

PMN Number P–09–582

Chemical name: Styrenyl surface treated manganese ferrite with acrylic ester polymer (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a polymerized pigment used in the manufacture of electronic inks. Based on test data on analogous respirable, poorly soluble particles, subcategory titanium dioxide, EPA identified concerns for lung toxicity from lung overload if workers inhale the PMN substance. As described in the PMN, worker inhalation exposure will be minimal due to the use of adequate personal protective equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that serious health effects may result from use of the substance without a NIOSH-approved respirator with an APF of at least 10 where there is potential inhalation exposure or use of the substance other than as a polymerized pigment used in the manufacture of electronic inks may result in serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90–day inhalation toxicity test (OPPTS Test Guideline 870.3465) with a 60–day holding period would help characterize the health effects of the PMN substance. A carcinogenicity test (OPPTS Test Guideline 870.4200) conducted via inhalation may be recommended, if the 90–day inhalation toxicity test indicates carcinogenic potential. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10223.

PMN Number P–10–9

Chemical name: Diglycidylaniline (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a reactive epoxide for use in producing reinforced composites (open/non-dispersive use). Based on test data on the PMN substance, EPA identified concerns for mutagenicity. Based on test data on analogous epoxides, EPA identified concerns for oncogenicity, mutagenicity, developmental toxicity, reproductive toxicity, liver and kidney toxicity, and skin and lung sensitization. As described in the PMN, worker inhalation exposure is not expected and dermal exposure will be minimal due to the use of adequate personal protective equipment. Additionally, based on test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb of the PMN substance in surface waters. As described in the PMN, the substance will not be released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that 1) any use of the substance without the use of impervious gloves where there is potential for dermal exposure may cause serious health effects, 2) manufacture, processing, or use of the substance in a powder form may cause serious health effects, and 3) any use of the substance

resulting in release to surface waters may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C), (b)(3)(i), (b)(3)(ii), and (b)(4)(i).

Recommended testing: EPA has determined that the results of the following tests would help characterize the human health and environmental effects of the PMN substance: A carcinogenicity test (OPPTS Test Guideline 870.4200); a 90–day dermal toxicity test (OPPTS Test Guideline 870.3250) in rats, with attention to pathology of the reproductive organs; a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300). All aquatic toxicity testing should be performed using the flow-through method with mean measured concentrations. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10224.

PMN Number P–10–14

Chemical name: Quino[2,3-b] acridine-7,14-dione, 2,9-dichloro-5,12-dihydro [4-[[2-(sulfooxy) ethyl] substituted] phenyl]-, sodium salt (1:1) (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a colorant raw material. Based on test data on analogous respirable, poorly soluble particulates, EPA identified concerns for lung effects from inhalation exposure to the PMN substance. Based on physical properties of the PMN substance, EPA identified concerns for potential systemic effects from dermal exposure to the PMN substance. For the use described in the PMN, dermal and inhalation exposures are not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance by workers not wearing impervious gloves and eye protection, use of the substance other than as described in the PMN, or use of the substance in powder form may cause serious health effects. Based on this information, the PMN substances meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90–day inhalation toxicity test (OPPTS Test Guideline 870.3465) would help characterize the human health effects of the PMN substance. The test should be modified to add a post-exposure observation period of up to 3 months. In addition to the standard requirements in the test guideline, evaluation should include markers of damage, oxidant stress, cell proliferation, the degree/intensity and duration of pulmonary inflammation, cytotoxic effects and histopathology of pulmonary tissues. Test reports should include protocols approved by EPA, certificate of analysis for the test substance, raw data, and results.

CFR citation: 40 CFR 721.10225.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for one of the 25 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substance. The basis for such findings is outlined in Unit IV. Based on these findings, a TSCA section 5(e) consent order requiring the use of appropriate exposure controls was negotiated with the PMN submitter. The SNUR provisions for this chemical substance are consistent with the provisions of the TSCA section 5(e) consent order. This SNUR is promulgated pursuant to § 721.160.

In the other 24 cases, where the uses are not regulated under a TSCA section 5(e) consent order, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

B. Objectives

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

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

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/newchems/pubs/invntory.htm*.

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in § 721.160(c)(3) and § 721.170(d)(4). In accordance with § 721.160(c)(3)(ii) and § 721.170(d)(4)(i)(B), the effective date of this rule is November 19, 2010 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before October 20, 2010.

If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before October 20, 2010, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30–day period for public comment.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse or critical comments, or notice of intent to submit adverse or critical comments, must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of Rule to Uses Occurring Before Effective Date of the Rule

Significant new use designations for a chemical substance are legally established as of the date of publication of this direct final rule September 20, 2010.

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. A TSCA section 5(e) consent order has been issued for one chemical substance and the PMN

submitters are prohibited by the TSCA section 5(e) consent order from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no other person may commence such activities without first submitting a PMN. For chemical substances for which an NOC has not been submitted at this time, EPA concludes that the uses are not ongoing. However, EPA recognizes that prior to the effective date of the rule, when chemical substances identified in this SNUR are added to the TSCA Inventory, other persons may engage in a significant new use as defined in this rule before the effective date of the rule. However, 13 of the 25 chemical substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions (per §§ 720.25 and 721.11), the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

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

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

VIII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require the development of any particular test data before submission of a SNUN. There are two exceptions: 1) development of test data is required, where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)); and 2) development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)). In the absence of a section 4 test rule or a section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see 40 CFR 720.50).

However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In cases where EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing, Unit IV. lists those tests. Unit IV. also lists recommended testing for non-5(e) SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the harmonized test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select "Test Methods and Guidelines." The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org*.

In the TSCA section 5(e) consent order for one of the chemical substances regulated under this rule, EPA has established restrictions in view of the lack of data on the potential health and environmental risks that may be posed by the significant new use or increased exposure to the chemical substance. These restrictions cannot be removed unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by this chemical substance. A listing of the tests specified in the TSCA section 5(e) consent order is included in Unit IV. The SNUR contains the same restrictions as the TSCA section 5(e) consent order. Persons who intend to begin non-exempt commercial manufacture, import, or processing for any of the restricted activities must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of that activity.

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

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

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

IX. Procedural Determinations

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

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

submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

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

X. SNUN Submissions

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

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

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

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

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

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

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of these SNURs will not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is discussed in this unit. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant new use." Because these uses are "new," based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 1,400 SNURs, the Agency receives on average only 5 notices per year. Of those SNUNs submitted from 2006–2008, only one appears to be from a small entity. In addition, the estimated reporting cost for submission of a SNUN (see Unit XII.) is minimal regardless of the size of the firm. Therefore, EPA believes that the potential economic impacts of complying with these SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act

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

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Executive Order 13175

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

G. Executive Order 13045

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

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

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

XIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

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

Dated: September 10, 2010.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

■ Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. The table in § 9.1 is amended by adding the following sections in numerical order under the undesignated center heading "Significant New Uses of Chemical Substances" to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * *	* *
.	
Significant New Uses of Chemical Substances	
* * *	* *
721.10201	2070–0012
721.10202	2070–0012
721.10203	2070–0012
721.10204	2070–0012
721.10205	2070–0012
721.10206	2070–0012
721.10207	2070–0012
721.10208	2070–0012
721.10209	2070–0012
721.10210	2070–0012
721.10211	2070–0012
721.10212	2070–0012
721.10213	2070–0012
721.10214	2070–0012
721.10215	2070–0012
721.10216	2070–0012
721.10217	2070–0012
721.10218	2070–0012
721.10219	2070–0012
721.10220	2070–0012
721.10221	2070–0012
721.10222	2070–0012
721.10223	2070–0012
721.10224	2070–0012
721.10225	2070–0012
* * *	* *

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PART 721—[AMENDED]

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

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

■ 4. Add § 721.10201 to subpart E to read as follows:

§ 721.10201 Cobalt lithium manganese nickel oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as cobalt lithium manganese nickel oxide (PMN P–04–269; CAS No. 182442–95–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after it has been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (a)(4), (a)(5), (a)(6), (b) (concentration set at 0.1 percent), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 150. The following NIOSH-approved respirators meet the requirements of § 721.63(a)(4): Supplied-air respirator

operated in pressure demand or other positive pressure mode and equipped with a tight-fitting full facepiece. As an alternative to the respirator requirements listed here, a manufacturer, importer, or processor may choose to follow the New Chemical Exposure Limit (NCEL) provisions listed in the Toxic Substances Control Act (TSCA) section 5(e) consent order for this substance. The NCEL is 0.1 mg/m^3 as an 8–hour time-weighted average. Persons who wish to pursue NCELs as an alternative to the § 721.63 respirator may request to do so under § 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will receive NCELs provisions comparable to those listed in the corresponding section 5(e) consent order.

(ii) *Hazard communication program*. Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(vii),(g)(1)(ix), (g)(2), (g)(3), (g)(4)(iii), and (g)(5).

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

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

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

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

■ 5. Add § 721.10202 to subpart E to read as follows:

§ 721.10202 Benzoic acid, 4-chloro-2-[(substituted)azo]-, strontium salt (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as benzoic acid, 4-chloro-2-[(substituted)azo]-, strontium salt (1:1) (PMN P–08–701) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(j).

(ii) [Reserved]

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

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

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

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

■ 6. Add § 721.10203 to subpart E to read as follows:

§ 721.10203 Phosphonium, tetrabutyl-, hydroxide (1:1).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as phosphonium, tetrabutyl-, hydroxide (1:1) (PMN P–08–742; CAS No. 14518–69–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 7. Add § 721.10204 to subpart E to read as follows:

§ 721.10204 Aryloxyacrylate (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as aryloxyacrylate (PMN P–08–754) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=3).

(ii) [Reserved]

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

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

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

■ 8. Add § 721.10205 to subpart E to read as follows:

§ 721.10205 Formaldehyde, polymer with 1,3-benzenediol and 1,1′-methylenebis[isocyanatobenzene].

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as formaldehyde, polymer with 1,3-benzenediol and 1,1′-methylenebis[isocyanatobenzene] (PMN P–09–4; CAS No. 1067881–45–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 9. Add § 721.10206 to subpart E to read as follows:

§ 721.10206 4-Cyclohexene-1,2-dicarboxylic acid, 1,2-bis(2-oxiranylmethyl) ester.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as 4-cyclohexene-1,2-dicarboxylic acid, 1,2-bis(2-oxiranylmethyl) ester (PMN P–09–19; CAS No. 21544–03–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(2)(iii), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program*. Requirements as specified in § 721.72 (c), (e) (concentration set at 0.1 percent), (g)(1)(i), (g)(1)(iv), (g)(1)(vi), (g)(1)(vii), (g)(2)(i) and (g)(2)(v).

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

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125

(a), (b), (c), (d), (e), (f), and (h) are applicable to manufacturers, importers, and processors of this substance.

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

■ 10. Add § 721.10207 to subpart E to read as follows:

§ 721.10207 1,3-Cyclohexanedimethanamine, N1,N3-bis(2-methylpropylidene)-.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as 1,3-cyclohexanedimethanamine, N1,N3-bis(2-methylpropylidene)- (PMN P–09–38; CAS No. 173904–11–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 11. Add § 721.10208 to subpart E to read as follows:

§ 721.10208 Amines, di-C11-14-isoalkyl, C13-rich.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as amines, di-C11-14-isoalkyl, C13-rich (PMN P–09–71; CAS No. 1005516–89–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=2).

(ii) [Reserved]

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

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

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

■ 12. Add § 721.10209 to subpart E to read as follows:

§ 721.10209 Epoxy terminated, hydrolyzed trialkoxysilane and glycidyl ether of phenol-formaldehyde resin (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as epoxy terminated, hydrolyzed trialkoxysilane and glycidyl ether of phenol-formaldehyde resin (PMN P–09–120) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 13. Add § 721.10210 to subpart E to read as follows:

§ 721.10210 Soybean oil, epoxidized, reaction products with diethanolamine.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as soybean oil, epoxidized, reaction products with diethanolamine (PMN P–09–130; CAS No. 1002761–12–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 14. Add § 721.10211 to subpart E to read as follows:

§ 721.10211 Octadecanoic acid, reaction products with diethylenetriamine and urea, acetates.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as octadecanoic acid, reaction products with diethylenetriamine and urea, acetates (PMN P–09–172; CAS No. 84962–05–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(s) (10,000 kilograms).

(ii) [Reserved]

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

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

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

■ 15. Add § 721.10212 to subpart E to read as follows:

§ 721.10212 1,2-Ethanediol, reaction products with epichlorohydrin.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as 1,2-ethanediol, reaction products with epichlorohydrin (PMN P–09–241; CAS No. 705265–31–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(s) (100,000 kilograms).

(ii) [Reserved]

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

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

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

■ 16. Add § 721.10213 to subpart E to read as follows:

§ 721.10213 Polyether polyester copolymer phosphate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyether polyester copolymer phosphate (PMN P–09–253) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 17. Add § 721.10214 to subpart E to read as follows:

§ 721.10214 Poly(oxyalkylenediyl),.alpha.-substituted carbomonocycle-.omega.-substituted carbomonocycle (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as poly(oxyalkylenediyl),.alpha.-substituted carbomonocycle-.omega.-substituted carbomonocycle (PMN P–09–286) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 18. Add § 721.10215 to subpart E to read as follows:

§ 721.10215 Benzenepropanol, .beta.-methyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzenepropanol, .beta.-methyl- (PMN P–09–385; CAS No.7384–80–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 1.0 percent), and (c).

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

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

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

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

■ 19. Add § 721.10216 to subpart E to read as follows:

§ 721.10216 2-Propenoic acid, 3-(5,5,6-trimethylbicyclo[2.2.1]hept-2-yl)cyclohexyl ester].

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 3-(5,5,6-trimethylbicyclo[2.2.1]hept-2-yl)cyclohexyl ester (PMN P–09–411; CAS No. 903876–45–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Disposal.* Requirements as specified in § 721.85 (a)(1), (b)(1), and (c)(1).

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

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

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

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

■ 20. Add § 721.10217 to subpart E to read as follows:

§ 721.10217 Branched and linear alcohols (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as branched and linear alcohols (PMN P–09–426) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

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

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

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

■ 21. Add § 721.10218 to subpart E to read as follows:

§ 721.10218 2-Propenoic acid, 2-mehtyl-, C12-15-branched and linear alkyl esters, telomers with alkyl 2-[[(alkylthio)thioxomethyl]thio]-2-alkanoate, aminoalkyl methacrylate and alkyl methacrylate, tert-Bu 2-ethylhexanoperoxoate-initiated (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 2-propenoic acid, 2-methyl-, C12-15-branched and linear alkyl esters, telomers with alkyl 2-[[(alkylthio)thioxomethyl]thio]-2-alkanoate, aminoalkyl methacrylate and alkyl methacrylate, tert-Bu 2-ethylhexanoperoxoate-initiated (PMN P–09–436) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(1).

(ii) [Reserved]

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

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

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

■ 22. Add § 721.10219 to subpart E to read as follows:

§ 721.10219 Butanamide,N-[substituted phenyl]-[(alkoxynitrophenyl)diazenyl]-3-oxo- (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as butanamide,N-[substituted phenyl]-(alkoxynitrophenyl)diazenyl]-3-oxo- (PMN P–09–451) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 23. Add § 721.10220 to subpart E to read as follows:

§ 721.10220 Phosphoric acid, polymer with cycloaliphatic diglycidyl ether, alkylethers (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as phosphoric acid, polymer with cycloaliphatic diglycidyl ether, alkylethers (PMN P–09–478) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

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

(ii) [Reserved]

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

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

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

■ 24. Add § 721.10221 to subpart E to read as follows:

§ 721.10221 3-Nonen-1-ol, 1-acetate, (3Z)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 3-nonen-1-ol, 1-acetate, (3Z)- (PMN P–09–542; CAS No. 13049–88–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=9).

(ii) [Reserved]

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

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

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

■ 25. Add § 721.10222 to subpart E to read as follows:

§ 721.10222 Styrenyl surface treated manganese ferrite (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as styrenyl surface treated manganese ferrite (PMN P–09–581) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5), (a)(6), (b) (concentration set at 1.0 percent), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10. The following NIOSH-approved respirators with an APF of 10–25 meet the minimum requirements for § 721.63(a)(4): Air-purifying, tight-fitting respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters (either half- or full-face); powered air-purifying respirator equipped with a loose-fitting hood or helmet and High Efficiency Particulate Air (HEPA) filters; powered air-purifying respirator equipped with a tight-fitting facepiece (either half- or full-face) and HEPA filters; supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half- or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (raw material intermediate used in the manufacture of polymerized pigments).

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

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

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

■ 26. Add § 721.10223 to subpart E to read as follows:

§ 721.10223 Styrenyl surface treated manganese ferrite with acrylic ester polymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as styrenyl surface treated manganese ferrite with acrylic ester polymer (PMN P–09–582) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5), (a)(6), (b) (concentration set at 1.0 percent), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 10. The following NIOSH-approved respirators with an APF of 10–25 meet the minimum requirements for § 721.63(a)(4): Air-purifying, tight-fitting respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters (either half- or full-face); powered air-purifying respirator equipped with a loose-fitting hood or helmet and High Efficiency Particulate Air (HEPA) filters; powered air-purifying respirator equipped with a tight-fitting facepiece (either half- or full-face) and HEPA filters; supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half- or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (polymerized pigment used in the manufacture of electronic inks).

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

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

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

■ 27. Add § 721.10224 to subpart E to read as follows:

§ 721.10224 Diglycidylaniline (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as diglycidylaniline (PMN P–10–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (v)(1), (w)(1), and (x)(1).

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

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

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

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

■ 28. Add § 721.10225 to subpart E to read as follows:

§ 721.10225 Quino[2,3-b] acridine-7,14-dione, 2,9-dichloro-5,12-dihydro [4-[[2-(sulfooxy) ethyl] substituted] phenyl]-, sodium salt (1:1) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as quino[2,3-b] acridine-7,14-dione, 2,9-dichloro-5,12-dihydro [4-[[2-(sulfooxy) ethyl] substituted] phenyl]-, sodium salt (1:1) (PMN P–10–14) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(2)(iii), (a)(3), (b) (concentration set at 1.0 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (j), (v)(1), (w)(1), and (x)(1).

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

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

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

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

[FR Doc. 2010–23415 Filed 9–17–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0203–201035; FRL–9202–9]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Alabama: Birmingham; Determination of Attaining Data for the 2006 24-Hour Fine Particulate Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On February 24, 2010, the State of Alabama, through the Alabama Department of Environmental Management (ADEM), submitted a request to EPA to make a determination that the Birmingham, Alabama, nonattainment area has attained the 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) based on quality assured, quality controlled monitoring data from 2007–2009. The Birmingham, Alabama, 2006 24-hour $PM_{2.5}$ nonattainment area (hereafter referred to as "the Birmingham Area") is comprised of Jefferson and Shelby Counties in their entireties, and a portion of Walker County in Alabama. In this action, EPA is taking final action to determine that the Birmingham Area has attained the 2006 24-hour $PM_{2.5}$ NAAQS. This clean data determination is based upon complete, quality assured, quality controlled, and certified ambient air monitoring data for the years 2007–2009 showing that the Birmingham Area has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS.

DATES: *Effective Date:* This final rule is effective on October 20, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R04–OAR–2010–0203. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, 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 through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours 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.

FOR FURTHER INFORMATION CONTACT: Sara Waterson, 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. Waterson may be reached by phone at (404) 562–9061 or via electronic mail at *waterson.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking?
II. What is the effect of this action?
III. What is EPA's final action?
IV. What are the statutory and Executive order reviews?

I. What action is EPA taking?

EPA is taking final action to determine that the Birmingham Area (comprised of Jefferson and Shelby Counties in their entireties and a portion of Walker County) has attaining data for the 2006 24-hour $PM_{2.5}$ NAAQS. This clean data determination is based upon quality assured, quality controlled and certified ambient air monitoring data that shows the Area has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS based on the 2007–2009 data. While still preliminary, the available 2010 24-hour $PM_{2.5}$ data also monitored attainment for the 2006 24-hour $PM_{2.5}$ standard.

Other specific requirements of the clean data determination and the rationale for EPA's action are explained in the notice of proposed rulemaking (NPR) published on June 14, 2010 (75 FR 33562) and will not be restated here. The comment period closed on July 14, 2010. No comments, adverse or otherwise, were received in response to the NPR.

II. What is the effect of this action?

This final action, in accordance with 40 CFR 51.1004(c), suspends the requirements for this Area to submit an attainment demonstration, associated reasonably available control measures, reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS as long as this Area continues to meet the 2006 24-hour $PM_{2.5}$ NAAQS. Finalizing this action does not constitute a redesignation of the Birmingham Area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, finalizing this action does not involve approving maintenance plans for the Area as required under section 175A of the CAA, nor does it involve a determination that the Area has met all requirements for a redesignation. Additionally, this action is not in regards to the Birmingham Area's status for the 1997 $PM_{2.5}$ standard.

III. What is EPA's final action?

EPA is taking final action to determine that the Birmingham Area has attaining data for the 2006 24-hour $PM_{2.5}$ NAAQS. This clean data determination is based upon quality assured, quality controlled, and certified ambient air monitoring data showing that this Area has monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS during the period 2007–2009. This final action, in accordance with 40 CFR 51.1004(c), will suspend the requirements for this Area to submit an attainment demonstration, associated reasonably available control measures, reasonable further progress plans, contingency measures, and other planning SIPs related to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS as long as the Area continues to meet the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is taking this final action because it is in accordance with the CAA and EPA policy and guidance.

IV. What are statutory and Executive order reviews?

Under the CAA, the Administrator is required to approve a SIP submission or State request that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions or State request, 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 action does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the impacted area is not 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 November 19, 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, pertaining to the determination of attaining data for the 2006 24-hour fine particulate matter standard for the Birmingham Area, may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: September 3, 2010 .

A. Stanley Meiburg,

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 B—Alabama

■ 2. Section 52.62 is amended by adding (a) to read as follows:

§ 52.62 Control strategy: Sulfur oxides and particulate matter.

* * * * *

(a) *Determination of Attaining Data.* EPA has determined, as of September 20, 2010, the Birmingham, Alabama, nonattainment area has attaining data for the 2006 24-hour $PM_{2.5}$ NAAQS. This clean data determination, in accordance with 40 CFR 51.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 2006 24-hour $PM_{2.5}$ NAAQS.

[FR Doc. 2010–23318 Filed 9–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R01–RCRA–2010–0561; FRL–9203–3]

Rhode Island: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The State of Rhode Island has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA determined that these changes satisfy all requirements needed to qualify for final authorization and recently authorized all but one of the State's changes through an immediate final rule. However, EPA also stated in that rule that it would address the authorization of the state's requirements regarding EPA's Zinc Fertilizer Rule in a separate final rule (following the proposed rule) as it anticipated possible adverse comments that would oppose the Federal authorization of Rhode Island for this particular rule. There was, in fact, an adverse comment filed objecting to EPA authorizing Rhode Island for the Zinc Fertilizer Rule. Today's action responds to that comment but does not agree with it and, thus, finalizes the Agency's decision to authorize Rhode Island for EPA's Zinc Fertilizer Rule. In addition, the comment also objected to EPA authorizing Rhode Island for the Burden Reduction Initiative. Accordingly, EPA is partially withdrawing the immediate final rule insofar as it authorized Rhode Island for the Burden Reduction Initiative. However, EPA is now responding to the comment and again not agreeing with it and, thus, today's action also authorizes Rhode Island for the Burden Reduction Initiative. No objections were filed to EPA regarding authorizing the other revisions submitted by Rhode Island. Accordingly, the immediate final rule is not being withdrawn as to these other revisions, which will continue to be authorized pursuant to the immediate final rule.

DATES: Today's decision approving the authorization of Rhode Island's hazardous waste revisions as they relate to the Zinc Fertilizer Rule and Burden Reduction Initiative will be effective September 24, 2010 (as are other aspects of Rhode Island's hazardous waste program revisions approved in the aforementioned immediate final rule).

ADDRESSES: *Docket:* EPA has established a docket for this action under Docket ID No. EPA–R01–RCRA–2010–0561. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although it may be listed in the index, some information might not be publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the following two locations: (i) Rhode Island Department of Environmental Management, 235 Promenade St., Providence, RI 02908–5767, by appointment only through the Office of Technical and Customer Assistance, tel: (401) 222–6822 and (ii) EPA Region I Library, 5 Post Office Square, 1st Floor, Boston, MA 02109–3912, by appointment only, (617) 918–1990.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, RCRA Waste Management Section, Office of Site Remediation and Restoration (OSRR 07–1), EPA New England—Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109–3912; telephone number: (617) 918–1642; fax number: (617) 918–0642, e-mail address: *biscaia.robin@epa.gov*.

SUPPLEMENTARY INFORMATION: As stated in EPA's recent immediate final rule, 75 FR 43409 (July 26, 2010), because of anticipated adverse public comment on the authorization of Rhode Island's Hazardous Waste Program revisions for EPA's Zinc Fertilizer Rule, the authorization of that rule never was included in the immediate final rule. Instead, we are in today's action making a separate determination (following an opportunity for public comment) regarding the authorization of Rhode Island for the Zinc Fertilizer Rule. As noted above, in response to the adverse public comment, we also are partially withdrawing the immediate final rule insofar as it authorized Rhode Island for the Burden Reduction Initiative. However, we are not agreeing with the comment and, thus, are authorizing Rhode Island for the Burden Reductive Initiative.

For general information regarding why revisions to state programs are necessary and what aspects of Rhode Island's hazardous waste program have been previously authorized as well those provisions which were authorized by the immediate final rule referenced above, please see 75 FR 43409 (July 26, 2010).

The following information relates only to the authorization of Rhode Island for hazardous waste revisions as they relate to EPA's Zinc Fertilizer Rule and Burden Reduction Initiative.

A. What decisions have we made in this rule?

We have concluded that Rhode Island's application to revise its authorized program with regard to EPA's Zinc Fertilizer Rule and Burden Reduction Initiative meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Rhode Island final authorization to operate its hazardous waste program with the changes relating to the Zinc Fertilizer Rule and Burden Reduction Initiative as described in the authorization application. Rhode Island's Department of Environmental Management (RIDEM) has responsibility for carrying out the aspects of the RCRA program covered by its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement any such requirements and prohibitions in Rhode Island, including implementation of the Land Disposal Restrictions (LDR) requirements in 40 CFR part 268 because Rhode Island has not yet sought and obtained authorization for those requirements. Regulated entities in Rhode Island must comply with these directly administered EPA requirements, in addition to the State hazardous waste requirements.

B. What is the effect of today's authorization decision?

The effect of this decision is that a facility in Rhode Island subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Rhode Island has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA also retains its full authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports.
- Enforce RCRA requirements and suspend or revoke permits.
- Take enforcement actions.

This action does not impose additional requirements on the regulated community because the

regulations for which Rhode Island is being authorized by today's action are already effective under State law, and are not changed by today's action.

C. Proposed Rule

On July 26, 2010, EPA published a proposed rule (75 FR 43478) in which we proposed granting authorization of changes to Rhode Island's Hazardous Waste program. This was included as a companion document to the immediate final rule in order to ensure the opportunity for public comment. In this proposed rule, EPA noted that because of anticipated adverse comments related to the authorization of Rhode Island for revisions relating to EPA's Zinc Fertilizer Rule, the agency would make a separate determination (following the opportunity for public comment) regarding the authorization of Rhode Island for the Zinc Fertilizer Rule. Thus, today's action makes a separate determination relating to the authorization of Rhode Island for revisions which pertain to EPA's Zinc Fertilizer Rule. As noted above, today's action also authorizes Rhode Island for the Burden Reduction Initiative.

D. What changes are we authorizing with this action?

On June 17, 2010 EPA received Rhode Island's complete program revision application dated June 15, 2010 seeking authorization for their changes in accordance with 40 CFR 271.21. The RCRA program revisions for which Rhode Island is seeking authorization addressed by this action relate only to EPA's Zinc Fertilizer Rule and the Burden Reduction Initiative. (Although the application sought authorization for many other program revisions as well, those provisions were addressed in the aforementioned immediate final rule published on July 26, 2010.) The State has adopted the Federal requirements relating to the Zinc Fertilizer Rule, 67 FR 48393 (July 24, 2002) and the Burden Reduction Initiative, 71 FR 1686 (April 24, 2006) at Rule 2.00 in its general incorporation by reference of Federal requirements through July 1, 2008 (except as otherwise noted in the following paragraph). The State's authorization application consists of a cover letter requesting authorization, a copy of RIDEM's Rules and Regulations for Hazardous Waste Management dated June 2010, regulatory checklists (specifically related to this action, CL 200—Zinc Fertilizer Rule and CL 213—Burden Reduction Initiative) comparing the State and Federal requirements and a Supplement to the Attorney General's Statement.

We are now making a final decision that Rhode Island's hazardous waste program revisions which relate to EPA's Zinc Fertilizer Rule and the Burden Reduction Initiative satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant Rhode Island final authorization for the specific program changes which relate to these rules as identified below. Note, the Federal requirements are identified by their checklist (CL) number and rule description followed by the corresponding state regulatory analog(s) ("Rule(s)") from Rhode Island's Rules and Regulations for Hazardous Waste Management as in effect on June 7, 2010: CL 200—Zinc Fertilizer Rule, 67 FR 48393, July 24, 2002: Rules 2.2C and 2.2H; CL 213—Burden Reduction Initiative, 71 FR 16862, April 24, 2006 (other than LDR requirements): Rules 2.2 C, 2.2 C.4, 2.2 F, 2.2 G, 2.2 I, 2.2 J, 7.0 B.82, 8.1 A.17, 8.1 A.41, 8.1 A.45 and 8.1 A.64.

E. Response to Comments

The adverse comment filed was from Ms. Patricia Anne Martin on behalf of the organization Safe Food and Fertilizer. The comment objects first to the EPA's decision in the Zinc Fertilizer Rule to allow the application to the land of zinc fertilizers made from hazardous wastes or hazardous secondary materials. Such application to the land is allowed under the Zinc Fertilizer Rule only when contaminants are below levels determined by the EPA in that Rule to be protective of human health and the environment (see 40 CFR 261.4(a)(21)), but Safe Food and Fertilizer disagrees with the EPA determinations and states that the "use of hazardous waste in fertilizer has not been proven safe." The comment also objects to the EPA's decisions in the Burden Reduction Initiative rulemaking to allow one time notices of shipments of zinc fertilizer and to allow such notices to be kept on file (*see* 40 CFR 268.7(b)(6) (July 1, 2008)) as opposed to the prior requirements that there be notices regarding each shipment and that such notices be sent to the relevant EPA office or authorized State (see 40 CFR 268.7(b)(6) (July 1, 2005). Based on these concerns, Safe Food and Fertilizer asks that EPA Region I not authorize Rhode Island for the Zinc Fertilizer Rule or the Burden Reduction Initiative.

In the proposed rule regarding this matter, the Region had suggested that if any commenter objected to the Zinc Fertilizer Rule, it should have addressed its comments to the EPA prior to the adoption of that Rule. In response, Safe Food and Fertilizer asserts that it did object to the Zinc Fertilizer Rule but that the EPA "ignored" the comments.

In the proposed rule regarding this matter, the Region had further suggested that if any commenter objected to Rhode Island adopting the Zinc Fertilizer Rule, it should have filed comments with Rhode Island during its comment period on its rules, rather than waiting and asking EPA to not authorize the State rules. The Region pointed out that while under RCRA, a State has the right to be more stringent than a Federal rule, it also has the right not to be more stringent and thus a State may simply track the Federal RCRA rules. Thus, if a commenter wants a State not to adopt a Federal rule such as the Zinc Fertilizer Rule but rather to be more stringent, it should file timely comments with the State. In response, Safe Food and Fertilizer asserts that Rhode Island does not have the right "not to be more stringent" than the Zinc Fertilizer Rule, since by adopting the Zinc Fertilizer Rule, Rhode Island is being less protective than what Safe Food and Fertilizer believes the correct minimum Federal standards should be as mandated by the Congress. However, Safe Food and Fertilizer does not explain why it did not file comments to Rhode Island.

Under the RCRA statute, the EPA must promulgate Federal RCRA regulations that are protective of human health and the environment. 42 U.S.C. 6922–6924. Then the EPA is further directed to authorize State RCRA programs if they are "equivalent" to the Federal programs and meet other requirements. 42 U.S.C. 6926. This involves comparing the State regulations to the Federal regulations. State regulations may be "more stringent" than the Federal requirements or may simply be "equivalent," but may not be less stringent. 42 U.S.C. 6929. The statute clearly contemplates a two step process. First, the EPA issues its regulations and any person disagreeing with the EPA's determinations generally must challenge them in court within 90 days. 42 U.S.C. 6976. Second, when the EPA later authorizes State regulations, it simply compares them to the federal regulations. The statute does not contemplate that whether the Federal regulations are adequately protective should be revisited in the course of determining whether to authorize State regulations.

Here, Safe Food and Fertilizer did object to the EPA adopting the Zinc Fertilizer Rule and indeed challenged the Rule in court. However, their petition was denied by the court and the regulations generally were upheld. *Safe Food and Fertilizer* v. *Environmental*

Protection Agency, 350 F.3d 1263 (DC Cir. 2003). The Zinc Fertilizer Rule remains in effect at the federal level. The Burden Reduction Initiative Rule was not challenged by either Safe Food and Fertilizer or anyone else. As a result, it also remains in effect at the Federal level. Thus these are the Federal requirements that Rhode Island must meet in order to obtain authorization for these particular rules. While States need not adopt the Zinc Fertilizer Rule or the Burden Reduction Initiative, since not doing so would make them more stringent than the Federal rules, States are allowed to adopt these rules. Rhode Island decided to adopt and seek authorization for these Federal rules. In its regulations, Rhode Island has adopted the Zinc Fertilizer Rule requirements exactly, by incorporating them by reference in its Rules 2.2C and 2.2H. Thus Rhode Island clearly is being equivalent to and as stringent as this Federal rule. While Safe Food and Fertilizer may disagree with the Federal rule in question, the Region is appropriately comparing the State rules to the Federal rules, rather than comparing the State rules to what Safe Food and Fertilizer thinks the Federal rules should be.

Rhode Island also has adopted the Burden Reduction Initiative Rule requirements, with some more stringent revisions (not relevant to the Zinc Fertilizer Rule), by incorporating them by reference in its Rules 2.2C, 2.2C.4, 2.2F, 2.2G, 2.2I, 2.2J, 7.0B82 and 8.1A.64. However, Rhode Island has not adopted any of the Federal Land Disposal Restriction (LDR) rules. See Rhode Island's Rule 2.2 B. Thus, as earlier explained in the immediate final rule, Rhode Island is not being authorized for any of the LDR Rules. The reduced reporting requirement that Safe Food and Fertilizer is objecting to is an LDR regulation–40 CFR 268.7(b)(6). Thus, Rhode Island is not being authorized for this particular regulation. That reduced reporting requirement actually is in effect in Rhode Island, but that is because the EPA is directly administering the Federal LDR program in Rhode Island and the reduced reporting requirement is part of the federal program. But this is a result of the EPA issuing the Burden Reduction Initiative Rule in 2006, not a result of today's authorization. Thus, insofar as Safe Food and Fertilizer is objecting to Rhode Island being authorized for 40 CFR 268.7(b)(6), its comment is in error, since Rhode Island is not being authorized for that regulation. Insofar as Safe Food and Fertilizer is otherwise objecting to Rhode Island being authorized for the Burden Reduction Initiative, its comment is in error for the same reasons why its objection to the authorization of Rhode Island for the Zinc Fertilizer Rule is in error. That is, a State has the right not to be more stringent than the Federal regulations and is being "equivalent" to the federal regulations when it tracks the Federal regulations.

Thus, the Region does not agree with Safe Food and Fertilizer's comment that it should not authorize these Rhode Island regulations. Thus the regulations are being authorized. The Region continues to encourage Safe Food and Fertilizer to file timely comments with the States during future program updates, if it believes that the States should not adopt the Zinc Fertilizer Rule or should revisit past adoptions of the Zinc Fertilizer Rule. If, alternatively, Safe Food and Fertilizer believes that the EPA should reconsider and change the federal regulations, it needs to request this at the national level. A Region does not have the authority to change the national regulations.

F. Administrative Requirements

The Office of Management and Budget has exempted this action (RCRA State Authorization) from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action 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 action authorizes pre-existing requirements under State law 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). For the same reason, this action also does not significantly or uniquely affect Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the 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 document 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 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).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: September 9, 2010.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 2010–23401 Filed 9–17–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 325

[Docket No. FMCSA–2006–24065]

RIN–2126–AB31

Compliance With Interstate Motor Carrier Noise Emission Standards: Exhaust Systems

AGENCY: Federal Motor Carrier Safety Administration, DOT.

ACTION: Direct final rule.

SUMMARY: In response to a petition for rulemaking from the Truck Manufacturers Association (TMA), the Federal Motor Carrier Safety Administration (FMCSA) amends its regulations to eliminate turbochargers from the list of equipment considered to be noise dissipative devices. As written, the regulation may allow vehicle operators to remove mufflers and still meet the Federal inspection requirements if commercial motor vehicle (CMV) engines are equipped with turbochargers. This was not the intent of that rule. Therefore, the Agency amends the rule to restore its original intent.

DATES: This rule is effective November 19, 2010, unless an adverse comment, or notice of intent to submit an adverse comment, is either submitted to our online docket via *http://www.regulations.gov* on or before October 20, 2010 or reaches the Docket Management Facility by that date. If an adverse comment, or notice of intent to submit an adverse comment, is received by October 20, 2010, we will withdraw this direct final rule and publish a timely notice of withdrawal in the **Federal Register**.

ADDRESSES: You may submit comments identified by docket number FCMSA–2006–24065 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, e-mail or call Mr. Brian Routhier, Vehicle and Roadside Operations Division (MC–PSV), Office of Bus and Truck Standards and Operations, *brian.routhier@dot.gov* or (202) 366–1225.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Comments

If you would like to participate in this rulemaking, you may submit comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2006–24065), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. As a reminder, FMCSA will only consider adverse comments as defined in 49 CFR 389.39(b) and explained below.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Rule" and insert "FMCSA–2006–24065" in the "Keyword" box. Click "Search," then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "FMCSA–2006–24065" and click "Search." Click the "Open Docket Folder" in the "Actions" column. If you do not have access to the Internet, you may also view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

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

II. Regulatory Information

FMCSA publishes this direct final rule under 49 CFR 389.11 and 389.39 because the Agency determined that the rule is a routine and non-controversial amendment to 49 CFR part 325. The rule will restore the original intent of 49 CFR 325.91(b). FMCSA does not expect any adverse comments. If no adverse comments or notices of intent to submit an adverse comment are received by October 20, 2010, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days before the effective date, we will publish a document in the **Federal Register** stating that no adverse comments were received and confirming that this rule will become effective as scheduled. However, if we

receive any adverse comments or notices of intent to submit an adverse comment, we will publish a document in the **Federal Register** announcing the withdrawal of all or part of this direct final rule. If we decide to proceed with a rulemaking following receipt of any adverse comments, we will publish a separate notice of proposed rulemaking (NPRM) and provide a new opportunity for comment.

A comment is considered "adverse" if the comment explains why this rule or a part of this rule would be inappropriate, including a challenge to its underlying premise or approach, or would be ineffective or unacceptable without a change.

III. Background

On October 29, 1974, the Environmental Protection Agency (EPA) issued regulations establishing standards (40 CFR 202.21) for maximum external noise emissions of CMVs having a gross vehicle weight rating (GVWR) or a gross combination weight rating (GCWR) of more than 10,000 pounds that are operated by commercial motor carriers engaged in interstate commerce (39 FR 38208). Those regulations were issued under the authority of the Noise Control Act of 1972 (Pub. L. 92–574, 86 Stat. 1234, 42 U.S.C. 4901–4918, October 27, 1972), which also directed the Secretary of Transportation to promulgate regulations to ensure compliance with the EPA standards.

On February 28, 1975, the Federal Highway Administration (FHWA)'s Bureau of Motor Carrier Safety published in the **Federal Register** (40 FR 8658) proposed regulations establishing measurement methodologies for determining whether CMVs conform to the Interstate Motor Carrier Noise Emission Standards published by the EPA. FHWA published final regulations on September 12, 1975 (40 FR 42437), which have remained unchanged since that date. These requirements became effective on October 15, 1975, and are codified at 49 CFR part 325.

While the corresponding section of the EPA regulation requires CMVs with a GVWR or GCWR of more than 10,000 pounds that are operated by interstate motor carriers to be "* * * equipped with a muffler or other noise dissipative device * * *," the language adopted by FHWA in § 325.91 requires the same vehicles to be "* * * equipped with either a muffler or other noise dissipative device, such as a turbocharger (supercharger driven by exhaust gases) * * *."

The language adopted by FHWA is essentially identical to that established by EPA, except that § 325.91(b) specifically treats a turbocharger as a noise dissipative device. There is no discussion of turbochargers in the preambles of FHWA's NPRM or final rule.

On June 17, 2005, TMA submitted a petition for rulemaking requesting that the phrase, " such as a turbocharger (supercharger driven by exhaust gases)" be removed from 49 CFR 325.91(b).

In its petition, TMA noted:

> At the time these regulations were written, many diesel engines were naturally aspirated, and coincidently much louder than then-comparable turbocharged equipped engines/trucks. In that context, it made sense to include turbochargers with mufflers as acceptable noise dissipative devices, since both devices quieted trucks appreciably compared to trucks with naturally aspirated engines and totally unmuffled exhaust systems.

TMA noted that "removing the muffler can cause the truck to be 10–20 dB(A) louder; a 10 to 100 fold increase in the emitted sound power level of the vehicle." TMA concluded that it was "not aware of any other credible, satisfactorily performing, and commercially available exhaust noise dissipative device other than mufflers."

The Agency granted TMA's petition and published a notice in the **Federal Register** on September 25, 2006 (71 FR 55822), requesting public comments on (1) whether the Federal Motor Carrier Safety Regulations should be amended as requested by TMA, (2) whether there are any data or other relevant information to suggest the need for such a change, and (3) the impact of the requested change on motor carriers' ability to achieve compliance with the requirements of § 325.91.

FMCSA received comments from (1) Advocates for Highway and Auto Safety, (2) TMA, (3) the Motor & Equipment Manufacturers Association, and (4) the American Trucking Associations. Each commenter fully supported the requested change and no one opposed the amendment.

IV. Discussion of the Rule

FMCSA amends 49 CFR 325.91(b) by eliminating turbochargers from the list of equipment considered to be noise dissipative devices. This provision no longer serves its original purpose. Section 325.91(b), concerning visual inspection requirements for exhaust systems, was adopted when heavy-duty engines equipped with sound-reducing devices had either a muffler or a turbocharger, but not both. FMCSA notes that all newly manufactured trucks are currently required to be equipped and certified to meet EPA's Transportation Equipment Noise Emission Controls requirement of 80 dB(A) (40 CFR part 202) before they are placed into initial service. This amendment is a non-safety related change to the CFR, and FMCSA further believes that the vast majority of CMV operators currently comply with § 325.91, as intended.

In view of the steady increase in the number of heavy trucks and buses on the road, noise control remains an important issue for many communities. Yet § 325.91(b) allows the operators of vehicles with turbocharged engines to remove the muffler. This might improve fuel economy by a very small amount; and it would obviously eliminate the cost of buying new mufflers; but it would also increase the noise otherwise produced by the vehicle, which is contrary to the purpose of the original rule. While turbochargers were not originally installed as noise dissipative devices, a byproduct of their basic function was a reduction in noise generated by the vehicle. However, given the widespread installation of mufflers or alternative devices that similarly dissipate engine noise (such as diesel particulate filters), there is no further justification for considering turbochargers as noise dissipative devices. Therefore, through this direct final rule, FMCSA removes turbochargers from the list of noise dissipative devices in 49 CFR 325.91(b).

V. Regulatory Analyses

When developing this direct final rule, FMCSA considered numerous statutes and executive orders related to rulemaking. Below the Agency summarizes its analyses.

A. 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 Agency does not believe that this rule will have a significant economic impact.

B. 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.

FMCSA 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. Comments submitted in response to this finding will be evaluated under the criteria in the "Regulatory Information" section of this preamble.

C. Paperwork Reduction Act

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

D. Federalism

A rule has federalism implications under Executive Order 13132, Federalism, if the rule 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 the States. We have analyzed this rule under that Order and have determined that it does not have federalism implications.

E. 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 $140.8 million (which is the value of $100,000,000 in 2009 after adjusting for inflation) or more in any 1 year. This rule would not result in such an expenditure.

F. Taking of Private Property

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

G. 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.

H. Protection of Children

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

I. 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.

J. Energy Effects

FMCSA has analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has 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.

K. 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 agencies provide 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.

L. Environment

The Agency analyzed this direct final rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, published March 1, 2004 in the **Federal Register** (69 FR 9680), that this action is categorically excluded (CE) under Appendix 2, paragraph 6 (b) of the Order from further environmental documentation. This CE relates to establishing regulations and actions taken pursuant to these regulations that are editorial in nature. In addition, the Agency believes that the action includes no extraordinary circumstances that would have any effect on the quality of the environment. Thus, the action does not require an environmental assessment or an environmental impact statement.

In addition to the NEPA requirements to examine impacts on air quality, we have also analyzed this proposed rule under the Clean Air Act, as amended (CAA), section 176(c), (42 U.S.C. 7401 *et seq.*) and implementing regulations promulgated by EPA. Approval of this action is exempt from the CAA's general conformity requirement since it would not result in any potential increase in emissions that are above the general conformity rule's *de minimis* emission threshold levels (40 CFR 93.153(c)(2)). This action merely eliminates turbochargers from the list of equipment considered to be noise dissipative devices.

A Categorical Exclusion Determination is available for inspection or copying in the regulations.gov Web site listed under **ADDRESSES**.

List of Subjects in 49 CFR Part 325

Motor carriers, Noise control.

■ For the reasons discussed in the preamble, the Federal Motor Carrier Safety Administration amends 49 CFR part 325 as follows:

PART 325–COMPLIANCE WITH INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS

■ 1. The authority citation for part 325 continues to read as follows:

Authority: 42 U.S.C. 4917; 49 U.S.C. 301; 49 CFR 1.73.

■ 2. Amend § 325.91 by revising paragraph (b) to read as follows:

§ 325.91 Exhaust systems.

* * * * *

(b) Is not equipped with either a muffler or other noise dissipative device; or

* * * * *

Issued on: September 15, 2010.

Anne S. Ferro,

Administrator.

[FR Doc. 2010–23419 Filed 9–17–10; 8:45 am]

BILLING CODE 4910–EX–P

Proposed Rules

Federal Register

Vol. 75, No. 181

Monday, September 20, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–10–0068; NOP–10–08]

Meeting of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for comments.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS) is announcing a forthcoming meeting of the National Organic Standards Board (NOSB). The principal purpose of NOSB meetings is to provide an opportunity for the organic community to weigh in on proposed NOSB recommendations and discussion items. These meetings also allow the NOSB to receive updates from the USDA/NOP on issues pertaining to organic agriculture.

DATES: The meeting dates are Monday, October 25, 2010, 8 a.m. to 5:30 p.m.; Tuesday, October 26, 2010, 8 a.m. to 4:40 p.m.; Wednesday, October 27, 2010, 8 a.m. to 5 p.m.; and Thursday, October 28, 2010, 8 a.m. to 5:30 p.m. Requests from individuals and organizations wishing to make oral presentations at the meeting are due by the close of business on Tuesday, October 12, 2010.

ADDRESSES: The meeting will take place at the Best Western InnTowner, 2424 University Avenue, Madison, Wisconsin 53726.

- The NOSB meeting agenda and proposed recommendations may be viewed at *http://www.ams.usda.gov/nop.* Requests for copies of these materials may be sent to Ms. Lisa Ahramjian (*see* **FOR FURTHER INFORMATION CONTACT** section).
- Written comments on proposed NOSB recommendations may be received by the close of business on Tuesday, October 12, 2010. Written comments may be submitted to Ms. Lisa Ahramjian electronically at *www.regulations.gov* (preferred) or via mail (*see* **FOR FURTHER INFORMATION CONTACT** section). The comments should identify Document Number AMS–NOP–10–0068; NOP–10–08. It is our intention to have all comments—whether they are submitted by mail or the Internet—available for viewing on the *www.regulations.gov* Web site.
- To make an oral presentation at the meeting, please send a request to Ms. Lisa Ahramjian at *nosb@ams.usda.gov* or (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Ahramjian, Executive Director, National Organic Standards Board, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646–So., Ag Stop 0268, Washington, DC 20250–0268; Phone: (202) 720–3252; *nosb@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 2119 (7 U.S.C. 6518) of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*) requires the establishment of the NOSB. The purpose of the NOSB is to make recommendations about whether a substance should be allowed or prohibited in organic production or handling, to assist in the development of standards for substances to be used in organic production, and to advise the Secretary on other aspects of the implementation of the OFPA. The NOSB met for the first time in Washington, DC, in March 1992, and currently has six subcommittees working on various aspects of the organic program. The committees are: Compliance, Accreditation, and Certification; Crops; Handling; Livestock; Materials; and Policy Development.

In August of 1994, the NOSB provided its initial recommendations for the NOP to the Secretary of Agriculture. Since that time, the NOSB has submitted 197 addenda to its recommendations and reviewed more than 357 substances for inclusion on the National List of Allowed and Prohibited Substances. The Department of Agriculture (USDA) published its final National Organic Program regulation in the **Federal Register** on December 21, 2000, (65 FR 80548). The rule became effective April 21, 2001.

In addition, the OFPA authorizes the National List of Allowed and Prohibited Substances and provides that no allowed or prohibited substance would remain on the National List for a period exceeding five years unless the exemption or prohibition is reviewed and recommended for renewal by the NOSB and adopted by the Secretary of Agriculture. This expiration is commonly referred to as sunset of the National List. The National List appears at 7 CFR Part 205, Subpart G.

The principal purpose of NOSB meetings is to provide an opportunity for the organic community to weigh in on proposed NOSB recommendations and discussion items. These meetings also allow the NOSB to receive updates from the USDA/NOP on issues pertaining to organic agriculture.

Summary of April 2010 NOSB Meeting

The last NOSB meeting was held on April 26–29, 2010, in Davis, California. During this meeting, the Board did not recommend the addition of any new materials to the National List, but did recommend renewal of 148 of the 232 listings of materials scheduled to expire on specific dates in 2012 (*see* Table 1). In addition, the Advanced Notice of Proposed Rulemaking for Sunset 2012 [Doc. No. AMS–NOP–09–0074; NOP–09–01] (75 FR 14500, March 26, 2010) was open for comments during the time of the April 2010 business meeting, and was not scheduled to close until May 25, 2010. Consequently, the Board had not yet received or reviewed all public comments, and was aware that additional information may be received from the public that may require the reconsideration of one or all of the materials recommended for continued listing at the next scheduled meeting of the Board.

TABLE 1—NOSB'S PREVIOUS SUNSET 2012 RELISTING RECOMMENDATIONS

Section	Material	Expiration date
§ 205.601 Synthetic substances allowed for use in organic crop production.	Hydrogen peroxide	October 21, 2012.
	Soap-based algicide/demossers	October 21, 2012.
	Herbicides, soap-based	October 21, 2012.
	Soaps, ammonium	October 21, 2012.
	Ammonium carbonate	October 21, 2012.
	Boric acid	October 21, 2012.
	Elemental sulfur	October 21, 2012.
	Lime sulfur	October 21, 2012.
	Oils, horticultural-narrow range oils as dormant, suffocating, and summer oils	October 21, 2012.
	Soaps, insecticidal	October 21, 2012.
	Sticky traps/barriers	October 21, 2012.
	Sucrose octanoate esters (CAS #s—42922–74–7; 58064–47–4)	December 11, 2012.
	Hydrated lime	October 21, 2012.
	Hydrogen peroxide	October 21, 2012.
	Lime sulfur	October 21, 2012.
	Oils, horticultural-narrow range oils as dormant, suffocating, and summer oils	October 21, 2012.
	Potassium bicarbonate	October 21, 2012.
	Elemental sulfur	October 21, 2012.
	Aquatic plant extracts (other than hydrolyzed)	October 21, 2012.
	Elemental sulfur	October 21, 2012.
	Humic acids	October 21, 2012.
	Soluble boron products	October 21, 2012.
	Sulfates of zinc	October 21, 2012.
	Sulfates of copper	October 21, 2012.
	Sulfates of iron	October 21, 2012.
	Sulfates of manganese	October 21, 2012.
	Sulfates of molybdenum	October 21, 2012.
	Sulfates of selenium	October 21, 2012.
	Sulfates of cobalt	October 21, 2012.
	Carbonates of zinc	October 21, 2012.
	Carbonates of copper	October 21, 2012.
	Carbonates of iron	October 21, 2012.
	Carbonates of manganese	October 21, 2012.
	Carbonates of molybdenum	October 21, 2012.
	Carbonates of selenium	October 21, 2012.
	Carbonates of cobalt	October 21, 2012.
	Oxides of zinc	October 21, 2012.
	Oxides of copper	October 21, 2012.
	Oxides of iron	October 21, 2012.
	Oxides of manganese	October 21, 2012.
	Oxides of molybdenum	October 21, 2012.
	Oxides of selenium	October 21, 2012.
	Oxides of cobalt	October 21, 2012.
	Silicates of zinc	October 21, 2012.
	Silicates of copper	October 21, 2012.
	Silicates of iron	October 21, 2012.
	Silicates of manganese	October 21, 2012.
	Silicates of molybdenum	October 21, 2012.
	Silicates of selenium	October 21, 2012.
	Silicates of cobalt	October 21, 2012.
	Liquid fish products	October 21, 2012.
	Vitamin B_1	October 21, 2012.
	Vitamin C	October 21, 2012.
	Vitamin E	October 21, 2012.
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production.	Ash from manure burning	October 21, 2012.
	Arsenic	October 21, 2012.
	Lead salts	October 21, 2012.
	Potassium chloride	October 21, 2012.
	Sodium fluoaluminate (mined)	October 21, 2012.
	Strychnine	October 21, 2012.
	Tobacco dust (nicotine sulfate)	October 21, 2012.
§ 205.603 Synthetic substances allowed for use in organic livestock production.	Atropine (CAS #—51–55–8)	December 13, 2012.
	Vaccines	October 21, 2012.
	Butorphanol (CAS #—42408–82–2)	December 13, 2012.
	Chlorhexidine	October 21, 2012.
	Electrolytes—without antibiotics	October 21, 2012.
	Flunixin (CAS #—38677–85–9)	December 13, 2012.
	Hydrogen peroxide	October 21, 2012.

TABLE 1—NOSB'S PREVIOUS SUNSET 2012 RELISTING RECOMMENDATIONS—Continued

Section	Material	Expiration date
	Iodine	October 21, 2012.
	Magnesium hydroxide (CAS #—1309–42–8).	December 13, 2012.
	Oxytocin—use in postparturition therapeutic applications	October 21, 2012.
	Ivermectin	October 21, 2012.
	Peroxyacetic/peracetic acid (CAS #—79–21–0)	December 13, 2012.
	Phosphoric acid	October 21, 2012.
	Poloxalene (CAS #—9003–11–6)	December 13, 2012.
	Tolazoline (CAS #—59–98–3)	December 13, 2012.
	Xylazine (CAS #—7361–61–7)	December 13, 2012.
	Iodine	October 21, 2012.
	Lidocaine	October 21, 2012.
	Lime, hydrated	October 21, 2012.
	Mineral oil	October 21, 2012.
	Procaine	October 21, 2012.
	Sucrose octanoate esters (CAS #s—42922–74–7, 58064–47–4)	December 11, 2012.
	Trace minerals	October 21, 2012.
	Vitamins	October 21, 2012.
	Excipients	December 13, 2012.
§ 205.604 Nonsynthetic substances prohibited for use in organic livestock production.	Strychnine	October 21, 2012.
§ 205.605(a) Nonsynthetic substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic."	Alginic acid	October 21, 2012.
	Citric acid	October 21, 2012.
	Lactic acid	October 21, 2012.
	Bentonite	October 21, 2012.
	Calcium carbonate	October 21, 2012.
	Calcium chloride	October 21, 2012.
	Dairy cultures	October 21, 2012.
	Diatomaceous earth	October 21, 2012.
	Kaolin	October 21, 2012.
	Nitrogen—oil free grades	October 21, 2012.
	Oxygen—oil free grades	October 21, 2012.
	Perlite	October 21, 2012.
	Potassium chloride	October 21, 2012.
	Sodium bicarbonate	October 21, 2012.
	Sodium carbonate	October 21, 2012.
	Carnauba wax—nonsynthetic	October 21, 2012.
	Wood resin wax—nonsynthetic	October 21, 2012.
§ 205.605(b) Synthetic substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic."	Alginates	October 21, 2012.
	Ammonium bicarbonate	October 21, 2012.
	Ammonium carbonate	October 21, 2012.
	Ascorbic Acid	October 21, 2012.
	Calcium citrate	October 21, 2012.
	Calcium hydroxide	October 21, 2012.
	Calcium phosphates monobasic	October 21, 2012.
	Calcium phosphates dibasic	October 21, 2012.
	Calcium phosphates tribasic	October 21, 2012.
	Carbon dioxide	October 21, 2012.
	Ethylene	October 21, 2012.
	Monoglycerides* *To be reconsidered at Fall 2010 meeting due to public comments.*	October 21, 2012.
	Diglycerides* *To be reconsidered at Fall 2010 meeting due to public comments*	October 21, 2012.
	Glycerin	October 21, 2012.
	Hydrogen peroxide	October 21, 2012.
	Magnesium carbonate	October 21, 2012.
	Magnesium chloride	October 21, 2012.
	Magnesium stearate	October 21, 2012.
	Ozone	October 21, 2012.
	Potassium acid tartrate	October 21, 2012.
	Potassium carbonate	October 21, 2012.
	Potassium citrate	October 21, 2012.
	Potassium hydroxide	October 21, 2012.
	Potassium phosphate	October 21, 2012.
	Xanthan gum	October 21, 2012.

TABLE 1—NOSB'S PREVIOUS SUNSET 2012 RELISTING RECOMMENDATIONS—Continued

Section	Material	Expiration date
§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as "organic."	Casings, from processed intestines	June 27, 2012.
	Celery powder	June 27, 2012.
	Chia (*Salvia hispanica L.*)	June 27, 2012.
	Dillweed oil (CAS #—8006–75–5)	June 27, 2012.
	Fish oil (fatty acid CAS #'s—10417–94–4 and 25167–62–8)	June 27, 2012.
	Galangal, frozen	June 27, 2012.
	Gelatin (CAS #—9000–70–8)	June 27, 2012.
	Arabic gum	October 21, 2012.
	Guar gum	October 21, 2012.
	Locust bean gum	October 21, 2012.
	Carob bean gum	October 21, 2012.
	Kelp	October 21, 2012.
	Konjac flour (CAS #—37220–17–0)	June 27, 2012.
	Lemongrass, frozen	June 27, 2012.
	Orange shellac—unbleached (CAS #—9000–59–3)	June 27, 2012.
	Peppers (chipotle chile)	June 27, 2012.
	Sweet potato starch, for bean thread production only	June 27, 2012.
	Turkish bay leaves	June 27, 2012.
	Wakame seaweed (*Undaria pinnatifida*)	June 27, 2012.

In addition to sunset 2012 activities, the board accomplished the following: Suggested six steps to accomplish the changes in regulation to allow NOSB, NOP, and EPA to review materials currently on the now obsolete EPA List 3 and 4 Inerts and determine how best to evaluate these materials; proposed an annotation to allow the petitioned levels of the three forms of methionine allowed in organic poultry feed through October 1, 2012, at which time the maximum levels of methionine would be reduced; and proposed a language clarification to allow young organic animals still receiving milk in their diet to consume milk from animals being treated with substances allowed under § 205.603, regardless of withholding time.

Agenda Items for Fall 2010

The Crops Committee will present recommendations on eight sunset 2012 material listings (*see* Table 2).

TABLE 2—CROP COMMITTEE SUNSET 2012 RECOMMENDATIONS (TO BE PRESENTED AT OCTOBER, 2010 MEETING)

Section	Material	Expiration date
§ 205.601 Synthetic substances allowed for use in organic crop production.	Calcium hypochlorite	October 21, 2012.
	Chlorine dioxide	October 21, 2012.
	Sodium hypochlorite	October 21, 2012.
	Copper hydroxide	October 21, 2012.
	Copper oxide	October 21, 2012.
	Copper oxychloride	October 21, 2012.
	Copper sulfate	October 21, 2012.
	EPA List 4—Inerts of Minimal Concern	October 21, 2012.
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production.	None.	

The Corps Committee is deferring fifteen sunset 2012 material listing until the spring 2011 NOSB meeting for additional technical review (*see* Table 3).

TABLE 3—CROP COMMITTEE DEFERRED SUNSET 2012 MATERIALS (TO BE ADDRESSED AT SPRING, 2011 MEETING)

Section	Material	Expiration date
§ 205.601 Synthetic substances allowed for use in organic crop production.	Ethanol	October 21, 2012.
	Isopropanol	October 21, 2012.
	Newspapers or other recycled paper, without glossy or colored inks	October 21, 2012.
	Plastic mulch and covers	October 21, 2012.
	Newspapers or other recycled paper, without glossy or colored inks	October 21, 2012.
	Pheromones	October 21, 2012.
	Sulfur dioxide	October 21, 2012.
	Vitamin D_3	October 21, 2012.
	Streptomycin	October 21, 2012.
	Lignin sulfonate	October 21, 2012.
	Magnesium sulfate	October 21, 2012.
	Ethylene gas	October 21, 2012.
	Lignin sulfonate	October 21, 2012.

TABLE 3—CROP COMMITTEE DEFERRED SUNSET 2012 MATERIALS (TO BE ADDRESSED AT SPRING, 2011 MEETING)—Continued

Section	Material	Expiration date
	Sodium silicate	October 21, 2012.
§ 205.602 Nonsynthetic substances prohibited for use in organic crop production.	Sodium nitrate	October 21, 2012.

The Crops Committee will also present recommendations to the board on four petitioned materials: ethylene glycol, ethylene DDS, tall oils, and tetramethyl-decyne-diol. Other Crops Committee recommendations include a review of their prior sunset 2012 recommendations on § 205.601 and § 205.602 and a recommendation on corn steep liquor.

The Livestock Committee will present recommendations on twelve sunset 2012 material listings (*see* Table 4).

TABLE 4—LIVESTOCK COMMITTEE SUNSET 2012 RECOMMENDATIONS (TO BE PRESENTED AT OCTOBER, 2010 MEETING)

Section	Material	Expiration date
§ 205.603 Synthetic substances allowed for use in organic livestock production.	Ethanol	October 21, 2012.
	Isopropanol	October 21, 2012.
	Aspirin	October 21, 2012.
	Calcium hypochlorite	October 21, 2012.
	Chlorine dioxide	October 21, 2012.
	Sodium hypochlorite	October 21, 2012.
	Furosemide	December 13, 2012.
	Glucose	October 21, 2012.
	Glycerine	October 21, 2012.
	Magnesium sulfate	October 21, 2012.
	Copper sulfate	October 21, 2012
	EPA List 4—Inerts of Minimal Concern	October 21, 2012
§ 205.604 Nonsynthetic substances prohibited for use in organic livestock production.	None.	

The Livestock Committee will also present recommendations to the board on one petitioned material, formic acid, and review their prior sunset 2012 recommendations on § 205.603 and § 205.604. Other Livestock Committee recommendations include issues regarding apiculture and animal health care products/clarifying § 205.238(c)(2).

The Handling Committee will present recommendations on 43 sunset 2012 material listings (*see* Table 5).

TABLE 5—HANDLING COMMITTEE SUNSET 2012 RECOMMENDATIONS (TO BE PRESENTED AT OCTOBER, 2010 MEETING)

Section	Material	Expiration date
§ 205.605(a) Nonsynthetic substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic."	Flavors	October 21, 2012.
	Magnesium sulfate	October 21, 2012.
	Yeast autolysate	October 21, 2012.
	Bakers yeast	October 21, 2012.
	Brewers yeast	October 21, 2012.
	Nutritional yeast	October 21, 2012.
	Smoked yeast	October 21, 2012.
§ 205.605(b) Synthetic substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic."	Calcium hypochlorite	October 21, 2012.
	Chlorine dioxide	October 21, 2012.
	Sodium hypochlorite	October 21, 2012.
	Ferrous sulfate	October 21, 2012.
	Pectin (low-methoxy)	October 21, 2012.
	Phosphoric acid	October 21, 2012.
	Silicon dioxide	October 21, 2012.
	Sodium citrate	October 21, 2012.
	Sodium hydroxide	October 21, 2012.
	Sodium phosphates	October 21, 2012.
	Sulfur dioxide	October 21, 2012.
§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as "organic."	Annatto extract color (pigment CAS # 1393–63–1)—water and oil soluble.	June 27, 2012.
		June 27, 2012.
	Beet juice extract color (pigment CAS # 7659–95–2)	June 27, 2012.
	Beta-carotene extract color from carrots (CAS # 1393–63–1)	
	Black currant juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Black/purple carrot juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.

TABLE 5—HANDLING COMMITTEE SUNSET 2012 RECOMMENDATIONS (TO BE PRESENTED AT OCTOBER, 2010 MEETING)—Continued

Section	Material	Expiration date
	Blueberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Carrot juice color (pigment CAS # 1393–63–1)	June 27, 2012.
	Cherry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Chokeberry—Aronia juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Elderberry juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Grape juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Grape skin extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Paprika color—dried powder and vegetable oil extract (CAS # 68917–78–2).	June 27, 2012.
	Pumpkin juice color (pigment CAS # 127–40–2)	June 27, 2012.
	Purple potato juice color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Red cabbage extract color (pigment CAS #'s: 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Red radish extract color (pigment CAS #'s 528–58–5, 528–53–0, 643–84–5, 134–01–0, 1429–30–7, and 134–04–3).	June 27, 2012.
	Saffron extract color (pigment CAS # 1393–63–1)	June 27, 2012.
	Turmeric extract color (CAS # 458–37–7)	June 27, 2012.
	Fructo-oligosaccharides (CAS#308066–66–2)	June 27, 2012.
	Hops (*humulus lupulus)*	June 27, 2012.
	Inulin, oligofructose enriched	June 27, 2012.
	(CAS # 9005–80–5)	
	Pectin (high-methoxy)	October 21, 2012.
	Cornstarch (native)	October 21, 2012.
	Whey protein	June 27, 2012.

The Handling Committee is deferring decisions on six sunset 2012 material listings until the Spring 2011 NOSB meeting for additional technical review (*see* Table 6).

TABLE 6—HANDLING COMMITTEE DEFERRED SUNSET 2012 MATERIALS (TO BE ADDRESSED AT SPRING, 2011 MEETING)

Section	Material	Expiration date
§ 205.605(a) Nonsynthetic substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic."	Enzymes	October 21, 2012.
	Potassium iodide	October 21, 2012.
§ 205.605(b) Synthetic substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic."	Nutrient vitamins	October 21, 2012.
	Nutrient minerals	October 21, 2012.
	Potassium iodide	October 21, 2012.
	Tocopherols	October 21, 2012.
§ 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as "organic."	None	

The Handling Committee will also present recommendations to the board on four petitioned materials: Yeast (petition to move from § 205.605 to § 205.606), pectin (low-methoxy), glucosamine hydrochloride, and hops (petition to remove from the National List). Other Handling Committee recommendations include a review of their prior sunset 2012 recommendations on § 205.605(a), § 205.605(b), and § 205.606. The Committee will reconsider a prior sunset 2012 recommendation on glycerides (mono and di), and present a colors annotation recommendation.

The Materials Committee will present a recommendation on nanotechnology and provide an oral update on materials classification.

The Compliance, Accreditation, and Certification Committee will present a recommendation on the "made with" organic claim and the limitations of § 205.101(b).

The Policy Development Committee will present recommendations on three

sections of the NOSB Policy and Procedures Manual: Section IV (Establishing Ad-hoc Committees), Section V (NOP/NOSB Collaboration), and Section VIII (Recommendations on sunset Review Policy). Additionally, they will present a recommendation to update the NOSB New Member Guide.

The Meeting Is Open to the Public. The NOSB has scheduled time for public input for Monday, October 25, 2010, from 10 a.m. to 5:30 p.m. and Wednesday, October 27, 2010 from 8 a.m. to 5 p.m. Individuals and organizations wishing to make oral presentations at the meeting must forward their requests by e-mail, phone, or mail to Ms. Lisa Ahramjian (*see* **FOR FURTHER INFORMATION CONTACT** section above). Individuals or organizations will be given one five-minute slot to present their views. All persons making oral presentations are requested to provide their comments in writing and indicate the topic of their comment, referencing specific NOSB recommendations/topics or noting if they plan to cover multiple topics. Written submissions may contain information other than that presented at the oral presentation. Anyone may submit written comments at the meeting. Persons submitting written comments are asked to provide 30 copies.

Interested persons may visit the NOSB portion of the NOP Web site at *http://www.ams.usda.gov/nop* to view available meeting documents prior to the meeting, or visit *www.regulations.gov* to submit and view comments (*see* **ADDRESSES** section above). Documents presented at the meeting will be posted for review on the NOP Web site approximately six weeks following the meeting.

Dated: September 13, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–23337 Filed 9–17–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 56, 145, 146, and 147

[Docket No. APHIS-2009-0031]

RIN 0579-AD21

National Poultry Improvement Plan and Auxiliary Provisions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the National Poultry Improvement Plan (the Plan) and its auxiliary provisions by providing new or modified sampling and testing procedures for Plan participants and participating flocks. The proposed changes were voted on and approved by the voting delegates at the Plan's 2008 National Plan Conference. These changes would keep the provisions of the Plan current with changes in the poultry industry and provide for the use of new sampling and testing procedures.

DATES: We will consider all comments that we receive on or before November 19, 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-2009-0031*) 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-2009-0031, 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-2009-0031.

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: Mr. Andrew R. Rhorer, Senior Coordinator, Poultry Improvement Staff, National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 101, Conyers, GA 30094-5104; (770) 922-3496.

SUPPLEMENTARY INFORMATION:

Background

The National Poultry Improvement Plan (NPIP, also referred to below as "the Plan") is a cooperative Federal-State-industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control poultry diseases. Participation in all Plan programs is voluntary, but breeding flocks, hatcheries, and dealers must first qualify as "U.S. Pullorum-Typhoid Clean" as a condition for participating in the other Plan programs.

The Plan identifies States, flocks, hatcheries, dealers, and slaughter plants that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 145, 146, and 147 (referred to below as the regulations) contain the provisions of the Plan. The Animal and Plant Health Inspection Service (APHIS, also referred to as "the Service") of the U.S. Department of Agriculture (USDA, also referred to as "the Department") amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

The proposed amendments discussed in this document are consistent with the recommendations approved by the voting delegates to the National Plan Conference that was held from June 5 through June 7, 2008. Participants in the 2008 National Plan Conference represented flockowners, breeders, hatcherymen, slaughter plants, and Official State Agencies from all cooperating States. The proposed amendments are discussed in detail below.

Simplifying Indemnity Provisions in Part 56

The regulations in 9 CFR part 56 set out conditions for the payment of indemnity for costs associated with poultry that are infected with or exposed to the H5 or H7 subtypes of low pathogenic avian influenza (H5/H7 LPAI). Section 56.3 states that indemnity may be paid for destruction and disposal of poultry that were infected with or exposed to H5/H7 LPAI, destruction of eggs for testing for H5/H7 LPAI, and cleaning and disinfection of premises, conveyances, and materials that came into contact with poultry that were infected with or exposed to H5/H7 LPAI (or destruction and disposal, if the cost of cleaning and disinfection would exceed the value of the materials or cleaning and disinfection would be impractical).

Section 56.3 also sets the percentages of the costs of those activities that are eligible for indemnity. Specifically, paragraph (b) of § 56.3 indicates that the Administrator is authorized to pay 100

percent indemnity for costs related to all poultry that are infected with or exposed to H5/H7 LPAI, unless those poultry do not participate in the avian influenza (AI) surveillance program provided for poultry in the regulations in 9 CFR part 145 or 146. For those poultry, the Administrator is authorized to pay indemnity for only 25 percent of costs. The payment of only 25 percent indemnity thus provides an incentive for producers to participate in AI surveillance programs. The specific poultry that are eligible for only 25 percent indemnity, as listed in paragraphs (b)(1) through (b)(6), are:

- Egg-type breeding chickens from a flock that participates in any Plan program in 9 CFR part 145 but that does not participate in the U.S. Avian Influenza Clean program of the Plan in § 145.23(h);
- Meat-type breeding chickens from a flock that participates in any Plan program in 9 CFR part 145 but that does not participate in the U.S. Avian Influenza Clean program of the Plan in § 145.33(l);
- Breeding turkeys from a flock that participates in any Plan program in 9 CFR part 145 but that does not participate in the U.S. H5/H7 Avian Influenza Clean program of the Plan in § 145.43(g);
- Commercial table-egg layers from a premises that has 75,000 or more birds and that does not participate in the U.S. H5/H7 Avian Influenza Monitored program of the Plan in § 146.23(a);
- Commercial meat-type chickens that are associated with a slaughter plant that slaughters 200,000 or more meat-type chickens per operating week and that does not participate in the U.S. H5/H7 Avian Influenza Monitored program of the Plan in § 146.33(a); and
- Commercial meat-type turkeys that are associated with a slaughter plant that slaughters 2 million or more meat-type turkeys in a 12-month period and that does not participate in the U.S. H5/H7 Avian Influenza Monitored program of the Plan in § 146.43(a).

The regulations in paragraph (b)(7) also provide for the payment of 25 percent indemnity for any poultry located in a State that does not participate in the diagnostic surveillance program for H5/H7 LPAI, as described in § 146.14, or that does not have an initial State response and containment plan for H5/H7 LPAI that is approved by APHIS under § 56.10, unless such poultry participate in the Plan with another State that does participate in the diagnostic surveillance program for H5/H7 LPAI and has an initial State response and containment plan for H5/H7 LPAI that is approved by APHIS. This provision is intended to provide States with an incentive to participate in the NPIP's AI surveillance and control programs.

Since the regulations in part 56 were established, an H5/H7 LPAI surveillance program has been added that covers new types of commercial poultry, namely the program for commercial upland game birds, commercial waterfowl, raised-for-release upland game birds, and raised-for-release waterfowl in § 146.53(a). The program in § 146.53(a) contains size thresholds for each of the various types of poultry included in the program. Slaughter plants and premises above these size thresholds are required to participate in the program in § 146.53(a) in order to participate in the Plan, similar to the size thresholds for slaughter plants and premises in the other subparts in 9 CFR part 146. In addition, in this document, we are proposing to add to 9 CFR part 145 provisions for an AI surveillance program for meat-type waterfowl breeding flocks, in proposed § 145.93(c). (See the description under the heading "New Provisions for Meat-Type Waterfowl Breeding Flocks and Products" later in this document.)

Our general intention in establishing § 56.3 was to provide an incentive to participate in NPIP AI surveillance programs for all poultry for which such programs are available. To ensure that § 56.3 continues to provide such an incentive as new AI surveillance programs are added for new types of poultry, we are proposing to change the structure of § 56.3 to refer more generally to AI surveillance programs available to breeding poultry in 9 CFR part 145 and to commercial poultry in part 146. In order to do this, we would remove paragraphs (b)(1) through (b)(6) from § 56.3, redesignate paragraph (b)(7) as paragraph (b)(3), and add two new paragraphs (b)(1) and (b)(2) to cover breeding poultry and commercial poultry, respectively.

Paragraph (b)(1) would provide that poultry that are from a breeding flock that participates in any Plan program in 9 CFR part 145 but that does not participate in the U.S. Avian Influenza Clean or the U.S. H5/H7 Avian Influenza Clean program of the Plan available to the flock in 9 CFR part 145 would only be eligible for 25 percent indemnity.

Paragraph (b)(2) would provide that poultry that are from a commercial flock or slaughter plant that does not participate in the U.S. Avian Influenza Monitored program available to the commercial flock or slaughter plant in 9 CFR part 146 would only be eligible for 25 percent indemnity. As part of this change, we are proposing to add a definition of *commercial flock or slaughter plant* to § 56.1, which sets out definitions of terms used in part 56. We would define *commercial flock or slaughter plant* as a commercial poultry flock or slaughter plant that is required because of its size to participate in the special provisions in 9 CFR part 146 in order to participate in the Plan. (Subpart A of part 146 contains the general provisions; subparts B through E contain special provisions for specific types of commercial poultry.) We would also remove the definitions of *commercial meat-type flock*, *commercial table-egg layer flock*, *commercial table-egg layer premises*, *meat-type chicken*, and *meat-type turkey* from § 56.1, as they would no longer be necessary.

These changes would simplify the regulations and more clearly express the principle that, for certain poultry operations, participation in NPIP AI surveillance programs is required in order for the poultry to be eligible for 100 percent indemnity in the event of an H5/H7 LPAI outbreak.

Amendments to Flock Testing Requirements and Procedures for Mycoplasma Bacteria

The regulations in § 145.14 set out testing requirements for breeding flocks participating in NPIP programs in part 145. Paragraph (b) in § 145.14 sets out testing requirements for *Mycoplasma gallisepticum* and *M. synoviae*. We are proposing to make several changes to these testing requirements to update them and make them consistent with current best practices.

We are proposing to amend paragraph (b) at several locations to indicate that these testing requirements apply to *M. meleagridis* as well as *M. gallisepticum* and *M. synoviae*. Currently, paragraph (c) of § 145.14 covers *M. meleagridis*; this paragraph refers the reader to § 145.43(d)(2) for a list of official blood tests for *M. meleagridis*. (Paragraph (d)(3) of § 145.43 provides additional instructions on testing for *M. meleagridis*.) However, many of the testing procedures work for all three bacteria, and it makes sense to address testing for these bacteria together in § 145.14(b) because they are also addressed together in § 147.6, which sets out a procedure for determining the status of flocks reacting to tests for these three bacteria. Accordingly, we are proposing to remove and reserve §§ 145.14(c) and 145.43(d)(2) and (d)(3).

The testing provisions in paragraph (b) have referred to blood testing specifically. However, the regulations in § 147.30 provide a molecular

examination procedure for *M. gallisepticum* and *M. synoviae*, and the regulations in § 147.31 provide another molecular examination procedure for *M. gallisepticum*. These molecular examination procedures do not involve blood testing. Therefore, we are proposing to make several changes in paragraph (b) to indicate that the regulations provide for testing procedures generally.

Paragraph (b)(1) of § 145.14 currently provides for the use of the hemagglutination inhibition (HI) test, the microhemagglutination inhibition test, and the enzyme-linked immunosorbent assay (ELISA) test to confirm the positive results of other serological tests. We are proposing to remove the ELISA test from this list. The ELISA test is a screening assay and should not be used to confirm positive serological results.

Paragraph (b)(5) of § 145.14 currently provides that the official molecular examination procedures for *M. gallisepticum* and *M. synoviae* are the polymerase chain reaction (PCR) test described in § 147.30 and the real-time PCR test described in § 147.31. However, the real-time PCR test in § 147.31 is approved only for *M. gallisepticum*. We are therefore proposing to remove the reference to the real-time PCR as an official molecular examination procedure for *M. synoviae*. If, at some point in the future, we expand the use of the molecular examination procedures in §§ 147.30 and 147.31 to *M. meleagridis* and the use of the real-time PCR test in § 147.31 to *M. synoviae*, we will amend § 145.14(b)(5) accordingly.

As noted earlier, § 147.6 sets out a procedure for determining the status of flocks reacting to tests for *M. gallisepticum*, *M. meleagridis*, and *M. synoviae*. We are proposing to make several updates to this section.

The introductory text of § 147.6 currently states that the official tests for *Mycoplasma* are the macroagglutination tests for *Mycoplasma* antibodies, as described in "Standard Methods for Testing Avian Sera for the Presence of Mycoplasma Gallisepticum Antibodies" published by the Agricultural Research Service, USDA, March 1966, and the microagglutination tests, as reported in the Proceedings, Sixteenth Annual Meeting of the American Association of Veterinary Laboratory Diagnosticians, 1973. The introductory text goes on to state that procedures for isolation and identification of *Mycoplasma* may be found in Isolation and Identification of Avian Pathogens, published by the American Association of Avian Pathologists, and §§ 147.15 and 147.16.

However, as noted earlier, there are several official tests for *Mycoplasma*, not just the macroagglutination test in the 1966 Agricultural Research Service publication. In addition, § 145.14(b)(1) lists all the official tests; it is not necessary to do so again in § 147.6. Accordingly, we would remove the first sentence of the introductory text of § 147.6. In addition, we would add to the list of procedures for isolation and identification of *Mycoplasma* a reference to the Manual of Diagnostic Tests and Vaccines for Terrestrial Animals, which is published by the World Organization for Animal Health (OIE). These procedures are internationally recognized as efficacious.

Paragraph (a)(1) of § 147.6 states that, if a flock is tested by the tube agglutination or the serum plate test and the test is negative, the flock's status is negative for *Mycoplasma*. We would amend this paragraph to include the ELISA and the official molecular examination procedures. These tests are also effective at determining a flock's status.

Paragraph (a)(2) of § 147.6 states that, if the tube agglutination or the serum plate test is positive, the HI test and/or the serum plate dilution (SPD) test shall be conducted. However, for egg-type and meat-type chicken and waterfowl, exhibition poultry, and game bird flocks, if more than 50 percent of the samples are positive for either *M. gallisepticum*, *M. synoviae*, or both, paragraph (a)(2) requires the HI and/or the SPD test to be conducted on 10 percent of the positive samples or 25 positive samples, whichever is greater.

We are amending the list of screening assays that require confirmation to include the ELISA, as listed in proposed paragraph (a)(1). We are removing the SPD test from the list of confirmatory tests for serological screening assays because there are currently no laboratories that use this test; the HI test is widely used and accepted as the preferred test.

For that reason, we would also remove the SPD test from the list of confirmatory tests for the HI test when more than 50 percent of the samples from egg-type and meat-type chicken flocks and waterfowl, exhibition poultry, and game bird flocks are positive on the HI test. This change would provide for the use of only the HI test as a confirmatory test in this case. We would also remove the text indicating that this confirmatory procedure is required only for egg-type and meat-type chicken flocks and waterfowl, exhibition poultry, and game bird flocks, as the procedure is necessary any time more than 50 percent of the samples are positive on the HI test, to confirm the validity of the test.

Paragraph (a)(4) of § 147.6 states that, if HI titers of 1:40 or SPD titers of 1:5 are found, the flock shall be considered suspicious and shall be retested in accordance with § 147.6(a)(6). Paragraph (a)(6) states that, 14 days after the previous bleeding date, all birds or a random sample comprised of 75 birds shall be tested by the serum plate or tube agglutination test, and that tested birds shall be identified by numbered bands.

We are proposing to move this information into paragraph (a)(2), as it follows naturally from the other information about administering the HI test. We would also make some changes to it. First, we would remove all references to the SPD test, for reasons discussed earlier; under this proposal, paragraph (a)(2) would state only that HI titers of 1:40 or more may be interpreted as suspicious. We would replace the current procedure of testing with SPD or tube agglutination with a culture procedure. In this procedure, appropriate antigen detection samples would be taken promptly (within 7 days of the original sampling) from 30 clinically affected birds and examined by an approved cultural technique individually, or pooled (up to 5 swabs per test) and used in a molecular examination procedure or in vivo bioassay. The molecular examination procedure and in vivo bioassay are widely accepted as confirmatory tests for this procedure.

We are proposing to remove the requirement to identify tested birds by numbered bands because other means are available to identify birds that have been tested; Official State Agencies can work with producers to determine the most cost-effective method in individual cases.

In § 145.14, paragraph (b)(1) states that HI titers of 1:40 or less may be interpreted as equivocal, and final judgment may be based on further samplings and/or culture of reactors. As noted earlier, § 147.6 refers to HI titers of 1:40 or less as "suspicious." We are proposing to amend § 145.14(b)(1) to be consistent with § 147.6.

Paragraphs (a)(3) through (a)(15) of § 147.6 provide extensive procedures for testing and retesting flocks that have been tested with HI in order to determine whether they are eligible for the classification for which they are tested. We are proposing to replace these paragraphs with new paragraphs (a)(3) and (a)(4), which would provide a much simpler procedure. Under

proposed paragraph (a)(3), if the in vivo bioassay, molecular examination procedure, or culture procedure referred to in proposed paragraph (a)(2) is negative, the Official State Agency would be able to qualify the flock for the classification for which it was tested. In the event of contaminated cultures, we would require the molecular examination technique to be used to make a final determination. Under proposed paragraph (a)(4), if the in vivo bioassay, molecular examination procedures, or culture procedures are positive, the flock would be considered infected. These proposed provisions would greatly simplify the regulations and recognize the utility of the in vivo bioassay, molecular examination procedures, and culture procedures.

Changes to AI Clean Programs for Egg-Type and Meat-Type Chicken Breeding Flocks

The regulations set out requirements for the U.S. Avian Influenza Clean classification for multiplier egg-type chicken breeding flocks, multiplier meat-type chicken breeding flocks, primary egg-type chicken breeding flocks, and primary meat-type chicken breeding flocks at §§ 145.23(h), 145.33(l), 145.73(f), and 145.83(g) respectively.

The current requirements for these U.S. Avian Influenza Clean classifications are nearly identical. The introductory text of §§ 145.23(h), 145.33(l), 145.73(f), and 145.83(g) states that the U.S. Avian Influenza Clean program is intended to be the basis from which the breeding-hatchery industry may conduct a program for the prevention and control of avian influenza. It is intended to determine the presence of avian influenza in breeding chickens through routine serological surveillance of each participating breeding flock. A flock and the hatching eggs and chicks produced from it will qualify for this classification when the Official State Agency determines that they have met the requirements of the relevant paragraph listed earlier.

Each of those paragraphs contains a subparagraph indicating that a flock is eligible for the classification if a minimum of 30 birds have been tested negative for antibodies to avian influenza when more than 4 months of age and prior to the onset of egg production. To retain this classification, a sample of at least 30 birds must be tested negative at intervals of 90 days, and primary spent fowl must be tested within 30 days prior to movement to slaughter. Alternatively, a sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds is tested within each 90-day period. (The only exception is for meat-type chicken multiplier breeding flocks, which are only required to have 15 birds tested, at the same 90-day interval, in order to be eligible for and to retain the classification.)

We are proposing to make several changes to these classifications. First, we are proposing to remove the references to serological surveillance from the introductory text of the classifications, instead referring simply to "surveillance." As we are proposing to refer in the regulatory text specifically to the AI testing procedures in § 145.14(d), referring to serological surveillance in the introductory text is not necessary. In addition, some of the tests in § 145.14(d) are not serological tests — for example, the real-time reverse transcriptase PCR assay in paragraph (d)(2)(i).

We would continue to require a minimum of 30 birds to be tested negative for antibodies to avian influenza when more than 4 months of age and prior to the onset of egg production, and we would continue to provide the 2 options for retaining the U.S. Avian Influenza Clean classification that are found in the current regulations. We are proposing to add a third option by which flocks could retain the classification. Under this option, the flock could retain the classification if the flock is tested as provided in § 145.14(d) and found negative at intervals of 30 days or less, and a total of 30 (15 for meat-type multiplier breeding flocks) samples are collected and tested within each 90-day period. This option would provide additional flexibility to use the flock screening tests in § 145.14(d)(2).

We are also proposing to put in place requirements for testing spent fowl for each of the options for retaining the U.S. Avian Influenza Clean classification. As noted earlier, under the current regulations, spent fowl are required to be tested only if the sample of 30 birds is being tested and found negative at intervals of 90 days. However, testing of spent fowl is a useful addition to surveillance for any of the options for retaining classification, both the existing options and the one we are proposing. Accordingly, we are proposing to require spent fowl testing as part of all of the options for retaining classification. Specifically, we would require in paragraphs §§ 145.23(h)(2), 145.33(l)(2), 145.73(f)(2), and 145.83(g)(2) that all spent fowl, up to a maximum of 30, be tested serologically and found negative within 21 days prior to movement to slaughter.

We are proposing to reduce the number of days before slaughter within which spent fowl must be tested from 30 to 21 to be consistent with testing requirement for the NPIP AI surveillance programs in part 146 in which poultry (meat-type chickens and meat-type turkeys) are moved to slaughter. A 21-day testing requirement would also be consistent with the guidelines for AI surveillance in the OIE Terrestrial Animal Health Code.[1] We are proposing to require only a sample of a maximum of 30 spent fowl to be tested, rather than the current requirement to test all spent fowl, because it is not necessary to test more than 30 spent fowl in order to provide adequate assurance that the flock is free of AI; this is consistent with the general requirement to test 30 birds per flock.

Changes to H5/H7 AI Clean Programs for Turkey Breeding Flocks and for Waterfowl, Exhibition Poultry, and Game Bird Breeding Flocks

The regulations set out requirements for the U.S. H5/H7 Avian Influenza Clean classification for turkey breeding flocks and for waterfowl, exhibition poultry, and game bird breeding flocks in §§ 145.43(g) and 145.53(e), respectively. We are proposing to make some minor changes to the text of these classifications to standardize and clarify their language. We are also proposing to add spent fowl testing requirements for all surveillance options in these classifications.

The introductory text of both §§ 145.43(g) and 145.53(e) is similar to that of the U.S. Avian Influenza Clean classifications discussed earlier, except that both refer to the H5 and H7 subtypes of AI. We are proposing to change those references to refer to "the H5/H7 subtypes of avian influenza," as that usage is consistent with our references to these two subtypes in 9 CFR part 146. We are also proposing to remove the word "serological" from the same place as in the introductory text to the U.S. Avian Influenza Clean classifications for breeding chickens, for the same reasons discussed earlier with regard to those AI classifications.

Within §§ 145.43(g) and 145.53(e), paragraphs (g)(1) and (e)(1) address primary breeding flocks for turkeys and for waterfowl, game birds, and exhibition poultry, respectively, while paragraphs (g)(2) and (e)(2) address multiplier breeding flocks. Each of these

[1] The guidelines may be viewed on the Internet at (*http://www.oie.int/eng/normes/mcode/en_chapitre_1.10.4.htm*).

paragraphs refers in its introductory text to testing using the agar gel immunodiffusion test in § 147.9. As all of the tests in § 145.14(d) are effective at testing for AI in turkeys and in waterfowl, exhibition poultry, and game birds, we are proposing to remove the specific references to agar gel immunodiffusion testing. Instead, we would add the words "as provided in § 145.14(d)" to references to AI testing to direct the reader to the approved AI tests.

We are proposing to put in place requirements for testing spent fowl for each of the options for retaining the U.S. H5/H7 Avian Influenza Clean classification for turkey breeding flocks and waterfowl, exhibition poultry, and game bird breeding flocks. Similar to the spent fowl testing requirements for chickens discussed earlier, spent fowl from turkey breeding flocks are currently required to be tested only if a sample of 30 birds is being tested and found negative at intervals of 90 days. However, testing of spent fowl is a useful addition to surveillance for any of the options for retaining the U.S. H5/H7 Avian Influenza Clean classification. Accordingly, we are proposing to add a new paragraph § 145.43(g)(3) to require all spent fowl from turkey breeding flocks, up to a maximum of 30, to be tested serologically and found negative within 21 days prior to movement to slaughter for all of the surveillance options. (We would redesignate current paragraph (g)(3), which contains reporting requirements that apply if killed AI vaccine is used, as paragraph (g)(4).)

The U.S. H5/H7 Avian Influenza Clean classification for waterfowl, exhibition poultry, and game bird breeding flocks does not currently include spent fowl testing requirements. However, testing any spent fowl that are produced by these flocks for AI would be a useful addition to surveillance for this classification as well. Therefore, we are proposing to add a new paragraph § 145.53(e)(3) to require spent fowl to be tested for these flocks as well.

The classification provisions for primary and multiplier turkey breeding flocks in § 145.43(g)(1) and (g)(2), respectively, require that flocks test negative for antibodies to type A AI virus. Positive results must be further tested by an authorized laboratory using the hemagglutination inhibition test to detect antibodies to the hemagglutinin subtypes H5 and H7 when more than 4 months of age and prior to the onset of egg production. We are proposing to remove this 2-step process and instead require that a minimum of 30 birds test negative to the H5/H7 subtypes of AI. The testing procedures in § 145.14(d) set out the official tests for AI and indicate that the official determination of a flock as positive for the H5 or H7 subtypes of avian influenza may be made only by the National Veterinary Services Laboratories. It is appropriate to refer to these testing procedures, which apply to all poultry covered in 9 CFR part 145, rather than setting out a separate testing procedure in the turkey breeding flock U.S. H5/H7 Avian Influenza Clean classification. This change would also make the provisions in § 145.43 consistent with the other AI classifications in the regulations.

The regulations in § 145.53(e)(1) and (e)(2) also refer to testing for antibodies to the H5 and H7 subtypes of AI. As other AI classifications refer to testing for the disease itself and not antibodies to the disease, we would remove references to testing for antibodies to make the regulations consistent.

We are proposing to make one other change related to AI in part 145. In § 145.1, we are proposing to add a definition of *avian influenza*. We would define AI as "an infection or disease of poultry caused by viruses in the family *Orthomyxoviridae*, genus *Influenzavirus* A." Including this definition would provide additional clarity regarding AI.

Salmonella Negative Status for Primary Meat-Type Chicken Breeding Flocks in the U.S. Salmonella Monitored Classification

The regulations in § 145.83(f) set out provisions for the U.S. Salmonella Monitored classification for primary meat-type chicken breeding flocks and the hatching eggs and chicks produced from it. This classification requires participating flocks to be maintained in compliance with §§ 147.21, 147.24(a), and 147.26, requires feed to be processed, stored, and transported to prevent contamination with *Salmonella*, and requires chicks to be hatched in a hatchery meeting the requirements of §§ 147.23 and 147.24(b) and sanitized or fumigated. It also contains testing procedures designed to verify the flock's *Salmonella* status.

In recent years, trading partners have begun to require that baby chicks and hatching eggs originate from breeding flocks free of certain serotypes of *Salmonella*. The current provisions of the U.S. Salmonella Monitored classification do not provide for serotyping. Therefore, we are proposing to add a serotyping provision to paragraph (f)(1)(vi). This paragraph currently requires an Authorized Agent to take environmental samples as described in § 147.12 from each flock at 4 months of age and every 30 days thereafter. An authorized laboratory for *Salmonella* must then examine the environmental samples bacteriologically. We are proposing to require all *Salmonella* isolates from a flock to be serogrouped and reported to the Official State Agency on a monthly basis.

We are also proposing to amend paragraph (f)(1)(vii), which provides that owners of flocks may vaccinate with a paratyphoid vaccine if they leave a sample unvaccinated until the flock reaches 4 months of age, to indicate that this sample will allow for the serological testing that would be required under proposed paragraph (f)(1)(vi).

Some trading partners' import requirements separate the *Salmonella* status of the flock from the status of the hatchery containing the hatching eggs and chicks produced from it. A primary meat-type chicken breeding flock can thus be considered to be free of *Salmonella*, based on regular testing, even if there is environmental *Salmonella* contamination in the hatchery. However, the current U.S. Salmonella Monitored classification does not provide for this; it applies to both the flock and the hatching eggs and chicks produced from it. To provide flock owners with a means to demonstrate their flock's *Salmonella*-negative status, we are proposing to add a new paragraph (f)(1)(viii) with provisions under which a flock could be considered "*Salmonella* negative."

Under proposed paragraph (f)(1)(viii), any flock entering the production period that is in compliance with all the requirements of § 145.83(f) with no history of *Salmonella* isolations would be considered "Salmonella negative" and could retain this definition as long as no environmental or bird salmonella isolations are identified and confirmed from the flock or flock environment by sampling on 4 separate collection dates over a minimum of a 2-week period. Sampling and testing would have to be performed as described in proposed paragraph (f)(1)(vi). An unconfirmed environmental *Salmonella* isolation would not change this Salmonella negative status, as the "Salmonella negative" status is intended to reflect only the status of the flock itself.

These proposed provisions would provide participants in the U.S. Salmonella Monitored classification for primary meat-type breeding turkeys with new means to verify the flock's *Salmonella* status for trading partners.

New Provisions for Meat-Type Waterfowl Breeding Flocks and Products

We are proposing to add a new subpart I to 9 CFR part 145, which would consist of §§ 145.91 through 145.94. This subpart would set out special provisions for the participation of meat-type waterfowl breeding flocks and products in the Plan. Although subpart E in 9 CFR part 145 provides special provisions for waterfowl, exhibition poultry, and game bird breeding flocks and products, these provisions are directed towards hobbyist and exhibition waterfowl and are not necessarily suited for meat-type waterfowl breeding flocks. Adding a new subpart I would allow the NPIP to address issues related to meat-type waterfowl breeding flocks specifically.

We are proposing to amend subpart E to make it clear that meat-type waterfowl breeding flocks would no longer be covered under that subpart. We would amend the section heading of subpart E and the introductory text of § 145.52, "Participation," to indicate that the subpart's applicability is limited to hobbyist and exhibition waterfowl. We would add a sentence to the introductory text of § 145.52 indicating that the special provisions that apply to meat-type waterfowl flocks are found in subpart I of part 145. We would also amend §§ 145.53 and 145.54 in a few places to reflect these changes. The amendments can be found in the proposed regulatory text at the end of this document.

The structure of subpart I would be similar to the structure of subparts B through H in part 145. Section 145.91, "Definitions," would contain a definition of *meat-type waterfowl breeding flocks*. This term would be defined as: Flocks of domesticated duck or goose that are composed of stock that has been developed and is maintained for the primary purpose of producing baby poultry that will be raised under confinement for the primary purpose of producing meat for human consumption.

Section 145.92, "Participation," would state that participating flocks of meat-type waterfowl and the eggs and baby poultry produced from them shall comply with the applicable general provisions of subpart A of part 145 and the special provisions of proposed subpart I. In addition:

- Started poultry would lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 145.5(a).
- Hatching eggs produced by primary breeding flocks would have to be fumigated (see § 147.25) or otherwise sanitized.
- Any nutritive material provided to baby poultry would have to be free of the avian pathogens that are officially represented in the Plan disease classifications listed in § 145.10.

These conditions, which are similar to the conditions for participation in other subparts in part 145, would help to ensure that flocks that participate in the Plan are free of poultry diseases.

Section 145.93, "Terminology and classification; flocks and products," would set out conditions for two Plan classifications for meat-type breeding waterfowl, the U.S. Pullorum-Typhoid Clean classification and the U.S. Avian Influenza Clean classification. The provisions of these classifications are similar to those for other types of poultry in part 145.

Paragraph (a) would be reserved, as it is in other subparts in part 145. Paragraph (b) would contain the requirements for the U.S. Pullorum-Typhoid Clean classification. A qualifying flock would be one in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in one of proposed paragraphs (b)(1) through (b)(5).

Proposed paragraph (b)(1) would provide that a flock would qualify if it has been officially blood tested within the past 12 months with no reactors.

Proposed paragraph (b)(2) would provide that a flock would qualify if it is a multiplier breeding flock, or a breeding flock composed of progeny of a primary breeding flock which is intended solely for the production of multiplier breeding flocks, and meets the following specifications as determined by the Official State Agency and the Service:

- The flock is located in a State where all persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which *S. pullorum* or *S. gallinarum* is isolated;
- The flock is composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean breeding flocks or from flocks that met equivalent requirements under official supervision; and
- The flock is located on a premises where a flock not classified as U.S. Pullorum-Typhoid Clean was located the previous year. In this circumstance, an Authorized Testing Agent would have to blood test up to 300 birds per flock, as described in § 145.14, if the Official State Agency determines that the flock has been exposed to pullorum-typhoid. In making determinations of exposure and setting the number of birds to be blood tested, the Official State Agency would evaluate the results of any blood tests, described in § 145.14(a)(1), that were performed on an unclassified flock located on the premises during the previous year; the origins of the unclassified flock; and the probability of contacts between the flock for which qualification is being sought and infected wild birds, contaminated feed or waste, or birds, equipment, supplies, or personnel from flocks infected with pullorum-typhoid.

(NOTE: In addition to requiring blood testing when a flock not classified as U.S. Pullorum-Typhoid Clean was located on a premises the previous year, similar provisions in §§ 145.23(b)(2)(iii), 145.33(b)(2)(iii), 145.43(b)(2)(iii), and 145.53(b)(2)(iii) also require blood testing when no poultry has been located on the premises the previous year. Testing is not necessary in the latter circumstance, and we are proposing to remove the requirement to conduct blood testing on a flock when no poultry was located on the premises the previous year in each of these paragraphs.)

Paragraph (b)(3) would provide that a flock would qualify if it is a multiplier breeding flock that originated from U.S. Pullorum-Typhoid Clean breeding flocks or from flocks that met equivalent requirements under official supervision, and is located in a State in which it has been determined by the Service that:

- All hatcheries within the State are qualified as "National Plan Hatcheries" or have met equivalent requirements for pullorum-typhoid control under official supervision;
- All hatchery supply flocks within the State are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision. However, if other domesticated fowl are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection would be demonstrated by an official blood test of each of these fowl;
- All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;
- All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which *S. pullorum* or *S. gallinarum* is isolated;
- All reports of any disease outbreak involving a disease covered under the Plan are promptly followed by an investigation by the Official State

Agency to determine the origin of the infection. If the origin of the infection involves another State, or if there is exposure to poultry in another State from the infected flock, then the NPIP would conduct an investigation;

- All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested, following the procedure for reacting flocks as contained in § 145.14(a)(5), and all birds fail to demonstrate pullorum or typhoid infection; and
- All poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition shall come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition.

Discontinuation of any of these conditions or procedures, or the occurrence of repeated outbreaks of pullorum or typhoid in poultry breeding flocks within or originating within the State would be grounds for the Service to revoke its determination that such conditions and procedures have been met or complied with. Such action would not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity to present its views.

Paragraph (b)(4) would provide that a flock would qualify if it is a multiplier breeding flock located in a State which has been determined by the Service to be in compliance with the provisions of proposed paragraph (a)(3), and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks within the State during the preceding 24 months.

Paragraph (b)(5) would provide that a flock would qualify if it is a primary breeding flock located in a State determined to be in compliance with the provisions of paragraph (a)(4) of this section, and in which a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid within the past 12 months with no reactors. However, when a flock is a primary breeding flock located in a State which has been deemed to be a U.S. Pullorum-Typhoid Clean State for the past 3 years, and during which time no isolation of pullorum or typhoid has been made that can be traced to a source in that State, a bacteriological examination monitoring program or a serological examination monitoring program acceptable to the Official State Agency and approved by the Service could be used in lieu of annual blood testing.

Compliance with any one of these provisions is sufficient to ensure that pullorum-typhoid is not present in a meat-type waterfowl breeding flock in the U.S. Pullorum-Typhoid Clean classification, as evidenced by the success of these provisions when used for the classification in other types of poultry.

Proposed paragraph (c) would set out the provisions of the U.S. Avian Influenza Clean classification. The intent of this program would be to serve as the basis from which the meat-type waterfowl breeding-hatchery industry may conduct a program for the prevention and control of H5/H7 AI. It would be intended to determine the presence of the H5/H7 AI in meat-type waterfowl breeding flocks through routine surveillance of each participating breeding flock. There would be separate surveillance provisions for primary breeding flocks and multiplier breeding flocks of meat-type waterfowl.

Paragraph (c)(1) would provide that a primary meat-type waterfowl breeding flock would qualify for the U.S. Avian Influenza Clean classification if a minimum of 30 birds from the flock have been tested negative to H5/H7 AI as provided in § 145.14(d) when more than 4 months of age. To retain this classification:

- A sample of at least 30 birds would have to be tested negative at intervals of 90 days; or
- A sample of fewer than 30 birds could be tested, and found to be negative, at any one time if all pens were equally represented and a total of 30 birds were tested within each 90-day period.

Paragraph (c)(2) would provide that a multiplier meat-type waterfowl breeding flock would also qualify for the classification if a minimum of 30 birds from the flock have been tested negative to H5/H7 AI as provided in § 145.14(d) when more than 4 months of age. The options for retaining the classification would be identical to those for primary breeding flocks.

Consistent with the changes proposed in this document to require testing of spent fowl in the AI programs for other types of poultry, paragraph (c)(3) would require that, during each 90-day period, all primary and multiplier spent fowl, up to a maximum of 30, be tested serologically and found negative within 21 days prior to movement to slaughter.

These provisions would be sufficient to determine whether H5/H7 AI is present in participating meat-type waterfowl breeding flocks. Similar provisions have been used successfully in other AI classifications in part 145.

Section 145.94, "Terminology and classification; States," would set out conditions for the U.S. Pullorum-Typhoid Clean State classification. Several of the subparts for specific types of poultry in part 145 contain provisions for this classification. To be declared a U.S. Pullorum-Typhoid Clean State, APHIS would have to determine that the following two requirements have been met:

- The State is in compliance with the provisions contained in §§ 145.23(b)(3)(i) through (vii), 145.33(b)(3)(i) through (vii), 145.43(b)(3)(i) through (vi), 145.53(b)(3)(i) through (vii), 145.73(b)(2)(i), 145.83(b)(2)(i), and proposed 145.93(b)(3)(i) through (vii). Compliance with these provisions ensures that the State has the infrastructure to detect and respond to outbreaks of pullorum-typhoid; and
- No pullorum disease or fowl typhoid is known to exist nor to have existed in hatchery supply flocks within the State during the preceding 12 months. However, pullorum disease or fowl typhoid found within the preceding 24 months in waterfowl, exhibition poultry, and game bird breeding flocks would not prevent a State that is otherwise eligible from qualifying. This exception is standard in the U.S. Pullorum-Typhoid Clean State classifications; while pullorum disease is found extremely rarely in the United States, it is most often found in these types of poultry, often outside a commercial poultry production setting, and it is not necessary to remove a U.S. Pullorum-Typhoid Clean State classification for such a finding.

If these conditions are discontinued, or repeated outbreaks of pullorum or typhoid occur in hatchery supply flocks of this section, or if an infection spreads from the originating premises, APHIS would have grounds to revoke its determination that the State is entitled to this classification. Such action would not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing in accordance with rules of practice adopted by the Administrator.

As noted, several of the subparts for specific types of poultry in part 145 contain provisions for the U.S. Pullorum-Typhoid Clean State classification. All of those subparts contain lists of the provisions with which the State must be in compliance. Some of these do not reflect the addition of relevant provisions in subparts G and H (for primary egg-type chicken and

primary meat-type chicken breeding flocks, respectively); none of these include the provisions in § 145.93(b)(3)(i) through (vii) that we are proposing to add. We are therefore also proposing to update the lists of provisions with which a State must be in compliance in order to be declared a U.S. Pullorum-Typhoid Clean State in §§ 145.24(a)(1)(i), 145.34(a)(1)(i), 145.44(a)(1)(i), and 145.54(a)(1)(i) to keep them up to date and to reflect the proposed changes.

Definition of H5/H7 LPAI in Part 146

In § 146.1, the term *H5/H7 low pathogenic avian influenza (LPAI)* is defined as follows: "An infection of poultry caused by an influenza A virus of H5 or H7 subtype that has an intravenous pathogenicity index test in 6-week-old chickens less than 1.2 or any infection with influenza A viruses of H5 or H7 subtype for which nucleotide sequencing has not demonstrated the presence of multiple basic amino acids at the cleavage site of the hemagglutinin."

We added this definition to the regulations in an interim rule effective and published in the **Federal Register** on September 26, 2006 (71 FR 53601-56333, Docket No. APHIS-2005-0109). It was based on the OIE guidelines for AI that were current at the time of publication.

Since then, the OIE has updated its AI guidelines, including the definition of H5/H7 LPAI. To ensure that our regulations continue to be consistent with the OIE guidelines, we are proposing to update the definition of H5/H7 LPAI. The new definition would read: "An infection of poultry caused by an influenza A virus of H5 or H7 subtype that has an intravenous pathogenicity index in 6-week-old chickens less than 1.2 or less than 75 percent mortality in 4- to 8-week-old chickens infected intravenously, or an infection with influenza A viruses of H5 or H7 subtype with a cleavage site that is not consistent with a previously identified highly pathogenic avian influenza virus." This change would keep the regulations up to date with international standards.

Addition of Provisions for Commercial Table-Egg Layer Pullets

Subpart B of part 146 (§§ 146.21 through 146.24) contains special provisions for commercial table-egg layer flocks. We are proposing to add provisions for commercial table-egg layer pullets to subpart B.

We would define a *table-egg layer pullet* in § 146.21 as a sexually immature domesticated chicken grown for the primary purpose of producing eggs for human consumption. By definition, because the table-egg layer pullet is not sexually mature, it cannot yet lay eggs. Pullets are typically less than 20 weeks of age. Table-egg layer pullets are moved to a layer house when they become sexually mature, after which they are called table-egg layers. The regulations in subpart B have focused on table-egg layer flocks themselves, but the introduction of table-egg layer pullets into a flock is a potential pathway for the introduction of diseases, particularly as table-egg layer flocks are often assembled from multiple pullet sources. Thus, we are proposing to include provisions in the special provisions for commercial table-egg layers in subpart B of part 146 to address the table-egg layer pullets that will ultimately be moved onto the table-egg layer premises.

In addition, the definition of *commercial table-egg layer flock* in § 146.1 reads: "All table-egg layers of one classification in one barn or house." We are proposing to replace this with a new definition: "All table-egg layers of common age or pullet source on one premises." Table-egg layer flocks are normally composed of birds of common age or pullet source, but the birds may be in one house or multiple houses; older table-egg layer premises are more likely to have one flock spread across multiple houses. By removing the requirement that a flock be contained in a single barn or house and instead designating a flock as a group of table-egg layers of common age or pullet source, we would more accurately reflect the organization of table-egg layer flocks. We would retain the definition of *commercial table-egg layer premises* in § 146.1, which indicates that a premises includes all contiguous flocks of commercial table-egg layers under common ownership, to reflect the fact that a commercial table-egg layer premises may comprise many individual flocks.

We would also add a definition of *commercial table-egg layer pullet flock* to § 146.1. This definition would read as follows: "A table-egg layer flock prior to the onset of egg production."

In § 146.23, paragraph (a) sets out the requirements of the U.S. H5/H7 Avian Influenza Monitored program for commercial table-egg layers. The introductory text of this paragraph states that this program is intended to be the basis from which the table-egg layer industry may conduct a program to monitor for the H5/H7 subtypes of AI. It is intended to determine the presence of the H5/H7 subtypes of AI in table-egg layers through routine serological surveillance of each participating commercial table-egg layer flock.

We are proposing to amend this discussion to refer to commercial table-egg layer pullet flocks as well as commercial table-egg layer flocks. We are also proposing to remove the reference to serological testing specifically, for reasons similar to those given earlier for removing the specific references to serological testing from the U.S. H5/H7 Avian Influenza Clean classification for turkey breeding flocks and for waterfowl, exhibition poultry, and game bird breeding flocks.

Within paragraph (a), paragraphs (a)(1), (a)(2), and (a)(3) set out the requirements for surveillance of commercial table-egg layers. We are proposing to add a new paragraph (a)(1) with requirements for table-egg layer pullet flocks and redesignate current (a)(1), (a)(2), and (a)(3) as paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii). In those paragraphs, we would remove references to testing negative for antibodies to H5/H7 AI and instead refer simply to testing negative for H5/H7 AI, for the reasons mentioned earlier with regard to similar changes to the U.S. H5/H7 Avian Influenza Clean classification for turkey breeding flocks. We would also remove the current references to testing egg samples and add references to the official AI tests in § 146.13(b), for the reasons mentioned earlier with regard to similar changes to the U.S. H5/H7 Avian Influenza Clean classification for waterfowl, game bird, and exhibition poultry breeding flocks.

Proposed paragraph (a)(1) would provide two options by which table-egg layer pullet flocks could qualify for the U.S. H5/H7 Avian Influenza Monitored classification. Such a flock would qualify if:

- It is a commercial table-egg layer pullet flock in which a minimum of 11 birds have been tested negative to the H5/H7 subtypes of AI as provided in § 146.13(b) within 30 days prior to movement; or
- It is a commercial table-egg layer pullet flock that has an ongoing active and diagnostic surveillance program for the H5/H7 subtypes of AI which the number of birds tested is equivalent to the number required in the other option and that is approved by the Official State Agency and the Service.

Any ongoing active and diagnostic surveillance program that is approved by the Official State Agency and APHIS would have to test a number of birds equivalent to the first requirement, but this by itself would not be sufficient to secure approval for the program; the Official State Agency and APHIS would have to agree that the detailed testing

plan for the alternate program is sufficient to establish a level of confidence for the detection of AI that is equivalent to that of the first requirement. Allowing participating flocks to develop an alternative ongoing active and diagnostic surveillance program of equivalent efficacy would give the flock owners some flexibility.

In § 146.24, paragraph (a) sets out the provisions for the U.S. H5/H7 Avian Influenza Monitored State, Layers classification. We would amend these provisions to indicate that this classification also includes table-egg layer pullet flocks. Under paragraph (a)(1)(i), in order for a State to qualify for the U.S. H5/H7 Avian Influenza Monitored State, Layers classification, all the commercial table-egg layer flocks that are not exempt from the special provisions of subpart B under § 146.22 and all the commercial table-egg layer pullet flocks that supply those flocks within the State would have to be classified as U.S. H5/H7 Avian Influenza Monitored under § 146.23(a). Requirements for specimen reporting and subtyping in paragraphs (a)(1)(iii) and (a)(1)(iv) would also apply to commercial table-egg layer pullet flocks as well as commercial table-egg layer flocks. Finally, under paragraph (a)(1)(v), all table-egg layer pullet flocks within the State that are found to be infected with H5/H7 AI would have to be quarantined, in accordance with an initial State response and containment plan as described in 9 CFR part 56 and under the supervision of the Official State Agency, the same as is currently required for table-egg layer flocks.

These changes would expand the reach of the U.S. H5/H7 Avian Influenza Monitored classification for commercial table-egg layers and make it more effective.

Testing Procedures for Other U.S. H5/H7 Avian Influenza Monitored Classifications in Part 146

Within part 146, § 146.33 contains the requirements for the U.S. H5/H7 Avian Influenza Monitored classification for meat-type chicken slaughter plants, § 146.43 contains the requirements for that classification for meat-type turkey slaughter plants, § 146.53(a) contains the requirements for commercial waterfowl and commercial upland game bird slaughter plants, and § 146.53(b) contains the requirements for raised-for-release upland game birds and raised-for-release waterfowl. Similar to other classifications discussed earlier in this proposal, all of these classifications contain testing requirements for H5/H7 LPAI but do not specify that testing must be conducted as provided in § 146.13(b), which contains the official AI tests for part 146. We are proposing to amend these requirements to indicate that birds must be tested for these classifications as provided in § 146.13(b). In addition, we are proposing to remove a reference to testing for antibodies to H5/H7 LPAI in § 146.53(a)(2), for reasons identical to those given for similar changes described earlier in this document.

Shoe Cover Sampling Technique for Collection of Salmonella Samples

Section 147.12 sets out procedures for collection, isolation, and identification of *Salmonella* from environmental samples, cloacal swabs, chick box papers, and meconium samples. Paragraph (a) of § 147.12 sets out procedures specific to egg- and meat-type chickens, waterfowl, exhibition poultry, and game birds. This paragraph includes various methods for collecting samples and a procedure for testing chick meconium.

We are proposing to add a new sampling technique in a proposed new paragraph (a)(6). This technique uses absorbable shoe covers to collect samples. Absorbable fabric shoe covers involve the exposure of the bottom surface of shoe covers to the surface of floor litter and slat areas. The shoe cover sampling technique would involve wearing clean latex gloves and placing the shoe covers over footwear that is only worn inside the poultry house. This could be footwear dedicated to the facility or disposable overshoes. Each pair of shoe covers would be worn while walking at a normal pace over a distance of 305 meters (1000 feet). For flocks with fewer than 500 breeders, at least 1 pair of shoe covers would be worn to sample the floor of the bird area. For flocks with 500 or more breeders, at least 2 pairs of shoe covers would be worn to sample the floor of the bird area. After sampling, each shoe cover would be placed in a sterile container with 30 ml of double strength skim milk, to protect *Salmonella* viability during storage and shipment. The sterile containers would have to be sealed and promptly refrigerated at 2 to 4 °C or place in a cooler with ice or ice packs, but not frozen. Samples would have to be stored at refrigerator temperatures of 2 to 4 °C no more than 5 days prior to culturing.

This procedure would provide an effective alternative means to collect *Salmonella* samples in poultry houses.

Approved Tests

Within § 147.52, paragraph (b) sets out a procedure by which diagnostic test kits that are not licensed by APHIS (e.g., bacteriological culturing kits) may be approved for use in the NPIP. We are proposing to list in a new paragraph (c) in § 147.52 the test kits that have been approved through this process. These are the test kits we are proposing to list:

- Rapid Chek©Select TMSalmonella Test Kit, Strategic Diagnostics, Inc. Newark, DE 19713.
- ADIAFOOD Rapid Pathogen Detection System for *Salmonella* spp., AES Chemunex Canada. Laval, QC (Canada) H7L4S3.
- DuPont Qualicon BAX Polymerase Chain Reaction (PCR)-based assay for *Salmonella*, DuPont Qualicon, Wilmington, DE 19810.

Updates

The regulations in § 145.10 provide for the use of certain terms and illustrative designs to designate participants in NPIP programs for breeding poultry; the regulations in § 146.9 do the same for commercial poultry. Both of these sections refer to certain subparts of parts 145 and 146, respectively, that include provisions for the programs; § 145.10 refers to subparts B, C, D, E, and F, while § 146.9 refers to subparts B, C, and D. However, these lists do not include subparts that have been added recently: Subparts G and H in part 145 and subpart E in part 146. To correct the errors and ensure that the regulations accommodate the addition of future subparts, we are removing the lists of subparts from §§ 145.10 and 146.9 and instead referring generally to parts 145 and 146, respectively.

Within §§ 145.10 and 146.9, we are also updating the lists of classifications eligible to use the various illustrative designs. These lists have become out of date as well.

Section 147.45, "Official delegates," provides that each cooperating State shall be entitled to one official delegate to the Plan Conference for each of the programs prescribed in subparts B, C, D, E, F, G, and H of part 145 and for each of the programs prescribed in subparts B, C, D, and E of part 146 in which it has one or more participants at the time of the conference. Rather than proposing to update this list to reflect the proposed addition of a new subpart I in part 145, we are proposing to simply refer to each of the programs prescribed in parts 145 and 146, generally. In both parts 145 and 146, subpart A sets out general provisions for participation in the NPIP, but not specific programs; thus, referring generally to the programs prescribed in parts 145 and 146 includes all the necessary programs. Making this change would simplify the regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the *Regulations.gov* Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

This rule would introduce a set of minor changes to the NPIP and would not involve significant changes in program operations. These changes are in line with the industry's best practices and would likely involve no additional costs in order to meet these requirements. Additionally, the NPIP is a voluntary program established between the industry and State and Federal governments. Any person producing or dealing in products may participate in the NPIP when he or she has demonstrated that his or her facilities, personnel, and practices are adequate for carrying out the applicable provisions of the NPIP. NPIP participation allows for greater ease in moving hatching eggs, live birds, and commercial poultry products within a State, across State lines, and into other countries. Most countries will not accept hatching eggs, live birds, or commercial poultry products from a U.S. operation unless it can be shown to be an NPIP participant. The poultry industry plays an important role in the U.S. economy, and the proposed amendments would help to ensure the safety of the industry and benefit the economy.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) No retroactive effect will be given to this rule; and (2) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

9 CFR Part 56

Animal diseases, Indemnity payments, Low pathogenic avian influenza, Poultry.

9 CFR Parts 145, 146, and 147

Animal diseases, Poultry and poultry products, Reporting and recordkeeping requirements.

■ Accordingly, we propose to amend 9 CFR parts 56, 145, 146, and 147 as follows:

PART 56—CONTROL OF H5/H7 LOW PATHOGENIC AVIAN INFLUENZA

■ 1. The authority citation for 9 CFR part 56 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. Section 56.1 is amended as follows:

■ a. By removing the definitions of *commercial meat-type flock*, *commercial table-egg layer flock*, *commercial table-egg layer premises*, *meat-type chicken*, and *meat-type turkey*.

■ b. By adding a definition of *commercial flock or slaughter plant*, in alphabetical order, to read as set forth below.

§ 56.1 Definitions.

* * * * *

Commercial flock or slaughter plant. A commercial poultry flock or slaughter plant that is required because of its size to participate in the special provisions in part 146 of this chapter in order to participate in the Plan.

* * * * *

■ 3. Section 56.3 is amended as follows:

■ a. In paragraph (b) introductory text, by removing the word "(b)(7)" each time it occurs and adding the word "(b)(3)" in its place.

■ b. By revising paragraphs (b)(1) and (b)(2) to read as set forth below.

■ c. By removing paragraphs (b)(4) through (b)(6).

■ d. By redesignating paragraph (b)(7) as paragraph (b)(3).

§ 56.3 Payment of indemnity.

* * * * *

(b) * * *

(1) The poultry are from a breeding flock that participates in any Plan program in part 145 of this chapter but that does not participate in the U.S. Avian Influenza Clean or the U.S. H5/H7 Avian Influenza Clean program of the Plan available to the flock in part 145 of this chapter; or

(2) The poultry are from a commercial flock or slaughter plant, but the flock or slaughter plant does not participate in the U.S. Avian Influenza Monitored program available to the commercial flock or slaughter plant in part 146 of this chapter; or

* * * * *

PART 145–NATIONAL POULTRY IMPROVEMENT PLAN FOR BREEDING POULTRY

■ 4. The authority citation for part 145 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

■ 5. Section 145.1 is amended by adding, in alphabetical order, a new definition of *avian influenza* to read as set forth below.

§ 145.1 Definitions.

* * * * *

Avian influenza. An infection or disease of poultry caused by viruses in the family *Orthomyxoviridae*, genus *Influenzavirus* A.

* * * * *

■ 6. Section 145.10 is amended as follows:

■ a. By revising the introductory text to read as set forth below.

■ b. In paragraph (r), by removing the words "and 145.53(e)" and adding the words "145.63(b), 145.73(f), and 145.83(g)" in their place.

■ c. In paragraph (t), by removing the citation "§ 145.43(g)" and adding the words "§§ 145.43(g), 145.53(e), and 145.93(b)" in its place.

§ 145.10 Terminology and classification; flocks, products, and States.

Participating flocks, products produced from them, and States that have met the requirements of a classification in this part may be designated by the corresponding illustrative design in this section.

* * * * *

■ 7. Section 145.14 is amended as follows:

■ a. In the introductory text, in the first sentence, by removing the word "blood" each time it occurs.
■ b. In the introductory text, in the second sentence, by removing the words "Blood samples" and adding the word "Samples" in its place; and by removing the word "drawn" and adding the word "collected" in its place.
■ c. By revising the introductory text of paragraph (b) and paragraph (b)(1) to read as set forth below.
■ d. In paragraph (b)(2), by adding the word "serological" before the word "tests"; and by adding the words ", *M. meleagridis*," after the word "*gallisepticum*".
■ e. By revising paragraph (b)(5) to read as set forth below.
■ f. By removing and reserving paragraph (c).

§ 145.14 Testing.

* * * * *

(b) *For Mycoplasma gallisepticum, M. meleagridis, and M. synoviae.* (1) The official blood tests for *M. gallisepticum*, *M. meleagridis*, and *M. synoviae* shall be the serum plate agglutination test, the tube agglutination test, the hemagglutination inhibition (HI) test, the microhemagglutination inhibition test, the enzyme-linked immunosorbent assay (ELISA) test,[3] a PCR-based test, or a combination of two or more of these tests. The HI test or the microhemagglutination inhibition test shall be used to confirm the positive results of other serological tests. HI titers of 1:40 or more may be interpreted as suspicious, and final judgment must be based on further samplings and/or culture of reactors.

* * * * *

(5) The official molecular examination procedures for *M. gallisepticum* are the polymerase chain reaction (PCR) test described in § 147.30 of this subchapter and the real-time PCR test described in § 147.31 of this subchapter. The official molecular examination procedure for *M. synoviae* is the PCR test described in § 147.30 of this subchapter.

* * * * *

■ 8. Section 145.23 is amended as follows:
■ a. In paragraph (b)(2)(iii), in the first sentence, by removing the words "either no poultry or", and by removing the word "were" and adding the word "was" in its place.
■ b. In paragraph (h) introductory text, by removing the words "serological" and "one of".
■ c. By adding a new paragraph (h)(1) and revising paragraph (h)(2) to read as set forth below.

§ 145.23 Terminology and classification; flocks and products.

* * * * *

(h) * * *

(1) It is a multiplier breeding flock in which a minimum of 30 birds have been tested negative for antibodies to avian influenza when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds is tested within each 90-day period; or

(iii) The flock is tested as provided in § 145.14(d) at intervals of 30 days or less and found to be negative, and a total of 30 samples are collected and tested within each 90-day period; and

(2) During each 90-day period, all multiplier spent fowl, up to a maximum of 30, must be tested and found negative within 21 days prior to movement to slaughter.

* * * * *

§ 145.24 [Amended]

■ 9. In § 145.24, paragraph (a)(1)(i) is amended by removing the word "and" and by adding the words ", and § 145.93(b)(3)(i) through (vii)" before the period at the end of the paragraph.

■ 10. Section 145.33 is amended as follows:
■ a. In paragraph (b)(2)(iii), in the first sentence, by removing the words "either no poultry or", and by removing the word "were" and adding the word "was" in its place.
■ b. In paragraph (l) introductory text, by removing the words "serological" and "one of".
■ c. By adding a new paragraph (l)(1) and revising paragraph (l)(2) to read as set forth below.

§ 145.33 Terminology and classification; flocks and products.

* * * * *

(l) * * *

(1) It is a multiplier breeding flock in which a minimum of 30 birds have been tested negative for antibodies to avian influenza when more than 4 months of age. To retain this classification:

(i) A sample of at least 15 birds must be tested negative at intervals of 90 days; or

(ii) A sample of fewer than 15 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds is tested within each 90-day period; or

(iii) The flock is tested as provided in § 145.14(d) at intervals of 30 days or less and found to be negative, and a total of 15 samples are collected and tested within each 90-day period; and

(2) During each 90-day period, all multiplier spent fowl, up to a maximum of 30, must be tested and found negative within 21 days prior to movement to slaughter.

* * * * *

§ 145.34 [Amended]

■ 11. In § 145.34, paragraph (a)(1)(i) is amended by removing the word "and" and by adding the words ", and § 145.93(b)(3)(i) through (vii)" before the period at the end of the paragraph.

■ 12. Section 145.43 is amended as follows:
■ a. In paragraph (b)(2)(iii), in the first sentence, by removing the words "either no poultry or", and by removing the word "were" and adding the word "was" in its place.
■ b. By removing and reserving paragraphs (d)(2) and (d)(3).
■ c. In paragraph (f)(5), by redesignating footnote 6 as footnote 5.
■ d. In paragraph (g) introductory text, by removing the words "H5 and H7" and adding the word "H5/H7" in their place each time they appear; and by removing the word "serological".
■ e. By revising paragraph (g)(1) introductory text and paragraph (g)(2) introductory text to read as set forth below.
■ f. In paragraphs (g)(1)(i) and (g)(2)(i), by removing the words "*Provided*, that primary spent fowl be tested within 30 days prior to movement to disposal;".
■ g. By redesignating paragraph (g)(3) as paragraph (g)(4).
■ h. By adding a new paragraph (g)(3) to read as set forth below.

§ 145.43 Terminology and classification; flocks and products.

* * * * *

(g) * * *

(1) It is a primary breeding flock in which a minimum of 30 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in

[3] Procedures for the enzyme-linked immunosorbent assay (ELISA) test are set forth in the following publications:

A.A. Ansari, R.F. Taylor, T.S. Chang, "Application of Enzyme-Linked Immunosorbent Assay for Detecting Antibody to Mycoplasma gallisepticum Infections in Poultry," *Avian Diseases*, Vol. 27, No. 1, pp. 21–35, January-March 1983; and

H.M. Opitz, J.B. Duplessis, and M.J. Cyr, "Indirect Micro-Enzyme-Linked Immunosorbent Assay for the Detection of Antibodies to Mycoplasma synoviae and M. gallisepticum," *Avian Diseases*, Vol. 27, No. 3, pp. 773–786, July-September 1983; and

H.B. Ortmayer and R. Yamamoto, "Mycoplasma Meleagridis Antibody Detection by Enzyme-Linked Immunosorbent Assay (ELISA)," *Proceedings, 30th Western Poultry Disease Conference*, pp. 63–66, March 1981.

§ 145.14(d) when more than 4 months of age and prior to the onset of egg production. To retain this classification:

* * * * *

(2) It is a multiplier breeding flock in which a minimum of 30 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 145.14(d) when more than 4 months of age and prior to the onset of egg production. To retain this classification:

* * * * *

(3) During each 90-day period, all spent fowl, up to a maximum of 30, must be tested and found negative within 21 days prior to movement to slaughter.

§ 145.44 [Amended]

■ 13. In § 145.44, paragraph (a)(1)(i) is amended by removing the word "and"; and by adding the words ", § 145.73(b)(2)(i), § 145.83(b)(2)(i), and § 145.93(b)(3)(i) through (vii)" before the period at the end of the paragraph.

Subpart E—Special Provisions for Hobbyist and Exhibition Waterfowl, Exhibition Poultry, and Game Bird Breeding Flocks and Products

■ 14. The heading for subpart E is revised to read as set forth above.

■ 15. In § 145.52, the introductory text is revised to read as follows:

§ 145.52 Participation.

Participating flocks of hobbyist and exhibition waterfowl, exhibition poultry, and game birds, and the eggs and baby poultry produced from them shall comply with the applicable general provisions of subpart A of this part and the special provisions of this subpart E. The special provisions that apply to meat-type waterfowl flocks are found in subpart I of this part.

* * * * *

■ 16. Section 145.53 is amended as follows:

■ a. In paragraph (b)(2)(iii), in the first sentence, by removing the words "either no poultry or", and by removing the word "were" and adding the word "was" in its place.

■ b. In paragraph (b)(5), by adding the words "hobbyist or exhibition" before the word "waterfowl".

■ c. In paragraph (e) in the introductory text, second sentence, by adding the words "hobbyist or exhibition" before the word "waterfowl"; and by removing the word "serological".

■ d. In the introductory text of paragraph (e)(1), by removing the words "for antibodies"; and by removing the words "by the agar gel immunodiffusion test specified in § 147.9 of this chapter" and adding the words "as provided in § 145.14(d)" in their place.

■ e. In the introductory text of paragraph (e)(2), by removing the words "for antibodies"; and by removing the words "by the agar gel immunodiffusion test specified in § 147.9 of this chapter" and adding the words "as provided in § 145.14(d)" in their place.

■ f. By adding a new paragraph (e)(3) to read as set forth below.

§ 145.53 Terminology and classification; flocks and products.

* * * * *

(e) * * *

(3) During each 90-day period, all spent fowl, up to a maximum of 30, must be tested and found negative within 21 days prior to movement to slaughter.

§ 145.54 [Amended]

■ 17. In § 145.54, paragraph (a)(1)(i) is amended by removing the word "and"; and by adding the words ", § 145.73(b)(2)(i), § 145.83(b)(2)(i), and § 145.93(b)(3)(i) through (vii)" before the period at the end of the paragraph.

■ 18. In § 145.73, paragraph (f) is amended as follows:

■ a. In the introductory text, second sentence, by removing the word "serological."

■ b. By revising paragraph (f)(1) and adding a new paragraph (f)(2) to read as set forth below.

§ 145.73 Terminology and classification; flocks and products.

* * * * *

(f) * * *

(1) It is a primary breeding flock in which a minimum of 30 birds have been tested negative for antibodies to avian influenza when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds is tested within each 90-day period; or

(iii) The flock is tested as provided in § 145.14(d) at intervals of 30 days or less and found to be negative, and a total of 30 samples are collected and tested within each 90-day period; and

(2) During each 90-day period, all primary spent fowl, up to a maximum of 30, must be tested serologically and found negative within 21 days prior to movement to slaughter.

■ 19. Section 145.83 is amended as follows:

■ a. In paragraph (f)(1)(vi), by removing the semicolon at the end of the paragraph and adding a period in its place; and by adding a new sentence at the end of the paragraph to read as set forth below.

■ b. In paragraph (f)(1)(vii), by adding the words "to allow for the serological testing required under paragraph (f)(1)(vi) of this section" after the word "age".

■ c. By adding a new paragraph (f)(1)(viii) to read as set forth below.

■ d. In paragraph (f)(3), by removing the words "this classification" and adding the words "paragraphs (f)(1)(i) through (f)(1)(vii) of this section" in their place.

■ e. In the introductory text of paragraph (g), second sentence, by removing the word "serological."

■ f. By revising paragraph (g)(1) and adding a new paragraph (g)(2) to read as set forth below.

§ 145.83 Terminology and classification; flocks and products.

* * * * *

(f) * * *

(1) * * *

(vi) * * *All salmonella isolates from a flock shall be serogrouped and shall be reported to the Official State Agency on a monthly basis;

* * * * *

(viii) Any flock entering the production period that is in compliance with all the requirements of § 145.83(f) with no history of Salmonella isolations shall be considered "Salmonella negative" and may retain this definition as long as no environmental or bird salmonella isolations are identified and confirmed from the flock or flock environment by sampling on 4 separate collection dates over a minimum of a 2-week period. Sampling and testing must be performed as described in paragraph (f)(1)(vi) of this section. An unconfirmed environmental *Salmonella* isolation shall not change this Salmonella negative status.

* * * * *

(g) * * *

(1) It is a primary breeding flock in which a minimum of 30 birds have been tested negative for antibodies to avian influenza when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 90 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds is tested within each 90-day period; or

(iii) The flock is tested as provided in § 145.14(d) at intervals of 30 days or less and found to be negative, and a total of 30 samples are collected and tested within each 90-day period; and

(2) During each 90-day period, all primary spent fowl, up to a maximum of 30, must be tested serologically and found negative within 21 days prior to movement to slaughter.

■ 20. A new subpart I, consisting of §§ 145.91 through 145.94, is added to read as follows:

Subpart I— Special Provisions for Meat-Type Waterfowl Breeding Flocks and Products

Sec.
145.91 Definitions.
145.92 Participation.
145.93 Terminology and classification; flocks and products.
145.94 Terminology and classification; States.

Subpart I— Special Provisions for Meat-Type Waterfowl Breeding Flocks and Products

§ 145.91 Definitions.

Except where the context otherwise requires, for the purposes of this subpart the following term shall be construed to mean:

Meat-type waterfowl breeding flocks. Flocks of domesticated duck or goose that are composed of stock that has been developed and is maintained for the primary purpose of producing baby poultry that will be raised under confinement for the primary purpose of producing meat for human consumption.

§ 145.92 Participation.

Participating flocks of meat-type waterfowl and the eggs and baby poultry produced from them shall comply with the applicable general provisions of subpart A of this part and the special provisions of this subpart I.

(a) Started poultry shall lose their identity under Plan terminology when not maintained by Plan participants under the conditions prescribed in § 145.5(a).

(b) Hatching eggs produced by primary breeding flocks shall be fumigated (see § 147.25 of this chapter) or otherwise sanitized.

(c) Any nutritive material provided to baby poultry must be free of the avian pathogens that are officially represented in the Plan disease classifications listed in § 145.10.

§ 145.93 Terminology and classification; flocks and products.

Participating flocks, and the eggs and baby poultry produced from them, that have met the respective requirements specified in this section may be designated by the following terms and the corresponding designs illustrated in § 145.10.

(a) [Reserved]

(b) *U.S. Pullorum-Typhoid Clean.* A flock in which freedom from pullorum and typhoid has been demonstrated to the Official State Agency under the criteria in one of the following paragraphs (b)(1) through (b)(5) of this section (See § 145.14 relating to the official blood test where applicable.):

(1) It has been officially blood tested within the past 12 months with no reactors.

(2) It is a multiplier breeding flock, or a breeding flock composed of progeny of a primary breeding flock which is intended solely for the production of multiplier breeding flocks, and meets the following specifications as determined by the Official State Agency and the Service:

(i) The flock is located in a State where all persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which *S. pullorum* or *S. gallinarum* is isolated;

(ii) The flock is composed entirely of birds that originated from U.S. Pullorum-Typhoid Clean breeding flocks or from flocks that met equivalent requirements under official supervision; and

(iii) The flock is located on a premises where a flock not classified as U.S. Pullorum-Typhoid Clean was located the previous year; *Provided*, that an Authorized Testing Agent must blood test up to 300 birds per flock, as described in § 145.14, if the Official State Agency determines that the flock has been exposed to pullorum-typhoid. In making determinations of exposure and setting the number of birds to be blood tested, the Official State Agency shall evaluate the results of any blood tests, described in § 145.14(a)(1), that were performed on an unclassified flock located on the premises during the previous year; the origins of the unclassified flock; and the probability of contacts between the flock for which qualification is being sought and infected wild birds, contaminated feed or waste, or birds, equipment, supplies, or personnel from flocks infected with pullorum-typhoid.

(3) It is a multiplier breeding flock that originated from U.S. Pullorum-Typhoid Clean breeding flocks or from flocks that met equivalent requirements under official supervision, and is located in a State in which it has been determined by the Service that:

(i) All hatcheries within the State are qualified as "National Plan Hatcheries" or have met equivalent requirements for pullorum-typhoid control under official supervision;

(ii) All hatchery supply flocks within the State are qualified as U.S. Pullorum-Typhoid Clean or have met equivalent requirements for pullorum-typhoid control under official supervision: *Provided*, That if other domesticated fowl are maintained on the same premises as the participating flock, freedom from pullorum-typhoid infection shall be demonstrated by an official blood test of each of these fowl;

(iii) All shipments of products other than U.S. Pullorum-Typhoid Clean, or equivalent, into the State are prohibited;

(iv) All persons performing poultry disease diagnostic services within the State are required to report to the Official State Agency within 48 hours the source of all poultry specimens from which *S. pullorum* or *S. gallinarum* is isolated;

(v) All reports of any disease outbreak involving a disease covered under the Plan are promptly followed by an investigation by the Official State Agency to determine the origin of the infection; *Provided*, That if the origin of the infection involves another State, or if there is exposure to poultry in another State from the infected flock, then the National Poultry Improvement Plan will conduct an investigation;

(vi) All flocks found to be infected with pullorum or typhoid are quarantined until marketed or destroyed under the supervision of the Official State Agency, or until subsequently blood tested, following the procedure for reacting flocks as contained in § 145.14(a)(5), and all birds fail to demonstrate pullorum or typhoid infection;

(vii) All poultry, including exhibition, exotic, and game birds, but excluding waterfowl, going to public exhibition shall come from U.S. Pullorum-Typhoid Clean or equivalent flocks, or have had a negative pullorum-typhoid test within 90 days of going to public exhibition;

(viii) Discontinuation of any of the conditions or procedures described in paragraphs (a)(3)(i), (ii), (iii), (iv), (v), (vi), and (vii) of this section, or the occurrence of repeated outbreaks of pullorum or typhoid in poultry breeding flocks within or originating within the State shall be grounds for the Service to revoke its determination that such conditions and procedures have been met or complied with. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity to present its views.

(4) It is a multiplier breeding flock located in a State which has been determined by the Service to be in compliance with the provisions of

paragraph (a)(3) of this section, and in which pullorum disease or fowl typhoid is not known to exist nor to have existed in hatchery supply flocks within the State during the preceding 24 months.

(5) It is a primary breeding flock located in a State determined to be in compliance with the provisions of paragraph (a)(4) of this section, and in which a sample of 300 birds from flocks of more than 300, and each bird in flocks of 300 or less, has been officially tested for pullorum-typhoid within the past 12 months with no reactors: *Provided*, That when a flock is a primary breeding flock located in a State which has been deemed to be a U.S. Pullorum-Typhoid Clean State for the past 3 years, and during which time no isolation of pullorum or typhoid has been made that can be traced to a source in that State, a bacteriological examination monitoring program or a serological examination monitoring program acceptable to the Official State Agency and approved by the Service may be used in lieu of annual blood testing.

(c) *U.S. H5/H7 Avian Influenza Clean*. This program is intended to be the basis from which the breeding-hatchery industry may conduct a program for the prevention and control of the H5/H7 subtypes of avian influenza. It is intended to determine the presence of the H5/H7 subtypes of avian influenza in meat-type waterfowl breeding flocks through routine surveillance of each participating breeding flock. A flock, and the hatching eggs and baby poultry produced from it, will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) It is a primary breeding flock in which a minimum of 30 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 145.14(d) when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested and found to be negative at intervals of 90 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds are tested within each 90-day period.

(2) It is a multiplier breeding flock in which a minimum of 30 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 145.14(d) when more than 4 months of age. To retain this classification:

(i) A sample of at least 30 birds must be tested negative at intervals of 180 days; or

(ii) A sample of fewer than 30 birds may be tested, and found to be negative, at any one time if all pens are equally represented and a total of 30 birds are tested within each 180-day period.

(3) During each 90-day period, all spent fowl, up to a maximum of 30, must be tested serologically and found negative within 21 days prior to movement to slaughter.

§ 145.94 Terminology and classification; States.

(a) *U.S. Pullorum-Typhoid Clean State*. (1) A State will be declared a U.S. Pullorum-Typhoid Clean State when it has been determined by the Service that:

(i) The State is in compliance with the provisions contained in §§ 145.23(b)(3)(i) through (vii), 145.33(b)(3)(i) through (vii), 145.43(b)(3)(i) through (vi), 145.53(b)(3)(i) through (vii), 145.73(b)(2)(i), 145.83(b)(2)(i), and 145.93(b)(3)(i) through (vii).

(ii) No pullorum disease or fowl typhoid is known to exist nor to have existed in hatchery supply flocks within the State during the preceding 12 months: *Provided*, That pullorum disease or fowl typhoid found within the preceding 24 months in waterfowl, exhibition poultry, and game bird breeding flocks will not prevent a State that is otherwise eligible from qualifying.

(2) Discontinuation of any of the conditions described in paragraph (a)(1)(i) of this section, or repeated outbreaks of pullorum or typhoid occur in hatchery supply flocks described in paragraph (a)(1)(ii) of this section, or if an infection spreads from the originating premises, the Service shall have grounds to revoke its determination that the State is entitled to this classification. Such action shall not be taken until a thorough investigation has been made by the Service and the Official State Agency has been given an opportunity for a hearing in accordance with rules of practice adopted by the Administrator.

(b) [Reserved]

PART 146–NATIONAL POULTRY IMPROVEMENT PLAN FOR COMMERCIAL POULTRY

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

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

■ 22. Section 146.1 is amended as follows:

■ a. By revising the definitions of *commercial table-egg layer flock* and *H5/H7 low pathogenic avian influenza (LPAI)* to read as set forth below.

■ b. By adding a new definition of *commercial table-egg layer pullet flock* to read as set forth below.

§ 146.1 Definitions.

* * * * *

Commercial table-egg layer flock. All table-egg layers of common age or pullet source on one premises.

* * * * *

Commercial table-egg layer pullet flock. A table-egg layer flock prior to the onset of egg production.

* * * * *

H5/H7 low pathogenic avian influenza (LPAI) . An infection of poultry caused by an influenza A virus of H5 or H7 subtype that has an intravenous pathogenicity index in 6-week-old chickens less than 1.2 or less than 75 percent mortality in 4- to 8-week-old chickens infected intravenously, or an infection with influenza A viruses of H5 or H7 subtype with a cleavage site that is not consistent with a previously identified highly pathogenic avian influenza virus.

* * * * *

■ 23. Section 146.9 is amended as follows.

■ a. By revising the introductory text to read as set forth below.

■ b. In paragraph (a), by removing the word "and" and by adding the words ", and 146.53(a)" before the period.

§ 146.9 Terminology and classification; flocks, products, and States.

Participating flocks, products produced from them, and States that have met the requirements of a classification in this part may be designated by the corresponding illustrative design in this section.

* * * * *

■ 24. Section 146.21 is amended by adding a new definition of *table-egg layer pullet* to read as set forth below.

§ 146.21 Definitions.

* * * * *

Table-egg layer pullet. A sexually immature domesticated chicken grown for the primary purpose of producing eggs for human consumption.

■ 25. In § 146.23, paragraph (a) is revised to read as follows:

§ 146.23 Terminology and classification; flocks and products.

* * * * *

(a) *U.S. H5/H7 Avian Influenza Monitored*. This program is intended to be the basis from which the table-egg layer industry may conduct a program to monitor for the H5/H7 subtypes of avian influenza. It is intended to determine the presence of the H5/H7

subtypes of avian influenza in table-egg layers and table-egg layer pullets through routine surveillance of each participating commercial table-egg layer and table-egg layer pullet flock. A flock will qualify for this classification when the Official State Agency determines that it has met one of the following requirements:

(1) *Table-egg layer pullet flocks.* (i) It is a commercial table-egg layer pullet flock in which a minimum of 11 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 146.13(b) within 30 days prior to movement; or

(ii) It is a commercial table-egg layer pullet flock that has an ongoing active and diagnostic surveillance program for the H5/H7 subtypes of avian influenza in which the number of birds tested is equivalent to the number required in paragraph (a)(1)(i) and that is approved by the Official State Agency and the Service.

(2) *Table-egg layer flocks.* (i) It is a commercial table-egg layer flock in which a minimum of 11 birds have been tested negative to the H5/H7 subtypes of avian influenza as provided in § 146.13(b) within 30 days prior to disposal;

(ii) It is a commercial table-egg layer flock in which a minimum of 11 birds have been tested negative for the H5/H7 subtypes of avian influenza as provided in § 146.13(b) within a 12-month period; or

(iii) It is a commercial table-egg layer flock that has an ongoing active and diagnostic surveillance program for the H5/H7 subtypes of avian influenza in which the number of birds tested is equivalent to the number required in paragraph (a)(2)(i) or paragraph (a)(2)(ii) of this section and that is approved by the Official State Agency and the Service.

* * * * *

§ 146.24 [Amended]

■ 26. Section 146.24 is amended as follows:

■ a. In paragraph (a)(1)(i), by adding the words "and all commercial table-egg layer pullet flocks that supply those flocks" after the word "flocks".

■ b. In paragraphs (a)(1)(iii) through (a)(1)(v), by adding the words "and table-egg layer pullet" after the word "layer" each time it occurs.

§ 146.33 [Amended]

■ 27. In § 146.33, paragraphs (a)(1) and (a)(2) are amended by adding the words ", as provided in § 146.13(b)," after the word "influenza," each time it occurs.

§ 146.43 [Amended]

■ 28. In § 146.43, paragraph (a)(1) is amended by adding the words ", as provided in § 146.13(b)," after the word "influenza" and by removing the word "virus".

§ 146.53 [Amended]

■ 29. Section 146.53 is amended as follows:

■ a. In paragraph (a)(1), by adding the words ", as provided in § 146.13(b)," after the word "influenza."

■ b. In paragraph (a)(2), by removing the words "antibodies to" and by adding the words ", as provided in § 146.13(b)," after the word "influenza."

■ c. In paragraph (b), in the last sentence, by adding the words ", as provided in § 146.13(b)," after the word "influenza."

PART 147–AUXILIARY PROVISIONS ON NATIONAL POULTRY IMPROVEMENT PLAN

■ 30. The authority citation for part 147 continues to read as follows:

Authority: 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

■ 31. Section 147.6 is amended as follows:

■ a. By revising the introductory text and paragraphs (a)(1) through (a)(4) to read as set forth below.

■ b. By removing paragraphs (a)(5) through (a)(15).

§ 147.6 Procedures for determining the status of flocks reacting to test for Mycoplasma gallisepticum, Mycoplasma synoviae, and Mycoplasma melagridis.

Procedures for isolation and identification of Mycoplasma may be found in Isolation and Identification of Avian Pathogens, published by the American Association of Avian Pathologists; Kleven, S.H., F.T.W. Jordan, and J.M. Bradbury, *Avian Mycoplasmosis* (*Mycoplasma gallisepticum*), Manual of Diagnostic Tests and Vaccines for Terrestrial Animals, Fifth Ed., Office International des Epizooties, pp 842-855, 2004; and §§ 147.15 and 147.16.

(a) * * *

(1) If the tube agglutination test, enzyme-labeled immunosorbent assay (ELISA), official molecular examination procedure, or serum plate test is negative, the flock qualifies for the classification for which it was tested.

(2) If the tube agglutination, ELISA, or serum plate test is positive, the hemaglutination inhibition (HI) test or a molecular examination procedure shall be conducted: *Provided,* for the HI test, that if more than 50 percent of the samples are positive for *M. gallisepticum*, *M. meleagridis*, or *M. synoviae*, the HI test shall be conducted on 10 percent of the positive samples or 25 positive samples, whichever is greater. HI titers of 1:40 or more may be interpreted as suspicious and appropriate antigen detection samples should be taken promptly (within 7 days of the original sampling) from 30 clinically affected birds and examined by an approved cultural technique individually, or pooled (up to 5 swabs per test) and used in a molecular examination procedure or in vivo bioassay.

(3) If the in vivo bioassay, molecular examination procedure, or culture procedure is negative, the Official State Agency may qualify the flock for the classification for which it was tested. In the event of contaminated cultures, the molecular examination technique must be used to make a final determination.

(4) If the in vivo bioassay, molecular examination procedure, or culture procedure is positive, the flock will be considered infected.

* * * * *

§§ 147.12, 147.14, 147.15, 147.16, 147.30, and 147.31 [Amended]

■ 32. In §§ 147.12, 147.14, 147.15, 147.16, 147.30, and 147.31, footnotes 9 through 21 are redesignated as footnotes 10 through 22, respectively.

■ 33. Section 147.12 is amended by adding a new paragraph (a)(6) to read as follows:

§ 147.12 Procedures for collection, isolation, and identification of Salmonella from environmental samples, cloacal swabs, chick box papers, and meconium samples.

* * * * *

(a) * * *

(6) *Shoe cover sampling technique.* Absorbable fabric shoe covers involve the exposure of the bottom surface of shoe covers to the surface of floor litter and slat areas. Wearing clean latex gloves, place the shoe covers over footwear that is only worn inside the poultry house. This can be footwear dedicated to the facility or disposable overshoes. Each pair of shoe covers should be worn while walking at a normal pace over a distance of 305 meters (1000 feet). For flocks with fewer than 500 breeders, at least 1 pair of shoe covers should be worn to sample the floor of the bird area. For flocks with 500 or more breeders, at least 2 pairs of shoe covers should be worn to sample the floor of the bird area. After sampling, place each shoe cover in a sterile container with 30 ml of double

strength skim milk.[9] Seal the sterile containers and promptly refrigerate them at 2 to 4 °C or place in a cooler with ice or ice packs. Do not freeze. Samples should be stored at refrigerator temperatures of 2 to 4 °C no more than 5 days prior to culturing.

* * * * *

■ 34. In § 147.45, the first sentence is revised to read as follows:

§ 147.45 Official delegates.

Each cooperating State shall be entitled to one official delegate for each of the programs prescribed in parts 145 and 146 of this chapter in which it has one or more participants at the time of the Conference. * * *

■ 35. In § 147.52, a new paragraph (c) is added to read as follows:

§ 147.52 Approved tests.

* * * * *

(c) The following diagnostic test kits that are not licensed by the Service (e.g., bacteriological culturing kits) are approved for use in the NPIP:

(1) Rapid Chek©Select TMSalmonella Test Kit, Strategic Diagnostics, Inc. Newark, DE 19713.

(2) ADIAFOOD Rapid Pathogen Detection System for *Salmonella* spp., AES Chemunex Canada. Laval, QC (Canada) H7L4S3.

(3) DuPont Qualicon BAX Polymerase Chain Reaction (PCR)-based assay for *Salmonella*, DuPont Qualicon, Wilmington, DE 19810.

Done in Washington, DC, this 13th day of September 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–23248 Filed 9–17–10: 8:45 am]

BILLING CODE: 3410–34–S

[9] Obtain procedure for preparing double strength skim milk from USDA-APHIS "Recommended Sample Collection Methods for Environmental Samples," available from the National Poultry Improvement Plan, Veterinary Services, APHIS, USDA, 1498 Klondike Road, Suite 200, Conyers, GA 30094.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0692; Airspace Docket No. 10–AEA–16]

Proposed Establishment of Class E Airspace; Crewe, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E Airspace at Crewe, VA, to accommodate the additional airspace needed for the Standard Instrument Approach Procedures (SIAPs) developed for Crewe Municipal Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before November 4, 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–2010–0692; Airspace Docket No. 10–AEA–16, 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–2010–0692; Airspace Docket No. 10–AEA–16) 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–2010–0692; Airspace Docket No. 10–AEA–16." 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 establish Class E airspace at Crewe, VA to provide controlled airspace required to support the SIAPs developed for Crewe Municipal Airport. Class E airspace extending upward from 700 feet above the surface would be established for the safety and management of IFR operations.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9U, signed August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation 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 establish Class E airspace at Crewe Municipal Airport, Crewe, VA.

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 7400.9U, Airspace Designations and Reporting Points, signed August 18, 2010, effective September 15, 2010, is amended as follows:

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

* * * * *

AEA VA E5 Crewe, VA [NEW]

Crewe Municipal Airport, VA
(Lat. 37°10′52″ N., long. 78°05′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Crewe Municipal Airport.

Issued in College Park, Georgia, on September 3, 2010.

Myron A. Jenkins,

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

[FR Doc. 2010–23389 Filed 9–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0685; Airspace Docket No. 10–ASO–27]

Proposed Establishment of Class E Airspace; Bamberg, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E Airspace at Bamberg, SC, to accommodate the additional airspace needed for the Standard Instrument Approach Procedures (SIAPs) developed for Bamberg County Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before November 4, 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–2010–0685; Airspace Docket No. 10–ASO–27, 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–2010–0685; Airspace Docket No. 10–ASO–27) 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–2010–0685; Airspace Docket No. 10–ASO–27." 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 establish Class E airspace at Bamberg, SC to provide controlled airspace required to support the SIAPs developed for Bamberg County Airport. Class E airspace extending upward from 700 feet above the surface would be established for the safety and management of IFR operations.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9U, signed August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation 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 establish Class E airspace at Bamberg County Airport, Bamberg, SC.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, B, C, D, AND 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 7400.9U, Airspace Designations and Reporting Points, signed August 18, 2010, effective September 15, 2010, is amended as follows:

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

* * * * *

ASO SC E5 Bamberg, SC [NEW]

Bamberg County Airport, SC
(Lat. 33°18′16″ N., long. 81°06′30″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Bamberg County Airport.

Issued in College Park, Georgia, on September 7, 2010.

Myron A. Jenkins,

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

[FR Doc. 2010–23400 Filed 9–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 100217100–0362–01]

RIN 0691–AA74

Direct Investment Surveys: BE–11, Annual Survey of U.S. Direct Investment Abroad

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend regulations of the Department of Commerce's Bureau of Economic Analysis (BEA) to set forth the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. The survey is conducted annually and is a sample survey that obtains financial and operating data covering the overall operations of U.S. parent companies and their foreign affiliates. BEA proposes to amend the BE–11 forms and instructions to bring them into conformity with the 2009 BE–10, Benchmark Survey of U.S. Direct Investment Abroad. These amendments include changes in form design and reporting thresholds, as well as changes in the data items collected. The proposed changes also include a change in the reporting criteria for foreign affiliates with U.S. Parent (U.S. Reporter) ownership between 10 and 20 percent.

DATES: Comments on this proposed rule will receive consideration if submitted in writing on or before 5 p.m. November 19, 2010.

ADDRESSES: You may submit comments, identified by RIN 0691–AA74, and referencing the agency name (Bureau of Economic Analysis), by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. For Keyword or ID, enter "EAB–2010–0002."
- *E-mail: David.Galler@bea.gov.*
- *Fax:* Office of the Chief, Direct Investment Division, (202) 606–5318.
- *Mail:* Office of the Chief, Direct Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50, Washington, DC 20230.
- *Hand Delivery/Courier:* Office of the Chief, Direct Investment Division, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50, Shipping and Receiving, Section M100, 1441 L Street, NW., Washington, DC 20005.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in the proposed rule should be sent to both BEA through any of the methods above, and to the Office of Management and Budget (OMB), O.I.R.A., Paperwork Reduction Project 0608–0053, Attention PRA Desk Officer for BEA, via e-mail at *pbugg@omb.eop.gov,* or by FAX at 202–395–7245.

Public Inspection: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change.

All personal identifying information (for example, name, address, *etc.*) voluntarily submitted by the commentator may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. BEA will accept anonymous comments (enter N/A in required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT: David H. Galler, Chief, Direct Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9835.

SUPPLEMENTARY INFORMATION: In Section 3 of Executive Order 11961, as amended by Executive Orders 12318 and 12518, the President delegated the responsibility for performing functions under the Act concerning direct investment to the Secretary of Commerce, who has redelegated it to BEA. The BE–11 survey of U.S. direct investment abroad is a mandatory annual survey conducted by BEA under the International Investment and Trade in Services Survey Act, 22 U.S.C. 3101–3108 (the Act).

The survey is a sample survey that collects information on a variety of measures of the overall operations of U.S. parent companies and their foreign affiliates, including total assets, sales, net income, employment and employee compensation, research and development expenditures, and exports and imports of goods. The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is taken every five years. The data are needed to measure the size and economic significance of direct investment abroad, to measure the changes in such investment, and to assess their impact on the U.S. and foreign economies. The data are disaggregated by country and industry of the foreign affiliate and by industry of the U.S. parent. BEA sends survey forms to potential respondents in March of each year; responses are due by May 31.

This proposed rule would amend 15 CFR 806.14 to set forth the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. 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 comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520 (PRA).

Description of Changes

The proposed changes revise the regulations for the BE–11 survey and bring the BE–11 forms and instructions into conformity with the 2009 BE–10, Benchmark Survey of U.S. Direct Investment Abroad. These amendments include changes in reporting thresholds and data items collected, as well as changes in form design. Several of these amendments are part of a larger program to align the data collection program for multinationals with available resources. BEA is also proposing to expand the use of sampling to help align the data collection program with resources.

Beginning with the 2010 annual survey, if this proposed rule is made final, U.S. Reporters would report data on all their foreign affiliates, regardless of industry, on one of four foreign affiliate forms—BE–11B, BE–11C, BE–11D, or BE–11E. Data on foreign affiliates of U.S. Reporters that are banks, bank holding companies, or financial holding companies would be collected on the same survey forms as data on other foreign affiliates. All U.S. Reporters would report data on all domestic operations, on a fully consolidated basis, on Form BE–11A, Report for U.S. Reporter. Also, under the proposed rule, U.S. Reporters with total assets, sales or gross operating revenues, or net incomes less than or equal to $300 million would be required to report only certain items on Form BE–11A. This reporting threshold is an increase from the previous threshold of $225 million.

Additionally, BEA proposes to require U.S. Reporters to file reports annually for foreign affiliates in which they own a 10 to 20 percent voting interest. These affiliates, some of which are very large, fall under both U.S. and international definitions for foreign direct investment and must be represented in the statistics, but in the past they have been required to be reported in the annual survey only in the third year following a benchmark survey. Annual reporting will ensure that the activities of these affiliates are accurately reflected in the statistics derived from the survey.

As the survey is proposed, the four foreign affiliate forms are—

(a) *Form BE–11B*—Report for majority-owned foreign affiliates with total assets, sales or gross operating revenues, or net income greater than $60 million, positive or negative; filing of additional items would be required for affiliates with assets, sales, or net income greater than $300 million, positive or negative. (For 2008, this threshold was $250 million.) Form BE–11B would replace 2008 annual survey Forms BE–11B(LF) long form, BE–11B(SF) short form, and BE–11B(FN) for reporting majority-owned foreign affiliates. The proposed reporting threshold on the 2010 BE–11B form is $60 million, unchanged from that for reporting the smallest foreign affiliates on the 2008 BE–11B forms;

(b) *Form BE–11C*—Report for minority-owned foreign affiliates with total assets, sales or gross operating revenues, or net income greater than $60 million, positive or negative. This threshold is unchanged from that on the 2008 BE–11C form;

(c) *Form BE–11D*—Schedule for foreign affiliates established or acquired by the U.S. Reporter during the current reporting year with total assets, sales or gross operating revenues, or net income greater than $25 million, positive or negative, but for which no one of these items is greater than $60 million, positive or negative. Form BE–11D would replace the 2008 BE–11A Supplement A schedule for reporting newly established or acquired foreign affiliates. The reporting threshold would increase from $10 million to $25 million; and

(d) *Form BE–11E*—Report for foreign affiliates selected by BEA to be reported on this form in lieu of Form BE–11B. Form BE–11E would replace 2008 Form BE–11B(EZ). BEA would statistically divide into panels, affiliates with total assets, sales or gross operating revenues, and net income (positive or negative) between $60 million and $300 million. At the direction of BEA, U.S. Reporters would alternate reporting these affiliates on Form BE–11B and Form BE–11E.

A Form BE–11B, BE–11C, or BE–11E must be filed for a foreign affiliate of the U.S. Reporter that owns another non-exempt foreign affiliate even if the foreign affiliate parent is otherwise exempt. That is, all affiliates upward in the chain of ownership must be reported.

In addition to the changes in the reporting criteria, BEA proposes adding, combining, or deleting some items on the annual survey forms. Specifically, BEA proposes to no longer collect selected balance sheet items—cash, other current assets, other noncurrent assets, other current liabilities and long-term debt, and other noncurrent liabilities—as separate items. BEA also proposes to discontinue collecting a breakdown of the number of employees and amount of employee compensation by occupational classification; the

composition of external finances; and wholesale and retail trade items (specifically, the cost of goods purchased for resale and inventory of goods purchased for resale).

BEA also proposes to add several items. First, BEA proposes to add an item on Form BE–11C to collect total liabilities. This information will enable BEA to calculate equity positions in minority-owned affiliates. BEA proposes to add an item on Form BE–11E to collect property, plant, and equipment expenditures, which is one of three key indicators that BEA publishes in its advance summary estimates of operations of U.S. multinational companies. BEA also proposes to add a schedule on Form BE–11B to collect a list of foreign affiliates in which the affiliate being reported has a direct equity interest, but which are not fully consolidated into the reported foreign affiliate. Completion of this list would be required only for foreign affiliates with total assets, sales or gross operating revenues, or net income greater than $300 million at the end of, or for, the fiscal year. Previously this schedule has been collected only once every five years on the BE–10 benchmark survey. However, ownership structures of multinational companies change frequently, and more frequent data collection is required to track them accurately.

The proposed changes to the BE–11A, U.S. Reporter annual survey form, largely parallel the above-described changes to the foreign affiliate forms. For the BE–11A, BEA proposes to no longer collect the breakdown of number of employees and amount of employee compensation by occupational classification and to no longer collect wholesale and retail trade items (specifically, the cost of goods purchased for resale and inventory of goods purchased for resale). BEA also proposes to add a question to Form BE–11A that was introduced in the most recent BE–10 benchmark survey, asking if the Reporter is a bank. In addition, BEA proposes to add questions to the form to collect information on assets, liabilities, and interest receipts and payments that are related to banking activities.

Survey Background

The BEA conducts the BE–11 survey under the authority of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, "the Act." Section 4(a) of the Act (22 U.S.C. 3103(a)) requires that, with respect to United States direct investment abroad, the President shall, to the extent he deems necessary and feasible, conduct a regular data collection program to secure current information on international capital flows and other information related to international investment and trade in services, including (but not limited to) such information as may be necessary for computing and analyzing the United States' balance of payments, the employment and taxes of United States parents and affiliates, and the international investment and trade in services position of the United States.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

Executive Order 13132

This proposed rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. The requirement will be submitted to OMB for approval as a revision to a collection currently approved under OMB control number 0608–0053.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA unless that collection displays a currently valid OMB control number.

The BE–11 survey, as proposed, is expected to result in the filing of reports from approximately 1,750 respondents, which is an increase from the 1,550 respondents that were required to file reports for the 2008 BE–11 annual survey. The respondent burden for this collection of information will vary from one company to another, but is estimated to average 86 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total respondent burden of the proposed survey is estimated at 150,550 hours, which is a decrease from the 153,800 hours estimated for the 2008 BE–11 annual survey. The decrease in overall burden is due to a decrease in the estimated average hours per response that resulted from the proposed changes in reporting requirements.

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in the proposed rule should be sent to both BEA and OMB following the instructions given in the **ADDRESSES** section above.

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration (SBA), under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. U.S. companies that have direct investments abroad tend to be quite large, and few small U.S. businesses are subject to the reporting requirements of this survey. SBA size standards are for the most part expressed in either number of employees or average annual receipts. SBA has established two widely used size standards—500 employees for most manufacturing and mining industries, and $7 million in average annual receipts (*i.e.,* sales or gross operating revenues) for most nonmanufacturing industries.

BEA estimates that of the 1,750 U.S. parent companies that will be required to respond to the BE–11 annual survey, approximately 200 (or 10%) of them are small businesses as defined by the SBA. The proposed changes in reporting requirements would limit the amount of information that would be reported on Form BE–11A by U.S. Reporters with total assets, sales or gross operating revenues, and net income less than or equal to $300 million (positive or negative). In addition, U.S. businesses that meet the SBA small business standards tend to have few foreign affiliates, and the foreign affiliates that they do own are small. The number of items required to be reported for a foreign affiliate is determined by the size of the affiliate's assets, sales, and net income. The smallest foreign affiliates would be reported on an abbreviated Form BE–11B. The

estimated burden hours for a small business is about 10 to 25 hours.

Because a substantial number of small businesses are not impacted by this rule, and because those small businesses that are impacted are subject to only minimal recordkeeping burdens, the Chief Counsel for Regulation certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 806

Economic statistics, Multinational corporations, Penalties, Reporting and recordkeeping requirements, U.S. investment abroad.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301; 22 U.S.C. 3101–3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173) and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Revise paragraphs (b)(1) and (f)(3) of § 806.14 to read as follows: 806.14 U.S. direct investment abroad.

* * * * *

(b) * * *

(1) The affiliates are in the same BEA 4-digit industry as defined in the Guide to Industry Classifications for International Surveys, 2007; or

* * * * *

(f) * * *

(3) BE–11—Annual Survey of U.S. Direct Investment Abroad: A report, consisting of Form BE–11A and Form(s) BE–11B, BE–11C, BE–11D and/or BE–11E, is required of each U.S. Reporter that, at the end of the Reporter's fiscal year, had a foreign affiliate reportable on Form BE–11B, BE–11C, BE–11D or BE–11E. Forms required and the criteria for reporting on each are as follows:

(i) Form BE–11A (Report for U.S. Reporter) must be filed by each U.S. person having a foreign affiliate reportable on Form BE–11B, BE–11C, BE–11D or BE–11E. If the U.S. Reporter is a corporation, Form BE–11A is required to cover the fully consolidated U.S. domestic business enterprise.

(A) If for a U.S. Reporter any one of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—was greater than $300 million (positive or negative) at the end of, or for, the Reporter's fiscal year, the U.S. Reporter must file a complete Form BE–11A. It must also file a Form BE–11B, BE–11C, BE–11D or BE–11E, as applicable, for each nonexempt foreign affiliate.

(B) If for a U.S. Reporter no one of the three items listed in paragraph (f)(3)(i)(A) of this section was greater than $300 million (positive or negative) at the end of, or for, the Reporter's fiscal year, the U.S. Reporter is required to file on Form BE–11A only items 1 through 26 and Part IV. It must also file a Form BE–11B, BE–11C, BE–11D, or BE–11E as applicable, for each nonexempt foreign affiliate.

(ii) Forms BE–11B, BE–11C, BE–11D, and BE–11E (Report for Foreign Affiliate).

(A) Form BE–11B must be reported for each majority-owned foreign affiliate, whether held directly or indirectly, for which any one of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $60 million (positive or negative) at the end of, or for, the affiliate's fiscal year, unless the foreign affiliate is selected to be reported on Form BE–11E.

(B) Form BE–11C must be reported for each minority-owned foreign affiliate, whether held directly or indirectly, for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $60 million (positive or negative) at the end of, or for, the affiliate's fiscal year.

(C) Form BE–11D must be reported for majority- or minority-owned foreign affiliates, whether held directly or indirectly, established or acquired during the year for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $25 million (positive or negative), but for which no one of these items was greater than $60 million (positive or negative), at the end of, or for, the affiliate's fiscal year. Form BE–11D is a schedule; a U.S. Reporter would submit one or more pages of the form depending on the number of affiliates that are required to be filed on this form.

(D) Form BE–11E must be reported for each foreign affiliate that is selected by BEA to be reported on this form in lieu of Form BE–11B. BEA statistically divides into panels, affiliates for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $60 million (positive or negative), but for which no one of these items was greater than $300 million (positive or negative), at the end of, or for, the affiliate's fiscal year. At the direction of BEA, U.S. Reporters would alternate reporting these affiliates on Form BE–11B and Form BE–11E.

(iii) Based on the preceding, an affiliate is exempt from being reported if none of the three items listed in paragraph (f)(3)(ii)(A) of this section exceeds $60 million (positive or negative). However, affiliates that were established or acquired during the year and for which at least one of the items was greater than $25 million but not over $60 million must be listed, and key items reported, on schedule-type form BE–11D.

(iv) Notwithstanding paragraph (f)(3)(iii) of this section, a Form BE–11B, BE–11C, or BE–11E must be filed for a foreign affiliate of the U.S. Reporter that owns another non-exempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt. That is, all affiliates upward in the chain of ownership must be reported.

* * * * *

[FR Doc. 2010–23428 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2008–0462, FRL–9203–5]

RIN 2060–AP30

Rule To Implement the 1997 8-Hour Ozone National Ambient Air Quality Standard: New Source Review Anti-Backsliding Provisions for Former 1-Hour Ozone Standard—Public Hearing Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing.

SUMMARY: The EPA is announcing a public hearing to be held for the proposed "Rule to Implement the 1997 8-Hour Ozone National Ambient Air Quality Standard: New Source Review Anti-Backsliding Provisions for Former 1-Hour Ozone Standard" which published in the **Federal Register** on August 24, 2010. The hearing will be held on Tuesday, October 12, 2010, in Washington, DC.

DATES: The public hearing will be held on October 12, 2010.

ADDRESSES: The October 12, 2010, hearing will be held at the EPA Ariel Rios North building, Room 1332, 1200 Pennsylvania Avenue, Washington, DC 20460. The public hearing will convene at 9 a.m. (eastern daylight time) and continue until 2 p.m. EPA will accommodate speakers later than 2 p.m.

provided they notify us before October 8, 2010. The EPA will make every effort to accommodate all speakers that arrive and register. No lunch break is scheduled. Because this hearing is being held at U.S. government facilities, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building, and demonstrations will not be allowed on federal property for security reasons. The EPA Web site for the rulemaking, which includes the proposal and information about the public hearing, can be found at *http://www.epa.gov/nsr*.

FOR FURTHER INFORMATION CONTACT: If you would like to present oral testimony at the public hearing, please contact Ms. Pamela Long, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Planning Division, (C504–03), Research Triangle Park, NC 27711, telephone (919) 541–0641, fax number (919) 541–5509, e-mail address: *long.pam@epa.gov* (preferred method for registering), no later than 2 business days prior to the public hearing. The last day to register will be October 8, 2010. If using e-mail, please provide the following information: Time you wish to speak (morning, afternoon), name, affiliation, address, e-mail address, and telephone and fax numbers.

Questions concerning the August 24, 2010 (75 FR 51960), proposed rule should be addressed to Mr. David Painter, U.S. EPA, Office of Air Quality Planning and Standards, New Source Review Group, (C504–03), Research Triangle Park, NC 27711, telephone number (919) 541–5515, e-mail at *painter.david@epa.gov*.

SUPPLEMENTARY INFORMATION: The public hearing is to provide the public with an opportunity to present oral comments regarding EPA's proposed action to clarify the obligation to retain 1-hour nonattainment new source review (NSR) program requirements for certain areas designated nonattainment for the 1997 8-hour ozone national ambient air quality standard (NAAQS). The EPA has proposed to revise the rule for implementing the 1997 8-hour ozone NAAQS to address how NSR requirements that applied by virtue of the area's 1-hour ozone NAAQS classification should apply under the anti-backsliding provisions of the 1997 8-hour implementation rule. The proposed rule responds to the ruling by the U.S. Court of Appeals for the District of Columbia Circuit that the 1-hour major NSR program, as it applies to areas that were designated 1-hour nonattainment on the date of designation for the 1997 8-hour NAAQS, is a required control to prevent backsliding.

Public hearing: The proposal for which EPA is holding the public hearing was published in the **Federal Register** on August 24, 2010 (75 FR 51960), and is available at *http://www.epa.gov/nsr* and also available in the docket identified below. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposal. The EPA may ask clarifying questions during the oral presentations, but will not respond to comments or issues raised in the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments on the proposed rule must be postmarked by October 1, 2010, which is the closing date for the comment period, as specified in the proposal for the rule. However, the record will remain open until November 13, 2010, to allow 30 days after the public hearing for submittal of additional information related to the hearing.

The hearing schedule, including a list of speakers, will be posted on EPA's Web site: *http://www.epa.gov/nsr*. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearings; however, please plan for the hearing to run either ahead of schedule or behind schedule.

How can I get copies of this document and other related information?

The EPA has established a docket for the "Proposed Rule to Implement the 1997 8-Hour Ozone National Ambient Air Quality Standard: New Source Review Anti-Backsliding Provisions for Former 1-Hour Ozone Standard" under Docket ID No. EPA–HQ–OAR–2008–0462 (available at *http://www.regulations.gov*).

As stated previously, the proposed rule was published in the **Federal Register** on August 24, 2010, and is available at *http://www.epa.gov/nsr* and in the previously cited docket.

Dated: September 14, 2010.

Mary Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2010–23398 Filed 9–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2008–0117; EPA–RO1–OAR–2008–0107; EPA–RO1–OAR–2008–0445; A–1–FRL–9203–4]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut, Massachusetts, and Rhode Island; Reasonable Further Progress Plans and 2002 Base Year Emission Inventories

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan revisions submitted by the States of Connecticut, Massachusetts, and Rhode Island. These revisions establish 2002 base year emission inventories and reasonable further progress emission reduction plans for areas within these states designated as nonattainment of EPA's 1997 8-hour ozone standard. The intended effect of this action is to propose approval of these states' 2002 base year inventories and reasonable further progress (RFP) emission reduction plans, and to propose approval of the 2008 motor vehicle transportation budgets and contingency measures associated with the RFP plans. EPA also proposes approval of three rules adopted by Connecticut that will reduce volatile organic compound emissions in the state.

DATES: Written comments must be received on or before October 20, 2010.

ADDRESSES: Submit your comments, identified by one of the following Docket ID Numbers: EPA–R01–OAR–2008–0117 for comments pertaining to our proposed action for Connecticut, EPA–RO1–OAR–2008–0107 for comments pertaining to our proposed action for Massachusetts, or EPA–RO1–OAR–2008–0445 for comments pertaining to our proposed action for Rhode Island, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.

4. *Mail:* "Docket Identification Number EPA–R01–OAR–2008–0117, EPA–RO1–OAR–2008–0107, or EPA–RO1–OAR–2008–0445, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code OEP05–2), Boston, MA 02109–3912.

5. *Hand Delivery or Courier:* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to one of the following Docket ID Numbers: EPA–R01–OAR–2008–0117 for comments pertaining to our proposed action for Connecticut, EPA–RO1–OAR–2008–0107 for comments pertaining to our proposed action for Massachusetts, or EPA–RO1–OAR–2008–0445 for comments pertaining to our proposed action for Rhode Island. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov,* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Boston, MA. EPA requests that if at all possible, you contact the contact 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 legal holidays.

In addition, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the respective State Air Agency: The Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630; Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108; Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908–5767.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. EPA Region 1—New England, 5 Post Office Square, Boston, MA 02109–3912, phone number: 617–918–1046; e-Mail: *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. 2002 Base Year Emissions Inventory
A. What is a base year inventory, and why are these states required to prepare one?
1. Point Source Emissions
2. Area Source Emissions
3. On-Road Mobile Source Emissions
4. Non-Road Mobile Source Emissions
5. Biogenic Emission Sources
B. Summary of 2002 Base Year Inventories
C. What action is EPA taking on these inventories?
III. Reasonable Further Progress Plans
A. What is a Reasonable Further Progress plan, and why are these states required to prepare one?
B. What action is EPA taking on these plans?
C. What emission levels must Connecticut, Massachusetts, and Rhode Island meet by 2008?
D. To what extent do the RFP plans reduce ozone precursor emissions?
E. Are banked emissions properly accounted for within these RFP plans?
F. What are the pollution control programs that accomplish this change in emissions?
G. Is EPA proposing approval of any state control measures in this action?
H. Have these states met their contingency measure obligation?
I. Are transportation conformity budgets contained in these plans?
IV. Proposed Action
V. Statutory and Executive Order Reviews

I. Background and Purpose

On April 30, 2004, pursuant to the Federal Clean Air Act (the Act, or CAA), 42 U.S.C. 7401 *et seq.,* EPA designated portions of the country as being in nonattainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) (69 FR 23858).[1] All parts of Connecticut, Massachusetts, and Rhode Island were designated as nonattainment for ozone, and all were classified as moderate. There were five nonattainment areas created that encompassed the entirety of these states, as shown in Table 1.

TABLE 1—8-HOUR OZONE NONATTAINMENT AREAS IN CONNECTICUT, MASSACHUSETTS, AND RHODE ISLAND

State	Area name	Geographic area covered (counties)
CT	New York—N. New Jersey—Long Island, NY–NJ–CT (NY–NJ–CT area).	Fairfield, Middlesex, New Haven.

[1] The 1997 8-hour ozone standard itself is codified at 40 CFR 50.10.

TABLE 1—8-HOUR OZONE NONATTAINMENT AREAS IN CONNECTICUT, MASSACHUSETTS, AND RHODE ISLAND—Continued

State	Area name	Geographic area covered (counties)
CT	Greater Connecticut area	Hartford, Litchfield, New London, Tolland, Windham.
MA	Bos-Law-Wor (E. MA) area	Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, Worcester.
MA	Springfield (W. MA) area	Berkshire, Franklin, Hampden, Hampshire.
RI	Providence area	Statewide.

Sections 182(a)(1) and 182(b)(1) of the CAA compel the preparation and submittal of an emission inventory by states containing ozone nonattainment areas. On November 18, 2002, EPA issued guidance [2] indicating that 2002 was the preferred year for states to use as their base year in development of state implementation plans (SIPs) for the 1997 8-hour ozone standard.

On November 29, 2005, EPA published a final rule in the **Federal Register** identifying, in part, the requirements that areas designated nonattainment for the 1997 8-hour ozone standard must fulfill in order to meet their obligations under the Act. 70 FR 71612, codified at 40 CFR part 51 subpart X. This rule is commonly referred to as the "Phase 2" implementation rule. The Phase 2 rule provides that areas that had previously met the CAA section 182(b)(1) requirement for a 15% volatile organic compound (VOC) emission reduction pursuant to the one-hour ozone standard would be considered to have met this requirement for the 1997 8-hour standard. According to the Phase 2 rule, such areas must meet reasonable further progress (RFP) obligations under the provisions of subpart 1 of the Act, rather than the more stringent RFP obligations of subpart 2.

The Phase 2 rule divides the areas subject to subpart 1 RFP requirements into two categories: Those with attainment dates within 5 years of designation, and those with attainment dates beyond 5 years from designation. Connecticut, Massachusetts, and Rhode Island all fall into the latter category because their attainment dates were 6 years from the date of designation. The Phase 2 rule further provides that areas with an attainment date beyond 5 years from the date of designation would be required to meet their RFP requirement by demonstrating a 15 percent emission reduction between 2002 and 2008 in VOC, nitrogen oxide (NOx) or a combination of both of these pollutants such that the total reduction in these ozone precursor emissions equaled 15 percent.[3]

On February 1, 2008, Connecticut submitted its 2002 to 2008 RFP plan and 2002 base year inventory to EPA as part of its attainment demonstration SIP submittal. Similar submittals were made by Massachusetts on January 31, 2008, and by Rhode Island on April 30, 2008.

II. 2002 Base Year Emissions Inventory

A. What is a base year inventory and why are these states required to prepare one?

The Act contains a number of requirements for moderate ozone nonattainment areas. One requirement, found at section 182(a)(1) of the Act and made applicable to moderate ozone nonattainment areas through section 182(b)(1), compels the preparation and submittal of a "comprehensive, accurate, current inventory of actual emissions from all sources." As mentioned above, EPA's November 18, 2002 guidance memorandum identified 2002 as the preferred year for states to use as their base year in development of SIPs for the 1997 8-hour ozone standard, and the Phase 2 rule affirms this selection of the 2002 inventory as the baseline for the RFP requirement.

In August, 2005, EPA published supplemental guidance for states to use in development of their base year inventories entitled, "Emission Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulation" (EPA–454/R–05–001). This guidance describes for states the requirements for development of comprehensive emission estimates from stationary point and area sources, and from mobile on-road and non-road sources, such that complete emission inventories are available to support SIP development for the 8-hour ozone standard. The guidance directs states to prepare their emission estimates on a "typical summer day" basis to reflect emissions that occur during high ozone episodes, which occur predominantly during the warm summer months.

As mentioned above, Connecticut, Massachusetts, and Rhode Island all contain ozone nonattainment areas designated as moderate for the 1997 8-hour ozone standard. Therefore, they were required to develop 2002 base year emission inventories of VOC and NOx, as these compounds react in the presence of heat and sunlight to form ozone.

1. Point Source Emissions

The point source portion of the inventory consists of emission estimates for the major industrial facilities within the state. The emission estimates are prepared based on facility specific information collected during annual surveys conducted by each state's air agency. Connecticut and Massachusetts survey all industrial sources that emit 10 tons/year or more of VOC or NOx. Rhode Island surveys facilities that emit 10 tons/year or more of VOC, and/or 25 tons/year or more of NOx. The emission estimates are prepared for each process operation, fuel combustion process, or other air emitting activity, then summed together to obtain an overall emission estimate for the facility. The states submit these air emission estimates to EPA, and we incorporate them into our national emissions inventory (NEI) database.

2. Area Source Emissions

Area source emissions include emissions from small industrial facilities not included in the point source inventory, and from sources whose emissions are, in most circumstances, spread over a wide geographic area from a large number of small sources. Examples include gasoline service stations, small graphic arts facilities, landfills, and emissions from consumer and commercial products. Emission estimates are made for most area source categories by multiplying some indicator of activity level for the sector, such as gasoline consumption data for gasoline stations,

[2] "2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, PM 2.5, and Regional Haze Programs."

[3] The Phase 2 rule's application of the CAA's VOC percentage reduction requirements was challenged before the United States Court of Appeals for the District of Columbia Circuit. However, the court upheld EPA's interpretation of these requirements. See *NRDC* v. *EPA,* 571 F.3d 1245 (DC Cir. 2009).

by emission factors that relate air emissions to the activity level. The Connecticut, Massachusetts, and Rhode Island area source inventories provide emission estimates for a large number of source categories, complementing the emission estimates made for individual point sources and completing the estimate of emissions from stationary sources in the state.

3. On-Road Mobile Source Emissions

Connecticut, Massachusetts, and Rhode Island all used a highway vehicle emission estimation model developed by EPA referred to as the MOBILE 6.2 model to estimate emissions from on-road motor vehicles. Each state obtained estimates of vehicle miles traveled (VMT) from their respective Departments of Transportation. The states also obtained the information necessary to run the MOBILE model accurately for their mix of vehicles, fuel types, and control programs and used this information to obtain VOC and NO_X emission estimates from the model.

4. Non-Road Mobile Source Emissions

Connecticut, Massachusetts, and Rhode Island estimated emissions for the majority of equipment within the non-road sector using the EPA's NONROAD 2005 model. The NONROAD model estimates emissions for diesel, gasoline, liquefied petroleum gasoline, and compressed natural gas-fueled non-road equipment types. The non-road model does not estimate emissions from aircraft, locomotives, or commercial marine vessels, and so the states used other EPA recommended methods to estimate emissions from these sectors.

5. Biogenic Emission Sources

Biogenic (naturally occurring) emissions occur from plants, trees, grasses and crops. EPA developed a computer model, referred to as the Biogenic Emissions Inventory System (BEIS v. 3.12), to estimate VOC emissions from this source category, and calculates biogenic emissions for all counties in the country. EPA recommends that states use EPA's biogenic emission estimates, and Connecticut, Massachusetts, and Rhode Island all relied on EPA's emission estimates for this sector.

B. Summary of 2002 Base Year Inventories

The 2002 VOC and NO_X base year inventories prepared by Connecticut, Massachusetts, and Rhode Island are shown below in Tables 2a through 2e. EPA has concluded that these states have adequately derived and documented the 2002 base year VOC and NO_X emissions for these areas.

TABLE 2A—2002 BASE YEAR INVENTORY FOR THE NY–NJ–CT AREA

Nonattainment area	2002 VOC missions (tons/day)	2002 NO_X emissions (tons/day)
NY–NJ–CT area:		
Point	11.3	37.7
Area	84.1	7.2
On-road	48.1	102.7
Non-road	66.0	38.7
Biogenics	125.6	0.7
Total	335.3	187.0

TABLE 2B—2002 BASE YEAR INVENTORY FOR THE GREATER CONNECTICUT AREA

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO_X Emissions (tons/day)
Greater Connecticut area:		
Point	4.6	19.0
Area	75.5	6.4
On-road	45.1	89.3
Non-road	56.2	30.8
Biogenics	268.9	1.3
Total	450.3	146.8

TABLE 2C—2002 BASE YEAR INVENTORY FOR THE BOS-LAW-WOR (E. MA) AREA

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO_X Emissions (tons/day)
Bos-Law-Wor (E. MA) area:		
Point	13.6	116.6
Area	282.0	33.9
On-road	127.4	381.4
Non-road	196.2	122.1
Biogenics	535.7	4.4
Total	1,154.9	658.4

TABLE 2D—2002 BASE YEAR INVENTORY FOR THE SPRINGFIELD (W. MA) AREA

Nonattainment area	2002 VOC Emissions (tons/day)	2002 NO_X Emissions (tons/day)
Springfield (W. MA) area:		
Point	2.4	13.0
Area	45.5	5.2
On-road	24.5	71.7
Non-road	27.7	22.4
Biogenics	254.6	1.1
Total	354.7	113.4

TABLE 2E—2002 BASE YEAR INVENTORY FOR THE PROVIDENCE AREA

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO_X emissions (tons/day)
Providence area:		
Point	10.3	7.0
Area	47.9	3.4
On-road	32.3	42.4
Non-road	26.8	19.7
Biogenics	124.2	0.7
Total	241.5	73.2

C. What action is EPA taking on these inventories?

We are proposing approval of the 2002 base year inventories listed in Tables 2a through 2e above.

III. Reasonable Further Progress Plans

A. What is a reasonable further progress plan, and why are these states required to prepare one?

A reasonable further progress (RFP) plan illustrates how an ozone nonattainment area will make emission reductions of a set amount over a given time period. Section 182(b)(1) of the CAA required moderate and above ozone nonattainment areas to develop plans to reduce VOC emissions by 15 percent over a six year time period beginning with the date of enactment of the 1990 amendments to the Act, which occurred on November 15, 1990. EPA's Phase 2 rule interpreted how this requirement would apply to areas designated as moderate (or higher) nonattainment of the 1997 8-hour ozone standard, and did so in a number of ways. *See* 40 CFR part 51 subpart X. Of relevance for Connecticut, Massachusetts, and Rhode Island is what the Phase 2 rule required for areas with attainment dates greater than 5 years from designation that previously accomplished a 15% reduction in VOC emissions pursuant to one-hour ozone nonattainment requirements, as all three of these states meet these criteria. For such areas, the Phase 2 rule indicates that RFP will be met if the area can demonstrate a 15% reduction in ozone precursor emissions (VOC and/or NO_X)

will occur between 2002 and 2008.[4] See 40 CFR 51.910(b)(2)(ii)(A)–(B). If the area uses NO_X reductions to meet part or all of this requirement, it must satisfy EPA guidance concerning the conditions under which NO_X control may be substituted for, or combined with, VOC control in order to maximize the reduction in ozone pollution. The most current such guidance is EPA's December 1993 "NO_X Substitution Guidance." Therefore, the RFP plans submitted by Connecticut, Massachusetts, and Rhode Island were evaluated against these criteria. These states prepared RFP plans for each of the nonattainment areas shown in Table 1 above. We note that Connecticut's plan for the NY–NJ–CT area only accounts for emission reductions from within the Connecticut portion of the area.

As noted above, Connecticut, Massachusetts, and Rhode Island submitted final, adopted RFP plans to EPA between January 31 and April 30, 2008. Although the Phase 2 rule required that these plans be submitted by June 15, 2007, the states submitted draft plans to EPA shortly after the due date, and as discussed in this document the plans meet EPA's approval requirements for RFP plans developed to help meet the 1997 8-hour ozone NAAQS.

Each of these state's RFP plans rely to some degree on NO_X emission reductions to achieve the overall 15 percent reduction in ozone precursor emissions. Available modeling indicates that NO_X emission reductions are clearly beneficial in Connecticut, Massachusetts, and Rhode Island, and so as outlined in EPA's NO_X Substitution Guidance, use of NO_X emission reductions to meet RFP requirements is appropriate.

The manner in which states are to determine the required level of emission reductions is similar to the procedure explained in the guidance document entitled, "Guidance on the Adjusted Base Year Emissions Inventory and the 1996 Target for the 15% Rate of Progress Plans" (EPA–452/R–92–005). Adjustments to this procedure pertaining to proper accounting of the non-creditable emission reductions from the pre-1990 Federal motor vehicle control program (FMVCP) are noted within Appendix A of the Phase 2 rule (70 FR 71696, as corrected by 71 FR 58498).

B. What action is EPA taking on these plans?

We are proposing approval of the RFP plans submitted by Connecticut, Massachusetts, and Rhode Island for the moderate nonattainment areas shown in Table 1 above, as revisions to these states' implementation plans. Note that regarding the NY–NJ–CT moderate area, we are proposing action today only on the Connecticut portion of the RFP plan.

C. What emission levels must Connecticut, Massachusetts, and Rhode Island achieve by 2008?

Tables 3a–3e below contain a summary of the RFP calculations as performed by Connecticut, Massachusetts, and Rhode Island for their moderate ozone nonattainment areas. Some of the 2002 base year inventory values shown in Step 1 of Tables 3a–3e are slightly higher than those shown in Tables 2a–2e due to adjustments each state made to their RFP SIPs to account for emissions banking and trading programs. These adjustments are described elsewhere in this proposal. The emission target levels are shown in step 6 of Tables 3a–3e. The emission targets represent the maximum amount of emissions that can occur in 2008 given the state's selected mix of VOC and NO_X percent reductions as noted in step 4 of the calculations. The RFP plans submitted by Connecticut, Massachusetts, and Rhode Island indicate that the projected, controlled emissions for 2008 shown in Step 7 of Tables 3a–3e are below the 2008 emission target levels shown in step 6, with the exception of Rhode Island's VOC emissions. To remedy this small shortfall, Rhode Island allocated surplus NO_X emissions reductions that were available as shown in Table 3e.

TABLE 3a—2008 RFP CALCULATIONS FOR THE NY–NJ–CT AREA

Description	VOC emissions (tons/day)	NO_X emissions (tons/day)
Step 1: Calculate 2002 base year inventory	335.3	189.1.
Step 2: Develop RFP inventory (subtract biogenics)	209.7	188.4.
Step 3: Develop adjusted base year inventory by subtracting non-creditable, pre-1990 FMVCP[5] reductions from RFP inventory.	−4.5 = 205.2	−11.7 = 176.7.
Step 4: Calculate required reduction (total of VOC and NO_X reductions must equal 15 percent)	10%; 20.5 tons	5%; 8.8 tons.
Step 5: Calculate total expected reduction (add steps 3 & 4 together)	4.5 + 20.5 = 24.9	11.7 + 8.8 = 20.5.
Step 6: Set target level for 2008 (subtract step 5 from step 2)	209.7 − 24.9 = 184.6	186.3 − 20.4 = 167.9.
Step 7: Projected, controlled 2008 emissions	167.6	142.6.

[5] FMVCP is the acronym for the federal motor vehicle control program. Pre-1990 FMVCP reductions are not creditable towards meeting the 15% emission reduction.

TABLE 3b—2008 RFP CALCULATIONS FOR THE GREATER CONNECTICUT AREA

Description	VOC emissions (tons/day)	NO_X emissions (tons/day)
Step 1: Calculate 2002 base year inventory	450.3	147.3.
Step 2: Develop RFP inventory (subtract biogenics)	181.4	146.1.
Step 3: Develop adjusted base year inventory by subtracting non-creditable, pre-1990 FMVCP reductions from RFP inventory.	−4.3 = 177.1	−9.3 = 136.8.
Step 4: Calculate required reduction (total of VOC and NO_X reductions must equal 15 percent)	10%; 17.7 tons	5%; 6.8 tons.
Step 5: Calculate total expected reduction (add steps 3 & 4 together)	4.3 + 17.7 = 22.0	9.3 + 6.8 = 16.1.
Step 6: Set target level for 2008 (subtract step 5 from step 2)	181.4 − 22.0 = 159.4	145.5 − 16.1 = 130.0.

[4] If the area wishes to use NO_X reductions to meet part or all of this 15% requirement, the calculation is not done by measuring the overall percent of combined VOC and NO_X reductions, but rather by separately calculating the percent of VOC reductions and the percent of NO_X reductions, and adding those percentages together.

TABLE 3b—2008 RFP CALCULATIONS FOR THE GREATER CONNECTICUT AREA—Continued

Description	VOC emissions (tons/day)	NO_X emissions (tons/day)
Step 7: Projected, controlled 2008 emissions	149.3	107.1.

TABLE 3c—2008 RFP CALCULATIONS FOR THE BOS-LAW-WOR AREA

Description	VOC emissions (tons/day)	NO_X emissions (tons/day)
Step 1: Calculate 2002 base year inventory	1,157.3	689.0.
Step 2: Develop RFP inventory (subtract biogenics)	621.6	684.6.
Step 3: Develop adjusted base year inventory by subtracting non-creditable, pre-1990 FMVCP reductions from RFP inventory.	−15.3 = 606.3	−45.2 = 639.4.
Step 4: Calculate required reduction (total of VOC and NO_X reductions must equal 15 percent)	3%; 18.2 tons	12%; 76.7 tons.
Step 5: Calculate total expected reduction (add steps 3 & 4 together)	15.3 + 18.2 = 33.5	45.2 + 76.7 = 121.9.
Step 6: Set target level for 2008 (subtract step 5 from step 2)	621.6 − 33.5 = 588.1	684.6 − 121.9 = 562.7.
Step 7: Projected, controlled 2008 emissions	525.7	440.6.

TABLE 3d—2008 RFP CALCULATIONS FOR THE SPRINGFIELD AREA

Description	VOC emissions (tons/day)	NO_X emissions (tons/day)
Step 1: Calculate 2002 base year inventory	354.8	114.2.
Step 2: Develop RFP inventory (subtract biogenics)	100.2	113.1.
Step 3: Develop adjusted base year inventory by subtracting non-creditable, pre-1990 FMVCP reductions from RFP inventory.	−2.9 = 97.3	−8.5 = 104.6.
Step 4: Calculate required reduction (total of VOC and NO_X reductions must equal 15 percent)	3%; 2.9 tons	12%; 12.6 tons.
Step 5: Calculate total expected reduction (add steps 3 & 4 together)	2.9 + 2.9 = 5.8	8.5 + 12.6 = 21.1.
Step 6: Set target level for 2008 (subtract step 5 from step 2)	2.9 + 2.9 = 5.8	8.5 + 12.6 = 21.1.
Step 7: Projected, controlled 2008 emissions	84.2	66.9.

TABLE 3e—2008 RFP CALCULATIONS FOR THE PROVIDENCE AREA

Description	VOC Emissions (tons/day)	NO_X emissions (tons/day)
Step 1: Calculate 2002 base year inventory	243.4	73.2.
Step 2: Develop RFP inventory (subtract biogenics)	119.2	72.5.
Step 3: Develop adjusted base year inventory by subtracting non-creditable, pre-1990 FMVCP reductions from RFP inventory.	−5.5 = 113.7	−3.2 = 69.3.
Step 4: Calculate required reduction (total of VOC and NO_X reductions must equal 15 percent)	0%	15%.
Step 5: Calculate total expected reduction (add steps 3 & 4 together)	5.5 + 0 = 5.5	3.2 + 10.4 = 13.6.
Step 6: Set target level for 2008 (subtract step 5 from step 2; also, the Providence area NO_X target includes additional 1.1 ton reduction to cover VOC shortfall).	119.2 − 5.5 = 113.7	72.5 − 3.6 − 1.1 = 57.8.
Step 7: Projected, controlled 2008 emissions	115.4	55.3.

Note that in Tables 3a–3e above, all of the projected, controlled 2008 emission levels shown in step 7 are lower than the corresponding 2008 emission target levels shown in step 6, with the exception of the Providence area's VOC emissions which are 1.5% higher than the 2008 VOC target. In light of this, Rhode Island allocated an additional 1.5% NO_X reduction (which translates to 1.1 tons) to cover this shortfall. Thus, Rhode Island has set its 2008 NO_X target to 57.8 tons/day rather than 58.9 tons/day. In essence, Rhode Island has selected a 16.6% reduction in NO_X emissions and a 1.5% increase in VOC emissions, resulting in a combined reduction of 15.1%.

EPA's guidance to states on the development of RFP plans does not directly address the situation found in Rhode Island's RFP plan, where surplus reductions for one ozone precursor were used to cover an increase in emissions for the other precursor. For example, EPA's Phase 2 implementation rule provides that moderate areas such as Rhode Island with attainment dates more than 5 years from the date of designation, "(A) Shall provide for a 15 percent emission reduction from the baseline year within 6 years after the baseline year. (B) May use either NO_X or VOC emissions reductions (or both) to achieve the 15 percent emission reduction requirement. Use of NO_X emissions reductions must meet the criteria in section 182(c)(2)(C) of the Act." 40 CFR 51.910(b)(2)(ii). EPA's NO_X Substitution Guidance, which EPA issued pursuant to section 182(c)(2)(C), does not specifically address offsetting an increase in one precursor with surplus reductions from another precursor. Thus, we reviewed the facts of this specific case and, as explained below, have determined that the submitted plan is consistent with the CAA requirements.

First, EPA's December 1993 NO_X substitution guidance provides the criteria that must be met in order for NO_X emission reductions to be used in RFP plans as provided by section

182(c)(2)(C) of the Act. The guidance directs states to ensure that such substitution is done only to the extent that the modeled attainment demonstration for the area indicates that this substitution is appropriate. For example, section 2 of the guidance provides that, "This linkage provides assurance that the RFP reductions are consistent with the SIP attainment demonstration. States are required to justify substitution by illustrating "consistency" between the cumulative emission changes emerging from the RFP/substitution proposal and the emission reductions in the modeled attainment demonstration."

Rhode Island worked in conjunction with the other states within the ozone transport region (OTR) to perform the urban airshed modeling that the state included within its attainment demonstration, and on development of recommended control strategies to reduce VOC and NO_X emissions in the Northeast such that the ozone NAAQS would be met by 2009. This modeling exercise showed that both VOC and NO_X emission reductions would be needed to reach the area's attainment goals. The resulting suite of federal and state control measures indicate that NO_X emission reductions figured prominently in the area's attainment strategy. This is most clearly seen by the fact that NO_X emissions were projected to decline by a greater extent than VOC emissions between the base year and attainment year across the OTR. This illustrates that Rhode Island's use of NO_X emission reductions within its RFP plan is appropriate.

Second, the increase in VOC emissions between 2002 and 2008 is an artifact of EPA's RFP calculation procedure; the state's actual VOC emissions in 2008 were predicted to be lower than they were in 2002. In explanation, as shown in step 2 of Table 3e above, Rhode Island's 2002 anthropogenic VOC emissions were 119.2 tons per summer day (tpsd). However, EPA's RFP calculation procedure requires that emission reductions from the pre-1990 federal motor vehicle control program (FMVCP) that will accrue between 2002 and 2008 be subtracted from the 2002 anthropogenic baseline because the Act, at section 182(b)(1)(D)(i), provides such reductions are not creditable for purposes of meeting RFP requirements. This subtraction is shown in step 3 of Table 3e above, and resulted in the 2002 baseline being lowered by 5.5 tpsd to 113.7 tpsd. Since no VOC reductions were planned for in the RFP plan, 113.7 tpsd is also the state's target level of emissions for VOCs. As shown in step 7 of Table 3e, Rhode Island's 2008 VOC emissions were estimated to be 115.4 tpsd. This is higher than the VOC target emission level of 113.7 tpsd by 1.7 tpsd, but is lower than the state's actual 2002 anthropogenic baseline emissions of 119.2 tpsd by 3.8 tpsd. The preceding comparison is not intended to diminish the significance of the Act's prohibition against crediting reductions due to the pre-1990 FMVCP towards RFP. Rather, this analysis simply clarifies that this is not a situation where a state proposes to rely on a larger-than-15% decrease in NO_X emissions to offset an actual increase in VOC emissions; rather, here Rhode Island has in fact reduced its VOC emissions from the baseline.

Third, in 2009, Rhode Island adopted and implemented VOC control measures on consumer and commercial products and architectural and industrial maintenance coatings. The effective date for these two rules was June 4, 2009, and since the RFP plan covers the time period between 2003 to 2008 Rhode Island did not factor reductions from these rules into their RFP analysis. However, these rules are now in effect and are currently acting to lower VOC emissions beyond that shown in the RFP analysis. Thus, while Rhode Island could not take credit for these emission reductions as part of the RFP plan for 2003 to 2008, additional reductions in VOC emissions have occurred in the state since then.

Last, but by no means of least importance, Rhode Island is currently in attainment of the 1997 8-hour ozone standard, and EPA published a clean data determination for the area on June 3, 2010 (75 FR 31288). In addition, on July 28, 2010 (75 FR 44179), EPA published a notice of proposed rulemaking indicating that this area attained the 1997 8-hour ozone standard by its attainment date of June 15, 2010. Thus, our primary basis for approving the RFP plan is to approve the 2008 motor vehicle emission budgets contained within the plan as the plan is not necessary to ensure that the state makes reasonable further progress towards the 1997 standard it has already attained.

In light of these circumstances, EPA has determined that it is appropriate to propose approval of Rhode Island's RFP plan.

D. To what extent do the RFP plans reduce ozone precursor emissions?

The Connecticut, Massachusetts, and Rhode Island RFP plans indicate that ozone precursor emissions will be substantially reduced between 2002 and 2008, allowing each state to exceed the 15% ozone precursor emission reduction obligation over this time frame. Compared to 2002 emission levels, the RFP plans and associated modeling showed that VOC emissions were expected to decline by 19% in Connecticut, 16% in Massachusetts, and 3% in Rhode Island by 2008. Additionally, NO_X emissions were expected to decline by 25% in Connecticut, 37% in Massachusetts, and 24% in Rhode Island over this timeframe. These percent reductions include reductions from the pre-1990 FMVCP program shown in step 3 of Tables 3a–3e.

E. Are banked emissions properly accounted for within these RFP plans?

Although the initial RFP plan submittals made by Connecticut, Massachusetts, and Rhode Island did not account for banked emissions, each state made subsequent amendments to their plans that incorporated banked emissions into the RFP analysis.

Many states operate emissions banking and trading programs. These programs allow facilities that agree to permanently cease, or alternatively agree to permanently reduce their emissions to levels below allowable levels, to generate emission reduction credits (ERCs) that can be sold or traded to other facilities. ERCs are often purchased by facilities seeking emission offsets to meet the requirements of the new source review (NSR) program. State air agencies facilitate and monitor these transactions by creating and maintaining an emissions bank where ERCs are stored until they are purchased. Since ERCs represent emissions that may occur at some point in the future, and RFP plans contain both base year and future year emission estimates as well as maximum allowable (target level) emissions for the nonattainment area as a whole, banked emissions need to be accounted for in a state's RFP analysis.

On October 14, 2009, Connecticut submitted a revision to the RFP plan which it had originally submitted to EPA on February 1, 2008. The revision consisted of the incorporation of a small number of banked NO_X ERCs into the state's RFP analysis. The inclusion of the banked ERCs into the RFP analysis did not alter the state's conclusion that it easily meets RFP requirements. The emission estimates within Tables 3a and 3b above reflect the revised calculations contained within Connecticut's October 14, 2009 submittal to EPA.

On October 23, 2009, Massachusetts submitted a revision to the RFP plan which it had originally submitted to EPA on January 31, 2008. The revision consisted of the incorporation of a small

amount of banked VOC, and a larger amount of banked NO_X ERCs into the state's RFP analysis. As with Connecticut, the inclusion of Massachusetts' banked ERCs into the RFP analysis did not change the state's conclusion that it readily meets RFP. Tables 3c and 3d above contains the revised RFP calculations contained within Massachusetts' October 23, 2009 submittal.

On October 19, 2009, Rhode Island submitted a revision to the RFP plan which it had submitted to EPA on April 30, 2008. The revision consisted of the incorporation of banked VOC ERCs into the state's RFP analysis. As with the above mentioned submittals from Connecticut and Massachusetts, Rhode Island's revised plan continues to show that the state meets its RFP emission reduction obligations, and these revised estimates are reflected in Table 3e above.

F. What are the pollution control programs that accomplish this change in emissions?

Many post-1990 Federal mobile source control programs which are creditable towards meeting RFP took effect between 2002 and 2008, and they are responsible for the bulk of the VOC and NO_X emission reductions that occurred over this time frame in Connecticut, Massachusetts, and Rhode Island. For example, within the on-road mobile sector the Federal Tier 2 motor vehicle control program and controls for heavy duty diesel vehicles and fuels were significant programs that helped to reduce emissions during this period of time. Within the non-road sector, Federal controls on diesel engines and the Phase 2 standards for gasoline powered handheld and non-handheld equipment began, which helped reduce emissions from that sector.

In addition to Federal measures for mobile source emissions, state-adopted control measures also acted to reduce VOC and NO_X emissions between 2002 and 2008. In Connecticut, state-adopted rules limiting emissions from portable fuel containers, architectural and industrial maintenance (AIM) coatings, pressure-vacuum (PV) valves at gasoline service stations, and requirements for solvent cleaning fluids were adopted between 2002 and 2008, and will help to reduce VOC emissions in the state. The portable fuel container and PV valves at gasoline station rules have been approved by EPA into the state's SIP. (See 71 FR 51761). The AIM and solvent cleaning rules have not yet been approved by EPA into the State's SIP, but we are proposing approval of them in other parts of this document and intend to approve them prior to, or in conjunction with, our final rulemaking action on Connecticut's RFP plan. Additionally, in May of 2003, Phase 2 of the state's limits for emissions from municipal waste combustors began, and this program will reduce NO_X emissions from that sector. This program has also been approved into the state's SIP. (*See* 66 FR 63311).

Connecticut's NO_X budget program began in 2002 and so emission reductions from the program are reflected in the state's 2002 base year inventory. Connecticut's Clean Air Interstate Rule (CAIR) rule has taken the place of its NO_X budget program beginning in 2009. On July 11, 2008, the United States Court of Appeals for the District of Columbia issued an opinion vacating and remanding EPA's CAIR rule. *See North Carolina* v *EPA,* 531 F.3d 896 (DC Cir. 2008). However, on December 23, 2008, the court granted rehearing in part and remanded the rule back to EPA for revision without vacatur. 550 F.3d 1176 (DC Cir. 2008). Accordingly, CAIR is to be implemented as it was originally intended until EPA revises the rule to address the court's remand.[6] Therefore, the NO_X reductions achieved by Connecticut's NO_X budget program continue as the state has transitioned to its CAIR program. Connecticut's CAIR program was approved by EPA on January 24, 2008 (73 FR 4105).

For the on-road mobile sector, in 2004, Connecticut adopted an enhanced motor vehicle inspection and maintenance (I&M) program including on-board diagnostics (OBD–2) requirements. EPA approved Connecticut's I&M program with OBD–2 requirements into the state's SIP on December 5, 2008 (73 FR 74019).

Massachusetts claimed emission reduction credit within its RFP plan for the NO_X emission reductions achieved by the state's NO_X SIP Call Trading program, as that program's implementation date was in 2003. Massachusetts submitted its "NO_X Allowance Trading Program" (also referred to as the NO_X Budget or the NO_X SIP Call trading program) to EPA as a SIP revision request, and EPA approved the rule into the Commonwealth's SIP. Amendments to the rule were incorporated into the state's SIP on December 3, 2007. (72 FR 67854). EPA's December 3, 2007 action also approved the Commonwealth's CAIR, which replaced the state's NO_X Budget program beginning in 2009. Therefore, NO_X emissions from sources covered by the Commonwealth's NO_X Allowance trading program will remain constrained after 2008 as the state implements its CAIR control program.

Massachusetts expects to reduce on-road mobile source emissions by its state-run Low Emissions Vehicle (LEV) program. Massachusetts submitted the adopted LEV program to EPA, and EPA approved it into the state's SIP on December 23, 2002 (67 FR 78179).

At the time Rhode Island developed its RFP SIP, it was in the process of adopting a number of control measures for stationary sources of VOC emissions that were set to take effect in 2009, and so emission reductions from these measures were not incorporated into the state's RFP plan because measures in such plans need to have an impact by 2008. Rhode Island was not required to participate in EPA's CAIR program. Accordingly, Rhode Island's RFP plan shows that it meets the 15% emission reduction obligation by relying exclusively on emission reductions between 2002 and 2008 in the mobile source sector. Additionally, the state shows that it can meet its obligation by relying only upon NO_X emission reductions. These emission reductions occur as a result of the post-1990 Federal mobile source control measures, as mentioned above, the state's adoption of a motor vehicle I&M Program, and the state-adopted Low Emissions Vehicle program. EPA has approved both of these programs into the Rhode Island SIP. (See 66 FR 9661, and 65 FR 12476, respectively.)

G. Is EPA proposing approval of any state control measures in this action?

We are proposing to approve three VOC control measures from Connecticut, two of which were included in the state's February 1, 2008 SIP submittal to EPA. These rules consist of a solvent metal cleaning rule, an architectural and industrial maintenance (AIM) coatings rule, and an asphalt paving rule submitted on January 8, 2009. The solvent metal cleaning and AIM coatings rules have compliance dates in May of 2008, and so achieve emission reductions that help Connecticut demonstrate compliance with its RFP obligation. The asphalt paving rule has a May 1, 2009 compliance date and was submitted to help the state demonstrate that it meets the Clean Air Act section 182(b)(2) requirement that sources in the state use reasonably available control technology (RACT) to control air pollution. We are not proposing action on Connecticut's overall RACM or RACT submittals at

[6] On August 2, 2010 (75 FR 45210), EPA proposed the Transport Rule to address the flaws in CAIR noted by the Court.

this time. Additional information about each of these rules is provided below.

Metal cleaning rule. Connecticut's February 1, 2008 SIP submittal to EPA included an amendment to its existing SIP approved metal cleaning rule, located at section 22a–174–20 of the Regulations of Connecticut State Agencies ("Control of organic compound emissions, loading of gasoline and other volatile organic compounds"), paragraph (l) ("Metal cleaning"). The amended rule adds a limit on the vapor pressure of solvents used in cold cleaning and other requirements to further limit emissions of VOCs from metal cleaning operations. These requirements are consistent with the Ozone Transport Commission's (OTC's) 2001 model rule for solvent cleaning. The compliance date for the rule was May 1, 2008.

AIM coatings rule. Connecticut's February 1, 2008 SIP submittal included a new rule, section 22a–174–41 ("Architectural and industrial maintenance coatings"), that limits VOC emissions from AIM coatings. The state's rule establishes VOC content limits consistent with those developed in 2001 within a model rule created by the OTC. The limits in the state's rule are as stringent as, or more stringent than, those contained in the Federal AIM rule adopted by EPA in December 1998 (40 CFR part 59, subpart D). The compliance date for most of the regulated product categories was May 1, 2008. EPA notes that we are relying on the federal enforceability of section (g)(3)(A)(iii) referenced in that section of the rule.

Asphalt paving rule. On January 8, 2009, Connecticut submitted an amendment to its existing SIP-approved section 22a–174–20 ("Control of organic compound emissions, loading of gasoline and other volatile organic compounds"), paragraph (k) ("Restrictions on VOC emissions from cutback and emulsified asphalt"). The amended regulation includes a seasonal ban on the use of cutback asphalt and a reduction in the acceptable VOC content of emulsified asphalt. The compliance date for the rule was May 1, 2009.

Connecticut held a public hearing on the first two rules mentioned above on June 27, 2006, and held a hearing on the asphalt paving rule on May 1, 2007. EPA reviewed draft versions of these rules and provided comments to Connecticut during the public hearing process, and Connecticut responded adequately to our comments. We are proposing approval of Connecticut's revised solvent metal cleaning and asphalt paving rules, and its new AIM coatings rule, so that they may become part of the state's federally enforceable SIP.

H. Have these states met their contingency measure obligation?

Section 172(c)(9) of the CAA requires, in part, that nonattainment areas provide for contingency measures "to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part." EPA has long interpreted the Act to require that contingency measures must provide reductions of 3 percent of the emissions from the adjusted base year inventory (57 FR 13498, 13510–13511). States may choose to meet this requirement by consuming surplus emission reductions shown in their RFP target level calculations, if a surplus exists. However, pursuant to a guidance memorandum issued by EPA on November 8, 1993,[7] any measures that are already required are not creditable as contingency measures. Connecticut, Massachusetts, and Rhode Island each chose to meet the contingency obligation using surplus emission reductions as noted in the target level calculations.

Connecticut and Massachusetts can both readily show that ample surplus emission reductions exist, and that they have implemented controls not otherwise required. In Connecticut's case, 2008 VOC emissions are projected to be 5.7% lower than the target, and NO_X emissions 16.5% lower than the target in the Greater Connecticut area. For the Connecticut portion of the NY–NJ–CT area, these surpluses are 8.3% for VOC, and 14.5% for NO_X. Connecticut has adopted a number of rules that are not otherwise required by the CAA that it could count towards its contingency obligation, such as its AIM coatings, automobile refinishing, and solvent cleaning rules. For Massachusetts, 2008 VOC emissions are projected to be 10.6% lower than the target, and NO_X emissions 22.6% lower in the Eastern Massachusetts area. For the Western Massachusetts area, these surpluses are 10.8% for VOC, and 27.6% for NO_X. The state's low emission vehicle program, which achieves both VOC and NO_X emission reductions, is an example of a rule the state adopted that was not otherwise required by the CAA.

Rhode Island projects that it will have a 3.6% NO_X surplus that it claims can be devoted towards meeting the RFP contingency requirement. Given the state's reliance on Federal measures to reduce emissions between 2002 and 2008, the state has not demonstrated that it can meet the contingency requirement via reductions from already-adopted NO_X rules not otherwise required by the CAA. However, Rhode Island could remedy this by relying on the additional VOC control programs for stationary sources that it adopted in 2009, which included rules establishing emission limits for consumer and commercial products, and on architectural and industrial maintenance coatings. A public hearing on these proposed rules was held on February 20, 2009, and they were promulgated as final state regulations May 15, 2009, with an effective date of June 4, 2009. Rhode Island submitted these regulations to EPA as SIP revisions, but EPA has not yet approved into the Rhode Island SIP. Section 8.3 of Rhode Island's attainment demonstration submittal alludes to the possibility of using reductions from these measures as an alternative means of meeting the RFP contingency obligation. We are therefore proposing to approve use of emission reductions from these stationary source measures (which, as noted above, have taken effect under state law but have not yet been approved into Rhode Island's SIP) as meeting the state's contingency plan requirement. Section 8.3 of Rhode Island's attainment demonstration submittal stated that reductions from these regulations were expected to reduce VOC emissions by 2009 by 5.0 tons/day. This would cover the 3% contingency obligation, as 3% of the state's 2002 RFP inventory for VOCs, which is 119.2 tons/day, equals 3.6 tons/day. EPA would need to approve these two rules into Rhode Island's SIP prior to, or in conjunction with, our taking final action on the state's RFP plan.

I. Are transportation conformity budgets contained in these plans?

Section 176(c) of the CAA, and EPA's transportation conformity rule at 40 CFR part 93 subpart A, require that transportation plans, programs, and projects conform to state air quality implementation plans. Conformity to a SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. States are required to establish motor vehicle emission budgets in any control strategy SIP that is submitted for attainment and maintenance of the NAAQS. The RFP plans submitted by Connecticut,

[7] "Clarification of Issues Regarding the Contingency Measures that are due November 15, 1993 for Moderate and Above Ozone Nonattainment Areas."

Massachusetts, and Rhode Island are control strategy SIPs, and they contain 2008 motor vehicle budgets for VOCs and NO_X by nonattainment area. Table 4 contains these VOC and NO_X transportation conformity budgets in units of tons per summer day:

TABLE 4.—CONFORMITY BUDGETS IN THE CONNECTICUT, MASSACHUSETTS, AND RHODE ISLAND RFP PLANS

Area name	2008 Transportation conformity budgets (tons/day)	
	VOC	NO_X
NY–NJ–CT area (CT portion)	29.7	60.5
Greater Connecticut	28.5	54.3
Bos-Law-Wor (E. MA) area	68.30	191.30
Springfield (W. MA) area	11.80	31.30
Providence	24.64	28.26

EPA issued letters on June 2, 2008 to Connecticut, March 7, 2008 to Massachusetts, and June 16, 2008 to Rhode Island in which we stated these budgets were adequate for use in transportation conformity determinations. Additionally, EPA published announcements of these adequacy findings in the **Federal Register** on June 12, 2008 for Connecticut (73 FR 33428), March 18, 2008 for Massachusetts (73 FR 14466), and June 30, 2008 for Rhode Island (36862). In today's action, we are proposing approval of the 2008 conformity budgets for VOC and NO_X for the areas shown in Table 4 above.

Connecticut and Rhode Island increased their projected 2008 motor vehicle emission estimates slightly to provide a buffer to their transportation conformity budgets. Connecticut increased its 2008 motor vehicle emission estimates by 2 percent, and Rhode Island by 0.5 tons/day. Doing so made meeting the 2008 RFP emission target slightly more difficult to achieve. However, both of these states were able to meet their respective RFP targets even after increasing their projected 2008 motor vehicle emission estimates. These increases are reflected in the budgets shown above in Table 4, and were also used in the projected, controlled 2008 emission estimates shown in step 7 of Tables 3 a, b, and e. The Connecticut and Rhode Island 2008 motor vehicle conformity budgets are approvable because these states were able to show that they can meet their 2008 RFP emission target levels even after providing these buffers to their budgets.

IV. Proposed Action

EPA's review indicates that the 2002 base year emission inventories, RFP plans, transportation conformity budgets, and contingency plans submitted by Connecticut on February 1, 2008, Massachusetts on January 31, 2008, and Rhode Island on April 30, 2008 to meet, in part, their obligations under EPA's 1997 8-hour ozone standard meet the requirements for these programs. Therefore, EPA is proposing to approve these listed components of the state's submittals as revisions to each state's SIP. Additionally, EPA is proposing approval of three rules adopted by Connecticut that will reduce VOC emissions in the state. It should be noted that each states' submittal also included other SIP elements, most notably attainment demonstrations for EPA's 1997 8-hour ozone standard, but EPA is not acting on those other components at this time. Additional details regarding the state's submittals and EPA's review of these submittals is contained in the technical support document (TSD) prepared for this action. The TSD is available in the docket for this action. EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register.**

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed 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 proposed action:

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

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

Dated: September 9, 2010.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. 2010–23402 Filed 9–17–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Chapter I

340B Drug Pricing Program Manufacturer Civil Monetary Penalties

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: Section 602 of Public Law 102–585, the "Veterans Health Care Act

of 1992" enacted Section 340B of the Public Health Service Act (PHSA). Section 340B implements a drug pricing program by which manufacturers enter into an agreement to sell covered outpatient drugs to particular covered entities at a price not exceeding the amount determined under a statutory formula. Manufacturers are required by section 1927(a) of the Social Security Act to enter in agreements with the Secretary that comply with section 340B if they participate in the Medicaid Drug Rebate Program. Section 7102(a) of the Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. 111–148) requires the Secretary of HHS to develop and issue regulations for the 340B Drug Pricing Program (340B Program) establishing standards for the imposition of sanctions in the form of civil monetary penalties for manufacturers that knowingly and intentionally overcharge a covered entity for a 340B drug. As HHS never has had civil monetary penalty authority that addresses manufacturing overcharging of the 340B Program, these regulations present a number of issues that have the potential to impact stakeholders. Accordingly, the Health Resources and Services Administration (HRSA) is issuing this advance notice of proposed rulemaking (ANPRM) to solicit public comment on multiple issues regarding the implementation of this requirement. These comments will be used to help draft a proposed rule that will be published in the **Federal Register** for public comments.

DATES: Submit electronic or written comments by November 19, 2010.

ADDRESSES: Comments in response to this ANPRM should be marked "Comments on the Civil Monetary Penalties" and sent to Mr. Bradford R. Lang, Public Health Analyst, Office of Pharmacy Affairs (OPA), Health Systems Bureau (HSB), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Parklawn Building, Room 10C–03, Rockville, MD 20857. Comments may also be e-mailed to: *opacmp@hrsa.gov*.

FOR FURTHER INFORMATION CONTACT: CDR Krista Pedley, Director, Office of Pharmacy Affairs (OPA), Healthcare Services Bureau (HSB), Health Resources Services Administration (HRSA), 5600 Fishers Lane, Parklawn Building, Room 10C–03, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION:

I. Background

The Affordable Care Act introduces a number of changes to the 340B Program. The Affordable Care Act creates several new categories of eligibility for program participation and provides a number of tools for improving program compliance by manufacturers and covered entities. As one of the many changes created by the Affordable Care Act, section 7102(a) amends section 340B(d) of the PHSA to require the Secretary of HHS to provide for the imposition of civil monetary penalties against manufacturers. As amended by the Affordable Care Act, section 340B(d)(1)(B)(vi) of the PHSA provides for:

(vi) The imposition of sanctions in the form of civil monetary penalties, which—

(I) Shall be assessed according to standards established in regulations to be promulgated by the Secretary not later than 180 days after the date of enactment of the Patient Protection and Affordable Care Act;

(II) Shall not exceed $5,000 for each instance of overcharging a covered entity that may have occurred; and

(III) Shall apply to any manufacturer with an agreement under this section that knowingly and intentionally charges a covered entity a price for purchase of a drug that exceeds the maximum applicable price under subsection (a)(1).

Section 7102(a) of the Affordable Care Act requires the Secretary of HHS to use funds appropriated under section 340B(d)(4) of the PHSA to provide for improvements in compliance by manufacturers and covered entities. The Affordable Care Act also includes provisions to improve covered entity compliance and the imposition of sanctions. These provisions addressing sanctions for covered entities will be addressed separately.

The 340B Program creates complex relationships, not only between drug manufacturers and covered entities, but also involves, among others, wholesalers, group purchasing organizations, pharmacies, and state Medicaid agencies. Changes to the 340B Program have the potential to alter these complex relationships. Prior to enactment of the Affordable Care Act, HRSA did not have civil monetary penalty authority for the 340B Program. This ANPRM is being issued to gather comments to consider in the development of these regulations.

II. Request for Comments

The purpose of this document is to obtain information and public comment on how to efficiently and effectively implement the civil monetary penalties authorized Section 7102(a) of the Affordable Care Act. Although HRSA has identified several issues and areas where HRSA believes comment would be particularly helpful, comments may be submitted on any issues directly relevant to the implementation of the specified requirements.

Areas for which HRSA is expressly seeking comment include: (1) Existing Models; (2) Threshold Determination; (3) Administrative Process Elements; (4) Hearing; (5) Appeals Process; (6) Definitions; (7) Penalty Computation; (8) Payment of Penalty; and (9) Integration of Civil Monetary Penalties with Other Provisions in the Affordable Care Act.

Commenters are requested to specify as clearly as possible which statutory provision they are commenting on and provide a rationale for their proposals.

1. Existing Models

HRSA is seeking comments regarding any aspects of other existing models for civil monetary penalties that can be adapted to the 340B Program. While the 340B Program has not had civil monetary penalty authority in the past, HHS has experience with creating and implementing civil monetary penalties in a number of other contexts. Certain portions of these other civil monetary penalty authorities can provide useful insight as HRSA implements the 340B Program civil monetary penalty authority.

HRSA is currently reviewing the civil monetary penalty authority exercised by the OIG, Federal Aviation Administration, Treasury, Food and Drug Administration, United States Department of Agriculture, Federal Deposit Insurance Corporation, and CMS to determine what portions of these authorities may be adapted for the 340B Program. Specifically, HRSA is reviewing the October 2005 DHHS Office of Inspector General report "Deficiencies in Oversight of the 340B Drug Pricing Program" (OEI–05–02–00072) which recommended that HRSA consider as a model the Centers for Medicare and Medicaid Services' (CMS) statutory authority to enforce the Medicaid rebate program, pursuant to section 1927(b)(3)(C)(i) of the Social Security Act, and seek similar authorities with respect to enforcement of the 340B Program. HRSA is also contemplating the use and adaptation of the procedures codified at 42 CFR part 1003, which includes procedures for the imposition of civil monetary penalties by the OIG. As such, please comment on the extent to which provisions similar to 42 CFR part 1003 should be applied in civil monetary penalty regulations applicable to manufacturers. HRSA is seeking information on other existing regulations or procedures on civil monetary penalties that may provide additional guidance specifically relating

to manufacturers and civil monetary penalties.

2. Threshold Determination

HRSA welcomes comments on when the civil monetary penalty provision should be applied. HRSA is contemplating an oversight process incorporating a variety of elements to gather and consider grounds for applying the penalty provision. These include, but are not limited to, the amount of the overcharge, the frequency of the overcharge, the compliance history of the manufacturer in question, and the number of covered entities affected. The Affordable Care Act provides HRSA with a range of new compliance tools. HRSA may use this information to determine when it is most appropriate to utilize its civil monetary penalty authority and when it is more appropriate to utilize its other available compliance mechanisms.

3. Administrative Process Elements

HRSA is seeking comments on the administrative processes that would best administer civil monetary penalties tailored to meet the unique context of the 340B Program. Systems must be created to address how civil monetary penalty claims will be processed, what type of notice should be required for proposed determinations, what involvement should be available to overcharged covered entities, and what type of notice should be given to third parties and the public, etc. HRSA invites comments on the applicability of the particular administrative procedures in 42 CFR part 1003 and the appropriateness of additional procedural elements.

4. Hearing

Civil monetary penalty systems typically offer the opportunity for a hearing. HRSA is inviting comments on the manner in which such a hearing would be structured. HRSA is considering a large number of issues involved in creating a fair and efficient hearing process, including, but not limited to: Decision-making individual or make-up of the decision making body; ex parte contacts; prehearing conferences; discovery; subpoenas; fees; form, filing, and service of papers; motions; sanctions; burden of proof; evidence; and post-hearing briefs.

5. Appeals Process

HRSA is considering under what circumstances (if any) exist with respect to establishing an appeal review process and who should hear such an appeal. HRSA is also considering which types of matters may be appealed. HRSA also invites comments on how the civil monetary process should interact with the administrative dispute resolution process required by section 340B(d)(3).

6. Definitions

There are a number of key terms needing a clearly established definition in administering this provision in a fair and efficient manner:

a. "Instance"—HRSA believes that "instance" in this context could potentially be defined either as a per unit of drug and/or per commercial transaction. If an entity purchases 100 units of a particular drug in a single transaction, should this constitute 100 instances or a single instance? HRSA also contemplates including instances of refusing to sell a covered outpatient drug in violation of the pharmaceutical pricing agreement to be subject to a penalty where a covered entity has purchased the drug outside the 340B Program at a price greater than the ceiling price.

b. "Knowing and intentional"—HRSA contemplates a standard whereby knowing and intentional can be inferred from the circumstances. For example, the knowledge and intent of employees or agents of a manufacturer may be attributed to the company as a whole. In cases where the ceiling price is known by the manufacturer, the manufacturer knows that a purchaser is a covered entity, and the covered entity is knowingly charged a price in excess of the ceiling price, a finder of fact would be able to infer intentionality of the violation even in cases where no single individual had knowledge of all of these elements. HRSA anticipates there may be circumstances where repeated violations could be considered to be knowingly and intentional if, for example, a manufacturer repeatedly miscalculates a ceiling price or otherwise establishes a system where overcharges are a highly probable consequence.

7. Penalty Computation

In cases where there is a finding that a manufacturer has knowingly and intentionally charged a covered entity an amount in excess of the ceiling price, HRSA contemplates application of variable penalties under the statute. HRSA proposes the following criteria for consideration: (i) Previous record of overcharging; (ii) timeliness of response; (iii) cooperation and good faith; (iv) number of covered entities impacted by the overcharges; (v) impact on patient access; (vi) economic loss to covered entities; (vi) economic gain to the manufacturer; and (vii) relative economic impact on manufacturer as to sufficiency to deter. In determining the penalty, discretion would be given to the deciding official or body. Furthermore, HRSA contemplates that there may be circumstances under which a penalty may be waived for reasons of equity or other good cause.

8. Payment of Penalty

Once a penalty is assessed there are a number of methods for transferring the penalty to the government. HRSA expects to have the application of interest from the date of the overcharge. HRSA also contemplates the ability to adjust the amount of the penalty. To the extent that a penalty payment or an assessment is not paid in a timely manner, a civil action could be pursued by the government.

9. Integration of Civil Monetary Penalties With Other Provisions in Affordable Care Act

In addition to the compliance tools already available to HRSA, such as audits and alternative dispute resolution, the Affordable Care Act provides HRSA with many additional tools to monitor compliance. These additional tools include establishing procedures to verify the accuracy of ceiling prices, creating processes for manufacturers to refund overcharges, selective auditing of manufacturers, and providing access to ceiling price information. To ensure its most effective use, the new civil monetary penalty authority must be used in conjunction with these other compliance tools. HRSA anticipates that information gathered from these other compliance tools will be useful in civil monetary penalty actions and also that information gathered in civil monetary penalty actions will be useful in implementing these other compliance tools. HRSA invites comments concerning the relationship between civil monetary penalties and other oversight mechanisms, such as dispute resolution, spot audits, and others.

While these nine areas were identified for comment, we welcome comments on any other issues that stakeholders believe are relevant to implementing an effective process for civil money penalties.

Dated: September 14, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–23461 Filed 9–17–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Chapter I

340B Drug Pricing Program Administrative Dispute Resolution Process

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: Section 602 of Public Law 102–585, the "Veterans Health Care Act of 1992" enacted Section 340B of the Public Health Service Act (PHSA). Section 340B implements a drug pricing program by which manufacturers who sell covered outpatient drugs to particular covered entities listed in the statute must agree to charge a price that will not exceed the amount determined under a statutory formula. Section 7102 of the Patient Protection and Affordable Care Act (Affordable Care Act) (Pub. L. 111–148) requires the Secretary of Health and Human Services (HHS) to promulgate regulations to establish and implement an administrative dispute resolution process for the 340B Drug Pricing Program (340B Program). (PHSA Section 340B(a)(5)(D) advises the Secretary on the sanctions available should a covered entity be found to be in violation of (a)(5)(A) or (a)(5)(B). The ANPRM does not currently refer to HRSA's plan on how it will resolve any decision made through the new Administrative Dispute Resolution Process and the sanctions in current law). These regulations will address a number of issues that have the potential to impact stakeholders. Accordingly, the Health Resources and Services Administration is issuing an advance notice of proposed rulemaking (ANPRM) to solicit public comment on multiple issues regarding implementation of these regulations. These comments will be used, as appropriate, to help draft a proposed rule that will be published in the **Federal Register** for public comments.

DATES: Submit electronic or written comments by November 19, 2010.

ADDRESSES: Comments in response to this ANPRM should be marked "Comments on Administrative Dispute Resolution Process" and sent to Ms. Dorcas Ann Taylor, Public Health Analyst, Office of Pharmacy Affairs (OPA), Health Systems Bureau (HSB), Health Resources and Services Administration (HRSA), 5600 Fishers Lane, Parklawn Building, Room 10C–03, Rockville, MD 20857. Comments may also be e-mailed to: *opadrp@hrsa.gov*

FOR FURTHER INFORMATION CONTACT: CDR Krista Pedley, Director, Office of Pharmacy Affairs (OPA), Healthcare Services Bureau (HSB), Health Resources Services Administration (HRSA), 5600 Fishers Lane, Parklawn Building, Room 10C–03, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION:

I. Background

The Affordable Care Act introduces a number of changes to the 340B Program. The Affordable Care Act creates several new categories of eligibility for participation and provides a number of tools for improvement in compliance by manufacturers and covered entities. Among the tools is the creation of an administrative dispute resolution process for the resolution of claims by covered entities and manufacturers. Section 7102(a) of the Affordable Care Act requires the HHS Secretary to establish and implement an administrative process through regulations for resolution of (1) claims by covered entities that they have been overcharged for drugs purchased through the 340B Program; and (2) claims by manufacturers, after the conduct of audit as authorized by section 340B(a)(5)(C) of the PHSA, of violations of the prohibition of duplicate discounts or rebates and/or the prohibition on resale of drugs purchased under the 340B Program. As amended by the Affordable Care Act, section 340B(d)(3)(B) of the PHSA requires the Secretary to promulgate regulations that shall:

(i) Designate or establish a decision making official or decision-making body within the Department of Health and Human Services to be responsible for reviewing and finally resolving claims by covered entities that they have been charged prices for covered outpatient drugs in excess of the ceiling price described in subsection (a)(1), and claims by manufacturers that violations of subsection (a)(5)(A) or (a)(5)(B) have occurred;

(ii) Establish such deadlines and procedures as may be necessary to ensure that claims shall be resolved fairly, efficiently, and expeditiously;

(iii) Establish procedures by which a covered entity may discover and obtain such information and documents from manufacturers and third parties as may be relevant to demonstrate the merits of a claim that charges for a manufacturer's product have exceeded the applicable ceiling price under this section, and may submit such documents and information to the administrative official or body responsible for adjudicating such claim;

(iv) Require that a manufacturer conduct an audit of a covered entity pursuant to subsection (a)(5)(C) as a prerequisite to initiating administrative dispute resolution proceedings against a covered entity;

(v) Permit the official or body designated under clause (i), at the request of a manufacturer or manufacturers, to consolidate claims brought by more than one manufacturer against the same covered entity where, in the judgment of such official or body, consolidation is appropriate and consistent with the goals of fairness and economy of resources; and

(vi) Include provisions and procedures to permit multiple covered entities to jointly assert claims of overcharges by the same manufacturer for the same drug or drugs in one administrative proceeding, and permit such claims to be asserted on behalf of covered entities by associations or organizations representing the interests of such covered entities and of which the covered entities are members.

The 340B Program creates relationships between not only drug manufacturers and covered entities, but also involves, among others, wholesalers, group purchasing organizations, pharmacies, and state Medicaid agencies. Any change to the 340B Program has the potential to alter these relationships. The regulations mandated by the Affordable Care Act will be the first regulations for the 340B Program. Prior to enactment of the Affordable Care Act, the Health Resources and Services Administration (HRSA) did not have a required administrative dispute resolution process. The creation of a required administrative dispute resolution process presents a number of issues in the context of the 340B Program that have the potential to affect a large number of interrelated entities. Given these issues, HRSA is issuing this ANPRM to gather comments prior to committing to a particular regulatory path.

The use of audits and dispute resolution in the 340B program has limited precedent. On December 12, 1996, the Secretary of HHS published the Manufacturer Audit Guidelines and Dispute Resolution Process for the 340B Program (61 FR 65406). That notice provided auditing guidelines to permit the manufacturer of a covered outpatient drug to audit the records of a covered entity directly pertaining to the covered entity's compliance with the requirements of section 340B(a)(5)(A) and (B) of the PHSA as to drugs purchased from the manufacturer. Section 340B(a)(5)(C) of the PHSA states

the Secretary shall establish guidelines relating to the number, scope and duration of the audits and these audits must be conducted in accordance with guidelines established by the Secretary. Further, the notice provided guidelines for disputes that may arise between covered entities and participating manufacturers regarding implementation of the provisions of section 340B. To resolve these disputes in an expeditious manner, HRSA developed a voluntary dispute resolution process.

II. Request for Comments

The purpose of this document is to obtain information and public comment on how to efficiently and effectively implement the requirements to create an administrative dispute resolution process for the 340B Program authorized by Section 7102 of the Affordable Care Act. Although HRSA has identified several issues and areas where HRSA believes comment would be particularly helpful, comments may be submitted on any issues directly relevant to the implementation of the specified requirements.

Areas for which HRSA is expressly seeking comment include: (1) Administrative Procedures; (2) Existing Models; (3) Threshold Requirements; (4) Hearings; (5) Decision-making Official or Body; (6) Appropriate Appeals Procedures; (7) Deadlines; (8) Discovery Procedures; (9) Manufacturer Audits; (10) Consolidation of Manufacturer Claims; (11) Covered Entity Consolidation of Claims; (12) Claims by Organizations Representing Covered Entities; and (13) Integration of Dispute Resolutions with Other Provisions in the Affordable Care Act.

(1) Administrative Procedures

HRSA is seeking general comments regarding the administrative procedures associated with alternative dispute resolution. Systems must be put in place that address how and when to initiate the dispute resolution process, what level of evidence must be presented, who can be a party to a dispute, how dispute resolution requests will be processed, timelines, what type of notice is required for proposed determinations, and what involvement and notice should be given third parties and the public.

(2) Existing Models

HRSA is seeking comments regarding what aspects of other existing models for administrative dispute resolution can be adapted to the 340B Program. HRSA is aware of several examples of administrative dispute resolution both within and outside of the Department. Certain aspects of these other processes can provide useful insight as HRSA implements the 340B Program administrative dispute resolution authority.

One of the most useful existing models is the current dispute resolution guidelines for the 340B Program outlined at 61 FR 65406 (Dec. 12, 1996) (can also be found on the OPA Web site at *ftp://ftp.hrsa.gov/bphc/pdf/opa/FR12121996.htm*). The current dispute resolution guidelines contain a voluntary process for the resolution of disputes between manufacturers and covered entities concerning compliance with the 340B Program. The current guidelines outline the types of disputes covered; steps the parties must take before bringing a dispute; the review process; and the assessment of penalties. While the current process has been underutilized (because it was a voluntary process), it does address many issues specific to creating a dispute resolution process for the 340B Program. HRSA would be interested in receiving comments about what aspects of the current process could be adapted for the new administrative dispute resolution process.

(3) Threshold Requirements

HRSA is contemplating using a standard for bringing claims analogous to that utilized under the current informal dispute resolution guidelines (61 FR 65406). These guidelines state: "The party requesting the review may not rely only upon allegations but is required to set forth specific facts showing that there is a genuine and substantial issue of material fact in dispute that requires a review. The request for review shall include a clear description of the dispute, shall identify all the issues in the dispute, and shall contain a full statement of the party's position with respect to such issue(s) and the pertinent facts and reasons in support of the party's position. In addition to the required statement, the party shall provide copies of any documents supporting its claim and evidence that a good faith effort was made to resolve the dispute."

Generally, HRSA would expect that the party initiating the dispute to make a showing that it has more than mere allegations and to also demonstrate that it has made a good faith effort to settle the dispute before involving the Department. In the case of covered entities, the dispute must involve a claim of manufacturer overcharge. HRSA may consider claims of overcharge to include direct and indirect evidence of a violation, such as cases where refusal to sell at the 340B price has led to the purchase of the covered outpatient drug outside of the 340B Program. In the case of manufacturers, the dispute must involve a claim of a violation of subsections 340B(a)(5)(A) or (a)(5)(B) of the PHSA. Manufacturers' claims can only be brought after the conduct of audits as authorized by subsection (a)(5)(C). Therefore, HRSA would expect that manufacturers would present direct evidence of a covered entity's alleged violations of either 340B(a)(5)(A) or (a)(5)(B).

HRSA is seeking comments on the feasibility of applying this construct to the new statutorily created administrative dispute resolution process.

(4) Hearings

HRSA expects that the alternative dispute resolution process would involve some type of hearing. The hearing could be either conducted through an exchange of documents, in-person, or by web access. HRSA is inviting comments on the manner in which such a hearing should be structured. HRSA is considering a large number of issues involved in creating a fair and efficient hearing process, including, but not limited to: Ex parte contacts; rehearing conferences; subpoenas; form, filing and service of papers; motions; sanctions; burden of proof; evidence; and post-hearing briefs.

(5) Decision-making Official or Body

HRSA expects to designate or establish a decision-making official or body from within the Department. HRSA welcomes comments as to whether the same or different decision-makers should decide the sufficiency to state a claim and to make a final determination on a claim. HRSA also invites comments on whether the decision-making official or body should be within HRSA, within OPA, or come from other parts of the Department.

(6) Appropriate Appeals Procedures

HRSA expects to establish an appeals process applicable to a final administrative determination rendered by the decision-making body or official. In addition to comments regarding existing models and the applicability of the Administrative Procedures Act, HRSA is requesting public comment on the procedures related to this new 340B dispute resolution process.

(7) Deadlines

HRSA invites comments on whether claims should be time barred and the standards applicable for maximum

timeframes to bring a claim. HRSA invites comments on deadlines for responses to submissions by the participants, the government and deciding body or official and the consequences of failure to meet a particular deadline.

(8) Discovery Procedures

HRSA is requesting input on the process used for discovery of information from participating manufacturers and covered entities. HRSA will need to determine the scope of documents (information, reports, answers, records, accounts, papers, documentary evidence, etc.) and interrogatories eligible for discovery. HRSA will also need to determine under what circumstances (irrelevancy, privileged information, unduly burdensome, etc.) protective orders should be utilized. Procedures to ensure the confidentiality of information discovered will also need to be developed. Finally, a determination will need to be made as to the power to compel discovery from third parties given that OPA has limited direct regulatory authority through the 340B Program over entities and individuals outside of 340B participating drug manufacturers and covered entities.

(9) Manufacturer Audits

The administrative dispute resolution requirements of the Affordable Care Act set forth that manufacturers must conduct an audit of a covered entity prior to bringing a claim. HRSA currently has guidelines regarding the requirements for initiating an audit (61 FR 65406). However, over the history of the 340B Program manufacturers have rarely utilized the process in the guidelines to conduct an audit. HRSA invites comments on whether it is appropriate or necessary to modify the guidelines concerning audits prior to implementing the administrative dispute resolution regulation or whether the current final guidelines are sufficient.

(10) Consolidation of Manufacturer Claims

HRSA is required to create a process for consideration of whether requests by a manufacturer or manufacturers to consolidate claims by more than one manufacturer against the same covered entity are "appropriate and consistent with the goals of fairness and economy of resources." HRSA seeks comments on how to create this process, the evidence to be considered, timing of requests to join in a consolidated claim, and the interests to be weighed.

(11) Covered Entity Consolidation of Claims

Similar to the consolidation of manufacturer claims, HRSA is required to create a process for consideration of requests for consolidation of particular covered entity claims. HRSA invites comment on whether the standard for manufacturers and covered entities should differ and whether there should be a presumption of allowing such consolidation of claims absent a finding that consolidation would be inconsistent with the goals of fairness and economy of resources.

(12) Claims by Organizations Representing Covered Entities

The legislation provides for claims by organizations representing entities. HRSA is interested in input on when a third party can bring claims on behalf of member covered entities in the context of a binding formal dispute resolution process and how to ensure that the group in fact represents the interests of the covered entities. In order to ensure that such organizations actually represent the interests of covered entities, HRSA is contemplating that prior to seeking to file a claim on behalf of covered entities, such groups must have a signed agreement with the covered entities. The agreement would indicate that the organization is authorized to bring a claim on behalf of the covered entities; the precise nature of the claim; that the covered entities agree to participate in good faith and abide by discovery procedures; and that the covered entities agree to be bound by any decision of the decision-making official or body. HRSA contemplates a decision-making official or body having the authority to not allow claims that would result in unfairness or a substantial waste of resources.

(13) Integration of Dispute Resolutions With Other Provisions in the Affordable Care Act

In addition to the compliance tools already available to HRSA, such as audits and alternative dispute resolution, the Affordable Care Act provides HRSA with many additional tools to monitor compliance. These additional tools include establishing procedures to verify the accuracy of ceiling prices; creating processes for manufacturers to refund overcharges; selective auditing of manufacturers; annual recertification of covered entities; and providing access to ceiling price information. The use of the new administrative dispute resolution authority must be used in conjunction with these other compliance tools to ensure its most effective use. HRSA invites comments concerning the relationship between administrative dispute resolution and other oversight mechanisms.

While these thirteen areas were identified for comment, we welcome comments on any other issues that stakeholders believe are key to implementing an effective alternate dispute resolution process.

Dated: September 14, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–23460 Filed 9–17–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 100825390–0431–01]

RIN 0648–BA17

Atlantic Highly Migratory Species; Atlantic Shark Management Measures

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

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: NMFS issues this advance notice of proposed rulemaking (ANPR) to provide background information and request public comment on potential adjustments to the regulations governing the U.S. Atlantic shark fishery to address several specific issues currently affecting management of the shark fishery and to identify specific goals for management of fishery in the future. NMFS is requesting public comment regarding the potential implementation of changes to the quota and/or permit structure that are currently in place for the Atlantic shark fishery. NMFS is also requesting comments on the implementation of programs such as catch shares, limited access privilege programs (LAPPs), individual fishing quotas (IFQs), and/or sectors for the Atlantic shark fishery.

DATES: Written comments regarding the issues in this ANPR must be received no later than 5 p.m. on January 14, 2011.

Public meetings to obtain additional comments on the items discussed in this ANPR will be held in September, October, November, and December 2010. *Please see* the **SUPPLEMENTARY INFORMATION** section of this ANPR for specific dates, times, and locations.

ADDRESSES: You may submit comments, identified by "0648–BA17", by any one of the following methods:

• *Electronic submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.*

• *Fax:* 301–713–1917, Attn: Margo Schulze-Haugen.

• *Mail:* NMFS SF1, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: All comments received are part of the public record and generally will be posted to portal *http://www.regulations.gov* without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Related documents, including the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments and the 2009 Stock Assessment and Fishery Evaluation (SAFE) Report are available upon request at the mailing address noted above or on the HMS Management Division's Web page at: *http://www.nmfs.noaa.gov/sfa/hms/.*

Public meetings to obtain additional comments on the items discussed in this ANPR will be held in New Jersey, North Carolina, Maryland (HMS Advisory Panel (AP) meeting), Florida, and Louisiana. *Please see* the **SUPPLEMENTARY INFORMATION** section of this ANPR for specific dates, times, and locations.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz, LeAnn Southward Hogan or Delisse Ortiz at 301–713–2347 or fax at 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In 1999, NMFS revised the 1993 Shark FMP and included swordfish and tunas in the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). The 1999 FMP was amended in 2003, and in 2006, NMFS consolidated the Atlantic tunas, swordfish, and shark FMP and its amendments and the Atlantic billfish FMP and its amendments into the 2006 Consolidated Atlantic HMS FMP. The 2006 Consolidated HMS FMP was amended in 2008 and 2010 to address management needs in the Atlantic shark fishery.

I. Background

The Fishery Conservation Amendments of 1990 (Pub. L. 101–627) amended the Magnuson Fishery Conservation and Management Act (later renamed the Magnuson-Stevens Fishery Conservation and Management Act or Magnuson-Stevens Act) and gave the Secretary of Commerce (Secretary) the authority to manage HMS in the Exclusive Economic Zone (EEZ) of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea under authority of the Magnuson-Stevens Act (16 U.S.C. 1811, 16 U.S.C. 1854(f)(3)). The Secretary has delegated the authority to manage Atlantic HMS to NMFS.

In 1993, NMFS implemented the FMP for Sharks of the Atlantic Ocean. Some of the management measures in the 1993 FMP included:

• Establishing a fishery management unit (FMU) consisting of 39 frequently-caught species of Atlantic sharks, separated into three groups for assessment and regulatory purposes (Large Coastal Sharks (LCS), Small Coastal Sharks (SCS), and pelagic sharks);

• Establishing calendar year commercial quotas for the LCS and pelagic sharks and dividing the annual quota into two equal half-year quotas that applied to the following two fishing periods—January 1 through June 30 and July 1 through December 31;

• Establishing a recreational trip limit of four sharks per vessel for LCS or pelagic shark species groups and a daily bag limit of five sharks per person for sharks in the SCS species group;

• Establishing a framework procedure for adjusting commercial quotas, recreational bag limits, species size limits, management units, fishing year, species groups, estimates of maximum sustainable yield (MSY), and permitting and reporting requirements;

• Prohibiting finning by requiring that the ratio between wet fins and dressed carcass weight at landing not exceed five percent;

• Prohibiting the sale by recreational fishermen of sharks or shark products caught in the EEZ;

• Requiring annual commercial permits for fishermen who harvest and sell shark products (meat products and fins); and

• Establishing a permit eligibility requirement that the owner or operator (including charter vessel and headboat owners/operators who intend to sell their catch) show proof that at least 50 percent of earned income has been derived from the sale of the fish or fish products or charter vessel and headboat operations or at least $20,000 from the sale of fish during one of three years preceding the permit request.

Based in part on the results of the 1998 LCS stock assessment, in April 1999, NMFS published the final 1999 FMP for Atlantic Tunas, Swordfish and Sharks, which included numerous measures to rebuild or prevent overfishing of Atlantic sharks in commercial and recreational fisheries. The 1999 FMP amended and replaced the 1993 FMP. Some of the management measures related to sharks that changed in the 1999 FMP included:

• Reducing commercial LCS and SCS quotas;

• Establishing ridgeback and non-ridgeback categories of LCS;

• Implementing a commercial minimum size for ridgeback LCS;

• Reducing recreational retention limits for all sharks;

• Establishing a recreational minimum size for all sharks except Atlantic sharpnose;

• Implementing limited access in commercial fisheries;

• Establishing new procedures for counting dead discards and state landings of sharks after Federal fishing season closures against Federal quotas; and

• Establishing season-specific over- and underharvest adjustment procedures.

In 2002, additional LCS and SCS stock assessments were conducted. Based on these assessments, NMFS re-examined many of the shark management measures in the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks and amended the 1999 FMP (Amendment 1). The changes in Amendment 1 to the 1999 FMP affected all aspects of shark management. The final management measures in Amendment 1 included, among other things:

• Aggregating the LCS;

• Using MSY as a basis for setting commercial quotas;

• Eliminating the commercial minimum size;

• Establishing regional commercial quotas and trimester commercial fishing seasons, adjusting the recreational bag and size limits, establishing gear restrictions to reduce bycatch or reduce bycatch mortality; and

• Establishing a time/area closure off the coast of North Carolina.

The 2006 Consolidated HMS FMP consolidated the management of all Atlantic HMS into one comprehensive FMP, adjusted the regulatory framework measures, continued the process for updating HMS Essential Fish Habitat

(EFH), and combined and simplified the objectives of the previous FMPs. Measures that were specific to the shark fisheries included, but were not limited to:

- Mandatory protected species safe handling and release workshops and certifications for all vessel owners and operators that have pelagic longline (PLL) or bottom longline (BLL) gear on their vessels and that had been issued or were required to be issued any of the HMS limited access permits (LAPs) to participate in HMS longline and gillnet fisheries.
- Mandatory Atlantic shark identification workshops for all federally permitted shark dealers to train shark dealers to properly identify shark carcasses; and
- The requirement that the second dorsal fin and the anal fin remain on all sharks through landing.

In 2005/2006, new stock assessments were conducted on the LCS complex, and sandbar, blacktip, porbeagle, and dusky sharks. Based on the results of those assessments, NMFS amended the 2006 Consolidated HMS FMP (Amendment 2). NMFS implemented management measures consistent with recent stock assessments for sandbar, porbeagle, dusky, and blacktip sharks and the LCS complex. Some of the management measures implemented in Amendment 2 included:

- Initiating rebuilding plans for porbeagle, dusky, and sandbar sharks consistent with stock assessments;
- Implementing commercial quotas and retention limits consistent with stock assessment recommendations to prevent overfishing and rebuild overfished stocks;
- Modifying recreational measures to reduce fishing mortality of overfished stocks and stocks with overfishing occurring;
- Modifying reporting requirements;
- Requiring that all Atlantic sharks be offloaded with fins naturally attached; and
- Collecting shark life history information via the implementation of a shark research program.

An SCS stock assessment was finalized during the summer of 2007 which assessed finetooth, Atlantic sharpnose, blacknose, and bonnethead sharks. Based on the results of this assessment, NMFS amended the 2006 Consolidated HMS FMP (Amendment 3). The measures in Amendment 3 included, among other things:

- Implementing a rebuilding plan for blacknose sharks;
- Implementing commercial SCS quotas consistent with stock assessment recommendations;
- Taking action at the international level to end overfishing of shortfin mako sharks; and
- Promoting the release of shortfin mako sharks in the recreational and commercial fisheries.

A. Need for Action

As outlined above, since sharks have been federally managed, there have been many changes to the regulations and major rules related to sharks, either through FMP amendments or regulatory amendments, in order to respond to results of stock assessments, changes in stock status, and other fishery fluctuations. Despite modifications to the regulations or Amendments to the FMP in order to respond to these changes, the Atlantic shark fishery, particularly the LCS portion of the fishery, continues to be faced with problems such as commercial landings that exceed the quotas, declining numbers of fishing permits since limited access was implemented, complex regulations, "derby" fishing conditions due to small quotas and short seasons, increasing numbers of regulatory discards, and declining market prices. Rather than react to these issues every year with a new regulation or every other year with a new FMP amendment, NMFS would like to be more proactive in management and explore methods to establish more flexible regulations that would consider the changing needs of the fishery. To achieve this objective, NMFS must establish specific long-term management goals for the shark fishery, including the goals of rebuilding overfished stocks, preventing overfishing, and the other objectives of the 2006 Consolidated HMS FMP and its amendments. In this ANPR, NMFS requests comments and input on what the specific fishery goals should be and on potential short-term and long-term changes to the Atlantic shark fishery in order to achieve those goals.

II. Potential Management Solutions

A. Quota Structure Changes

Several changes could be made to the current shark quota structure. Currently, NMFS calculates the total allowable catch (TAC) for a shark species based on stock assessments. NMFS partitions these TACs into commercial landings, recreational landings, and dead discards. NMFS bases the commercial quotas on the commercial landings partition and adjusts them according to rebuilding plans to end overfishing. Within this overall quota structure, NMFS is considering changes. NMFS is considering, among other things: Managing the species in complexes only with no individual species quotas; having species-specific quotas only; moving species within a complex to different complexes; re-considering regional quotas; establishing bycatch quotas for prohibited shark species or protected resources; and limiting quotas by gear type such as gillnet quotas, BLL quotas, and recreational quotas.

Managing the species in complexes only, with no individual species quotas, would re-establish the method of shark management established in the 1993 FMP. For example, the fishery could return to an LCS complex, an SCS complex, and a pelagic shark complex. Managing the shark species by complexes in this way simplified season opening dates and the process for setting quotas. The species complex management approach worked well when the stock assessments were conducted on the complex, but became complicated when stock assessments began to be completed for individual species because stock assessment recommendations for TACs were given for individual species rather than for the complex. NMFS is seeking public comment on how, if NMFS were to return to this management structure, quotas should be set if the stock status of species differs within a complex. Should the overall complex quota be based on the species with the poorest stock status, the best stock status, or an average stock status? How should NMFS determine within which complex a species should be placed? Should the complex be based on biology, gear type, stock status, or something else?

If NMFS were to move forward with species-specific quotas, this could result in more than twenty individual shark quotas. If each shark species had an individual quota, the season for each species could open and close at different times during the year. Currently, species-specific quotas within the shark fishery are based on recommendations from species-specific stock assessments. NMFS is seeking public comment on how, if a particular species has no species-specific stock assessment, the quotas should be derived. In the SCS fishery, there is a species-specific quota and a complex quota, and when the species-specific quota is caught, both the species-specific and the complex quotas are closed. If NMFS were to move to individual species quotas only, should these quotas be linked or should they close independently of each other? If the quotas were not linked, how should NMFS account for dead discards of each species?

NMFS is considering whether blacktip sharks should be moved from

the LCS complex to the SCS complex because this species tends to be caught with the same gear as the other SCS species, or whether this species should be removed from the LCS complex and managed separately. NMFS is seeking public comment on how blacktip sharks should be managed, including whether, if blacktip sharks were moved to the SCS complex, should the SCS complex quota be adjusted? If blacktip sharks were managed with an individual quota, how should this quota be derived? Are there other species that should move to different complexes or have their own quota?

Other possible changes to the current shark quota structure could include re-considering regional quotas. Currently, the LCS quotas are separated into an Atlantic quota and a Gulf of Mexico quota, and the SCS and pelagic shark fisheries have no regional quotas. In the past, the LCS fishery was managed in three regions: The Gulf of Mexico, North Atlantic and South Atlantic. The purpose of the three regions was to provide flexibility to adjust regional quotas to reduce mortality of juvenile and reproductive female sharks, provide fishing opportunities when sharks were present in various regions, and account for differences between species' utilization of various pupping grounds. When the LCS fishery was managed in three regions, however, NMFS received feedback from fishery participants that this approach was not meeting the related goals to providing fishing opportunities. One reason for this was because there were instances when fishing effort would change in these regions and NMFS would have to transfer quota among regions to compensate for one region's overharvest and another region's underharvests of the regional quota. Due to regional differences in migration patterns and seasonality of some shark species, some fishery participants have expressed interest in further splitting the LCS quotas in the Atlantic and Gulf of Mexico. NMFS is seeking public comment on these management issues and approaches, including: If additional regional quotas were developed, where should these regions occur and how should the quotas be determined? Similarly, if NMFS were to implement quotas specific to gear type, such as gillnet gear, BLL, and rod and reel, how should these quotas be established?

B. Permit Structure Changes

Several changes could be made to the Atlantic shark permit structure. Currently, the directed and incidental commercial shark permits are LAPs and no new commercial permits are being issued. NMFS implemented LAPs in the 1999 FMP for Atlantic Tunas, Swordfish and Sharks to remove latent effort from HMS commercial fisheries. As of November 2009, there were 221 directed permits and 282 incidental limited access permits in the Atlantic shark fishery. Currently, if new participants would like to join the fishery, they must find a participant who is willing to sell/transfer his or her commercial permit. There are upgrading restrictions that apply to all directed limited access permit holders. An owner may upgrade a vessel with a directed limited access permit or transfer the directed limited access permit to another vessel only if the upgrade or transfer does not result in an increase in horsepower of more than 20 percent or an increase of more than 10 percent in length overall, gross registered tonnage, or net tonnage from the original qualifying vessel's specifications. In addition, if a permit is expired for more than a year, the permit becomes permanently invalid and can no longer be renewed. NMFS therefore is considering and seeks public comment on management measures such as: Permit stacking; a use or lose permit system; and matching permit capacity to the shark quotas.

If NMFS were to implement a permit stacking system (as explained below), this would likely mean that fishermen with multiple shark LAPs could use them concurrently on one vessel and that the trip limits of the individual permits could be used concurrently as well. For example, the current non-sandbar LCS trip limit is 33 per trip. Under permit stacking, if two directed shark permits were stacked onto one vessel, that vessel would have a trip limit of 66 non-sandbar LCS per trip. Such a system could provide additional opportunities and security for fishermen who have access to more than one permit and could provide for a more efficient use of resources where fishermen only need to pay fuel costs for one vessel rather than two or more vessels. While this approach may provide benefits for fishermen, NMFS also wants to explore the appropriate limits on permit stacking. For instance, such a system could provide for inactive permits to be brought back into the fishery resulting in additional effort and exacerbating current fishing problems. NMFS is seeking public comment on these types of issues, including, how many permits could be stacked onto one vessel? How would inactive/latent permits be handled, and could they be stacked onto an active vessel? Should incidental shark permits be eligible for stacking and could fishermen without multiple permits be able to buy additional permits in order to stack them on a vessel? How would a permit stacking system incorporate the upgrading restrictions that are currently in place?

If NMFS were to implement a use or lose permit system, this may mean that fishermen who do not use their commercial shark permit for a specified amount of time would lose the permit and would be unable to re-enter the shark fishery. NMFS is seeking public comment and input on these types of measures, including how and whether this type of use or lose system should apply to directed and incidental shark permit holders and how long should permits remain inactive before they are lost. What should NMFS do with the permits that are lost? Should those permits be removed from the fishery permanently or should NMFS sell those permits to other fishermen?

Another potential solution would be to limit the number of permits to match the effort needed to catch the quota over the entire year. NMFS is seeking public comment on these types of measures, including how and whether NMFS could implement a permit system of this type, and whether both inactive and active permits could be removed from the fishery. This type of system would be different from the current LAP system, as that system was designed to remove latent effort only. If permit numbers were matched to the amount of quota, how should those permits be allocated? Should the permits be given to the most active and directed shark fishermen (which would result in the fewest number of permits) or to the least active shark fishermen (which would result in more permits but could remove the fishermen who rely on the fishery the most)?

C. Catch Shares

NMFS has received multiple questions and requests from fishermen and other shark fishery constituents to consider catch shares for the Atlantic shark fishery. Requests to consider catch shares have come from gillnetters in Florida and BLL fishermen in the Gulf of Mexico. Additionally, fishermen throughout the fishery, including fishermen who fish only in state waters, have asked what catch shares would mean for the shark fishery. To be responsive to these requests, this section will give background information on catch shares, including sectors, and pose questions related to how these programs would apply to the Atlantic shark fishery.

"Catch share" is an umbrella term that is used to describe fishery management

programs that provide a portion of the TAC to individuals, cooperatives, communities, or other eligible entities. Catch shares can include LAPPs, IFQs, sectors, and fishery cooperatives. Catch shares can address a variety of fishery needs such as lengthening fishing seasons, lowering operating costs, improving market conditions, promoting safe fishing operations, reducing bycatch and discard mortality, and improving quota monitoring and timely reporting. Catch shares can also address different fishery goals such as eliminating overfishing, stopping derby fishing, and improving socio-economic conditions. In addition, catch shares can address fishery concerns such as loss of small boats and fleets, exclusion of small vessel owners or new entrants, and sustainability of fishing communities.

Each catch share program is unique and there are many elements to consider when designing one for a specific fishery. For example, the design needs to consider eligibility or who will participate in the catch share program, as well as the allocation of quota shares. When considering quota allocation, the duration of the quota shares, transferability of the shares, and preventing excessive accumulation of shares are important issues to consider. It is also important to consider how to protect existing fishery communities and business sectors and ensure the stability and participation of traditional operations. Many catch share programs apply to commercial fishermen, but recreational fishermen are an important part of most fisheries. As such, another consideration is the allocation between commercial and recreational fishermen and whether shares can be moved between those sectors. An additional element of a catch share program that should be considered is the monitoring and enforcement of the program and how to ensure compliance within the catch share program.

When considering catch shares for the Atlantic shark fishery, NMFS has the following design questions: Should a catch share program encompass all species of Atlantic sharks? Should there be species-specific catch share programs within the Atlantic shark fishery? Should NMFS consider a pilot catch share program for certain species or regions? If a federal shark catch share program were implemented, how would that work with the different states or the Atlantic States Marine Fishery Commission (ASMFC)? Would the states or ASMFC have their own allocation, or would they be included in the federal catch share allocation? Since most of the current catch share programs apply to commercial fisheries, should the recreational shark fishery be considered for a catch share program? If so, how would that work? If not, how would the TAC be allocated between the two sectors?

As described above, a catch share is an umbrella term that describes many types of programs. One type of catch share program is a sector program. A sector is a group of persons acting as an entity to which NMFS has granted a share or fraction of the TAC in order to achieve objectives and goals within a fishery consistent with an FMP. The allocation share to a sector would be to the group, not to individuals, and distribution of that allocation share to members of the group is internal to the group and is not handled by NMFS. A sector can negotiate and enforce plans, agreements and contracts similar to those required of fishing communities and regional fishery associations. The sector participants can select who would participate, and participation would be voluntary. The rules within a sector would be set up by the sector but would be agreed upon by NMFS. When considering sectors for the Atlantic shark fishery, a group of fishermen could decide on a sector approach and work with NMFS to design regulations specific to that sector that addressed the needs of the group. The regulations within a shark sector could include season openings and quota shares, among other things. Anyone outside of a sector within the shark fishery would follow general shark regulations. For example, for a number of years, directed shark gillnet fishermen, because of their experience with the gear and with working with the Atlantic Large Whale Take Reduction Team (ALWTRT), have been requesting that NMFS limit access of new participants into the shark gillnet fishery. Under a sector scenario, those fishermen could form a sector with specific gillnet regulations. Additionally, a number of fishermen along the Atlantic Ocean and in the Gulf of Mexico have been requesting NMFS to re-establish regions to allow them to fish when certain species of sharks are in their area. Under a sector scenario, those fishermen could form sectors (*e.g.,* a North Atlantic sector and an eastern Gulf of Mexico sector). NMFS would then work with those sectors to establish specific season openings and quota allocations. Permit holders outside the sector, even if fishing in the same area, would not necessarily have the same season opening or quota availability as fishermen in that sector.

As described above, sectors are just one type of catch share program. There are numerous examples in the United States and around the world of different types of catch share programs. Such a program is designed specifically for each fishery to address the problems in that fishery. Some catch share programs that appear successful are: The Alaska IFQ Halibut and Sablefish Program (*http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/docs/ak_halibut_sablefish.pdf*) and the Georges Bank Cod Hook Sector (*http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/docs/gbcod_hooksector.pdf*). NMFS is seeking public comment and input on catch share issues, including whether a type of catch share program may appear to provide the most opportunity and stability for the fishery. Which type of catch share program should NMFS consider or not consider and for what reasons? For additional information on catch shares please visit the NOAA Fisheries Catch Shares Web site at, *http://www.nmfs.noaa.gov/sfa/domes_fish/catchshare/index.htm.*

III. Shark Management Process

In considering the above options for the shark fishery, it is also important to consider the different aspects of the rulemaking process. Currently, the Atlantic shark fishery is managed under the 2006 Consolidated HMS FMP and its amendments. In certain cases, NMFS must amend the FMP; for example, when NMFS receives new fishery information such as new stock assessment information indicating a stock is overfished, NMFS must prepare an FMP amendment in order to develop a rebuilding plan for that particular shark species and to end overfishing. FMP amendments may be warranted due to other types of new information and generally take approximately two years to complete and implement. The public is involved in the amendment process during scoping and again at the proposed rule stage. An example of a recent amendment is Amendment 3 to the 2006 Consolidated HMS FMP (75 FR 30484, June 1, 2010), which was based on the 2007 SCS stock assessment that indicated NMFS needed to establish a rebuilding plan and end overfishing of blacknose sharks.

Unlike FMP amendments, regulatory amendments are changes to the regulations that can be made without amending the FMP. Regulatory amendments are often the result of new information (*e.g.,* the quota was filled faster than expected) and generally take about a year to complete and implement. Examples of past changes that have been made with regulatory amendments include implementing trip limits, implementing biological opinion requirements, changing regional quotas,

and changing gear operation and deployment requirements. Regulatory changes of this nature tend to be reactive and result when current management measures need to be modified. Generally, the public is involved at the proposed rule stage for these types of regulatory changes.

Annual specifications are another type of rulemaking action that NMFS uses to adjust the annual commercial shark quotas that are established in the FMP. The annual specifications take about 6 months to complete. Annual specifications adjust the quotas based on over- and underharvests in the previous year(s) and establish season opening dates for the Atlantic shark fishery. A recent example of an annual specification is the final rule that established quotas and season opening dates for the 2010 Atlantic shark commercial fishing season based on over- and underharvests in 2009 (75 FR 250, January 5, 2010). Depending on the outcome of this ANPR process, NMFS will consider rules or FMP amendments as appropriate.

IV. Summary

This ANPR explains the Atlantic shark management history while also describing ongoing issues within the shark fishery, as well as many approaches to future management that NMFS could implement in order to address these issues in the future. Some of the ideas discussed are specific changes to the current quota and permit structures, which could potentially be implemented in the short-term through a regulatory action in one to two years. The other changes discussed include implementing a catch share or sector program for the Atlantic shark fishery, which could be implemented by amending the 2006 Consolidated HMS FMP. It is NMFS's goal to move forward with proactive management for the Atlantic shark fishery and implement a viable and flexible solution that will achieve specific shark fishery goals and objectives for the future of the Atlantic shark fishery.

V. Submission of Public Comments

The comment period for all topics discussed in this ANPR closes on January 14, 2011. *Please see* the **ADDRESSES** section of this ANPR for additional information regarding the submission of written comments.

NMFS requests comments on the potential adjustment of regulations or an FMP amendment governing the Atlantic shark quota and permit structure as well as comments on the potential consideration of catch shares and sectors for the Atlantic shark fishery. The preceding sections provide background information regarding these topics and ideas for potential changes. The public is encouraged to submit comments related to the specific ideas and questions asked in each of the preceding sections. NMFS is also seeking additional ideas/solutions for changes to the Atlantic shark fishery.

All written comments received by the due date will be considered in drafting proposed changes to the Atlantic shark regulations. In developing any proposed regulations, NMFS must consider and analyze ecological, social, and economic impacts. Therefore, NMFS encourages comments that would contribute to the required analyses, and respond to the questions presented in this ANPR.

VI. Public Meetings

NMFS will hold six public meetings to receive comments from fishery participants and other members of the public regarding this ANPR. These meetings will be physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Karyl Brewster-Geisz or LeAnn Southward Hogan at 301–713–2347 (phone) or 301–713–19197 (fax), at least 7 days prior to the meeting. For individuals unable to attend a meeting, NMFS also solicits written comments on the ANPR (*see* **DATES** and **ADDRESSES**).

The meeting dates, locations, and times follow. All meetings will begin with an opportunity for individuals to view information on the issues raised in this ANPR and ask questions followed by a presentation and opportunity for public comment.

1. *September 21–23, 2010:* HMS Advisory Panel Meeting, Crowne Plaza Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910.
2. *October, 21, 2010:* Ocean County Library, Stafford Branch, 129 North Main Street, Manahawkin, New Jersey 08050, 6–9 p.m.
3. *October 26, 2010:* Manteo Town Hall, 407 Budleigh Street, Manteo, North Carolina 27954, 6–9 p.m.
4. *November 8, 2010:* Belle Chasse Auditorium, 8398 Highway 23, Belle Chasse, Louisiana 70037, 6–9 p.m.
5. *December 15, 2010:* West St. Petersburg Community Library, 6605 5th Avenue North, St. Petersburg, FL 33710, 6–9 p.m.
6. *December 16, 2010:* Fort Pierce Library, 101 Melody Lane, Fort Pierce, FL 34950, 5–8 p.m.

Classification

This action is not significant pursuant to Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 14, 2010.

Samuel D. Rauch III,

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

[FR Doc. 2010–23438 Filed 9–17–10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 100622276–0307–02]

RIN 0648–AY98

Atlantic Highly Migratory Species; 2011 Commercial Fishing Season and Adaptive Management Measures for the Atlantic Shark Fishery

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would establish opening dates and adjust quotas for the 2011 fishing season for sandbar sharks, non-sandbar large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks. Quotas will be adjusted based on the framework established in Amendment 2 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan, which requires adjustments for any over- and/or underharvests experienced during the 2009 and 2010 Atlantic commercial shark fishing seasons. In addition to establishing opening dates and adjusting annual quotas, this proposed rule analyzes adaptive management measures, such as various opening dates for the fishing season as well as allowing adjustments through inseason actions in the allowable number of fish that can be taken via trip limits, to provide flexibility in management in furtherance of equitable fishing opportunities to the extent practicable for commercial shark fishermen in all regions and areas. The proposed measures could affect fishing opportunities for commercial shark fishermen in the Atlantic and Gulf of Mexico.

DATES: Written comments will be accepted until October 20, 2010. NMFS will hold four public hearings on this proposed rule on September 22, 2010, in Silver Spring, MD; September 27, 2010,

in Tequesta, FL; October 4, 2010, in Belle Chasse, LA; and a meeting on October 6, 2010, via conference call to receive comments from fishery participants and other members of the public regarding this proposed rule.

ADDRESSES: The public hearings will be held at the Crowne Plaza Hotel, 8777 Georgia Avenue, Silver Spring, MD 20910; Tequesta Branch Library, 461 Old Dixie Highway North, Tequesta, FL 33469; Belle Chasse Auditorium, 8398 Highway 23, Belle Chasse, LA, 70037; and via conference call at 1–800–857–3903; passcode: 2381782.

You may submit comments, identified by 0648–AY98, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal at *http://www.regulations.gov*.
- *Fax:* 301–713–1917, Attn: Karyl Brewster-Geisz or Guý DuBeck, or Jackie Wilson at 404–806–9188.
- *Mail:* 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comments on the Proposed Rule To Establish Quotas and Adaptive Management Measures for the 2011 Atlantic Shark Commercial Fishing Season."
- *Instructions:* No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and generally will be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (*e.g.,* name, address) 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: Karyl Brewster-Geisz or Guý DuBeck by phone: 301–713–2347 or fax: 301–713–1917, or Jackie Wilson by phone: 240–338–3936 or fax: 404–806–9188.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated HMS FMP and its amendments under the Magnuson-Stevens Act are implemented by regulations at 50 CFR part 635.

On June 24, 2008, NMFS published a final rule (73 FR 35778, corrected at 73 FR 40658, July 15, 2008) implementing Amendment 2 to the 2006 Consolidated HMS FMP (Amendment 2). That final rule established the annual quotas for sandbar sharks, non-sandbar LCS, and pelagic sharks, and also reduced the annual base quotas for non-sandbar LCS and sandbar sharks through December 31, 2012, to account for large overharvests that occurred in 2007. The final rule also established a shark research fishery that allows for the commercial harvest of sandbar sharks; sandbar harvest is prohibited outside of the shark research fishery. In addition, that final rule established accounting measures for under- and overharvests and redefined the shark fishery regions.

On June 1, 2010, NMFS published a final rule (75 FR 30484) implementing Amendment 3 to the 2006 Consolidated HMS FMP. This rule established, among other things, new base quotas for blacknose shark and non-blacknose SCS fisheries.

Under Amendments 2 and 3 to the 2006 Consolidated HMS FMP, the Atlantic shark annual quotas apply to all areas of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. NMFS has split the non-sandbar LCS quota outside the research fishery between two regions, the Atlantic and Gulf of Mexico. The boundary delineating these two regions is a line beginning on the east coast of Florida, at the mainland, at 25°20.4′ N. lat. and proceeding due east. Any water and land to the south and west of that boundary, including the Caribbean, is considered, for the purposes of quota monitoring and setting of quotas, to be within the Gulf of Mexico region. Any water and land to the north and east of that boundary, for the purposes of quota monitoring and setting of quotas, is considered to be within the Atlantic region.

As described below, in addition to establishing the adjusted annual quotas, NMFS is also proposing several changes to the regulations regarding flexibility in season opening dates and retention limits. The following summarizes the current history of the program.

In Amendment 2, NMFS decreased the number of fishing seasons from three seasons to one because of the reduced quotas that were implemented to rebuild overfished shark stocks, prevent overfishing, and meet the other objectives of Amendment 2. NMFS also reduced the commercial retention limits for non-sandbar LCS and prohibited the retention of sandbar sharks, except in a small shark research fishery. Historically, sandbar sharks accounted for majority of the sharks caught in the directed LCS fishery. As such, as described in Amendment 2, NMFS felt that prohibiting sandbar sharks in combination with low retention limits for non-sandbar LCS would reduce the LCS fishery to incidental levels. NMFS expected this incidental LCS fishery would last year-round and provide the mid-Atlantic fishery participants the opportunity to catch part of the non-sandbar LCS quota during the summer months when LCS migrate northward and for shark fishermen, who hold directed and incidental commercial shark permits, to be able to land LCS incidentally year-round as they targeted other species in other fisheries. However, this expectation did not happen in the 2009 or 2010 non-sandbar LCS fisheries as shark fishermen continued to direct on non-sandbar LCS, despite the low retention limits.

In 2009, all the Atlantic commercial shark fisheries opened on January 23, 2009 (73 FR 79005, December 24, 2008). On June 6, 2009, the non-sandbar LCS fishery closed in the Gulf of Mexico region (74 FR 26803, June 4, 2009). In the Gulf of Mexico region, fishery participants had limited opportunities to harvest the 2009 Gulf of Mexico non-sandbar LCS quota due to the June 6, 2009 closure of the non-sandbar LCS fishery. State fishermen in Louisiana were further limited due to a state water closure from April 1–June 30.

In 2009, the non-sandbar LCS fishery in the Atlantic region closed on July 1, 2009 (74 FR 30479, June 26, 2009). Due to this closure, and also because of the mid-Atlantic bottom longline (BLL) closure in federal waters from January 1–July 31; the state water closure in Virginia, Maryland, Delaware, and New Jersey from May 15–July 15; and the limited availability of non-sandbar LCS in northern Atlantic waters at the beginning of the year due to migratory patterns, the fishery participants from North Carolina and northward did not have a non-sandbar LCS fishing season in 2009.

In 2009, NMFS received requests to consider delaying the 2010 non-sandbar LCS fishing season until July in the Atlantic region to allow more shark fishing opportunities in the Mid-Atlantic. NMFS delayed the opening of the 2010 non-sandbar LCS in the Atlantic region until July 15, 2010, in order to allow for more equitably distributed shark fishing opportunities as intended by Amendment 2. It is too early to determine if the delay in the Atlantic region until July 15 provided more broadly distributed opportunities to all fishermen in that region.

For the Gulf of Mexico region in 2010, the season opened on February 4, 2010

(75 FR 250), and then closed six weeks later on March 17, 2010 (75 FR 12700), when the quota was taken. Because of the closure and inclement weather in the area, many fishery participants in the region did not have opportunities to participate in the 2010 Gulf of Mexico non-sandbar LCS fishery.

Based on these experiences, NMFS is considering measures in a draft environmental assessment that would provide NMFS annual flexibility to extend all of the shark fishery seasons to provide participants from all areas expanded opportunities to harvest a portion of the available non-sandbar LCS shark quota in the Atlantic and Gulf of Mexico regions. These measures would consider criteria that could be used to delay the opening of the fishing season through the annual specifications process as well as to adjust trip limits via inseason actions to provide expanded access to the resource and to address ecological concerns. This flexibility would allow NMFS to consider unanticipated events including large scale issues (*e.g.,* BP/Deepwater Horizon oil spill) or small scale issues (*e.g.,* inclement weather or slight shifts in migratory patterns due to colder or warmer water) in order to provide more equitable fishing opportunities across all regions to the extent practicable.

Accounting for Under- and Overharvests

Consistent with § 635.27(b)(1)(i)(A), if the available non-sandbar LCS quota in a particular region or in the research fishery is exceeded in any fishing season, NMFS will deduct an amount equivalent to the overharvest(s) from the quota in that region or in the research fishery for the following fishing season or, depending on the level of overharvest(s), NMFS may deduct an amount equivalent to the overharvest(s) spread over a number of subsequent fishing seasons to a maximum of five years, in the specific region or research fishery where the overharvest occurred. If the available quota for sandbar sharks, blacknose sharks, non-blacknose SCS, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) is exceeded in any fishing season, NMFS will deduct an amount equivalent to the overharvest(s) from the following fishing season quota or, depending on the level of overharvest(s), NMFS may deduct an amount equivalent to the overharvest(s) spread over a number of subsequent fishing seasons to a maximum of five years. If the blue shark quota is exceeded, NMFS will reduce the annual commercial quota for pelagic sharks by the amount that the blue shark quota is exceeded prior to the start of the next fishing year or, depending on the level of overharvest(s), deduct an amount equivalent to the overharvest(s) spread over a number of subsequent fishing years to a maximum of five years.

Consistent with § 635.27(b)(1)(i)(B), if an annual quota for sandbar sharks, blacknose sharks, non-blacknose SCS, blue sharks, porbeagle sharks, or pelagic sharks (other than porbeagle or blue sharks) is not exceeded, NMFS may adjust the annual quota depending on the status of the stock or quota group. If the annual quota for non-sandbar LCS is not exceeded in either region or in the research fishery, NMFS may adjust the annual quota for that region or the research fishery depending on the status of the stock or quota group. If the stock/complex (*e.g.,* sandbar sharks, porbeagle sharks, non-sandbar LCS, blue sharks) or specific species within a quota group (*e.g.,* blacktip sharks within the non-sandbar LCS complex) is declared to be overfished, to have overfishing occurring, or to have an unknown status, NMFS will not adjust the following fishing year's quota for any underharvest, and the following fishing year's quota will be equal to the base annual quota (or the adjusted base quota for sandbar sharks and non-sandbar LCS until December 31, 2012).

Currently, blacknose sharks and sandbar sharks have been determined to be overfished with overfishing occurring. Porbeagle sharks have been determined to be overfished. Blue sharks and pelagic sharks (other than porbeagle or blue sharks) have an unknown stock status. Finally, blacktip sharks in the Gulf of Mexico region were determined to not be overfished with no overfishing occurring. However, blacktip sharks are included in the non-sandbar LCS complex for the Atlantic and Gulf of Mexico regions, the status of which has been determined to be unknown. As a result, no underharvests from the 2010 Atlantic commercial shark fishing season would be applied to the 2011 annual quotas or adjusted base quotas of these complexes.

Thus, the 2011 proposed quotas would be equal to the base annual quota for blacknose sharks, porbeagle sharks, blue sharks, and pelagic sharks (other than porbeagle or blue sharks) or the adjusted base annual quota for sandbar sharks and non-sandbar LCS, minus any potential overharvests that occurred in the 2009 and 2010 fishing seasons.

The non-blacknose SCS complex has been determined to not be overfished and has no overfishing occurring; therefore, any underharvest from the 2010 Atlantic commercial shark fishing season would be applied to the 2011 annual quotas or adjusted base quotas.

2011 Proposed Quotas

This rule proposes minor changes to the overall adjusted base and annual commercial quotas due to overharvests that occurred in 2009 and 2010. The proposed 2011 quotas by species and species group are summarized in Table 1.

Based on dealer reports received as of July 31, 2010, the non-sandbar LCS quota in the Gulf of Mexico region was exceeded during the 2010 Atlantic commercial shark fishing season. In the final rule, NMFS will adjust the quotas based on dealer reports received as of October 31, 2010. Thus, all of the 2011 proposed quotas for the respective shark complexes/species are subject to change if any overharvests occur before the final rule for this action. All dealer reports that are received by NMFS after October 31, 2010, will be used to adjust the 2012 quotas, as appropriate.

TABLE1—2011 PROPOSED QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK FISHERIES

[All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise]

Species group	Region	2010 annual quota (A)	Preliminary 2010 landings[1] (B)	Overharvest (C)	2011 Base annual quota[2] (D)	2011 Proposed quota (D–C)	Season opening dates
Non-Sandbar Large Coastal Sharks.	Gulf of Mexico	390.5 (860,896 lb dw).	407.9 (899,896 lb dw).	17.4	390.5 (860,896 lb dw).	373.1 (822,536 lb dw).	On or about January 1, 2011.
	Atlantic	169.7 (374,121 lb dw).	22.2 (49,026 lb dw)	.....	187.8 (414,024 lb dw).	190.4[3] (419,756 lb dw).	July 15, 2011.
Non-Sandbar LCS Research Quota.	No regional quotas	37.5 (82,673 lb dw)	25.2 (55,487 lb dw)	.....	37.5 (82,673 lb dw)	37.5 (82,673 lb dw).	

TABLE1—2011 PROPOSED QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK FISHERIES—Continued

[All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise]

Species group	Region	2010 annual quota (A)	Preliminary 2010 landings[1] (B)	Overharvest (C)	2011 Base annual quota[2] (D)	2011 Proposed quota (D–C)	Season opening dates
Sandbar Research Quota.	No regional quotas	87.9 (193,784 lb dw).	42.6 (93,844 lb dw)	.....	87.9 (193,784 lb dw).	87.9 (193,784 lb dw).	
Non-Blacknose Small Coastal Sharks.	No regional quotas	221.6 (488,539 lb dw).	40.0 (88,187 lb dw)	.....	221.6 (488,539 lb dw).	221.6 (488,539 lb dw).	On or about January 1, 2011.
Blacknose Sharks	No regional quotas	19.9 (43,872 lb dw)	6.8 (15,082 lb dw)	.....	19.9 (43,872 lb dw)	19.9 (43,872 lb dw).	
Blue Sharks	No regional quotas	273 (601,856 lb dw).	3.4 (7,388 lb dw) ...	.....	273 (601,856 lb dw).	273 (601,856 lb dw).	
Porbeagle Sharks	No regional quotas	1.5 (3,307 lb dw) ...	1.3 (2,824 lb dw) ...	.....	1.7 (3,748 lb dw) ...	1.7 (3,748 lb dw).	
Pelagic Sharks Other Than Porbeagle or Blue.	No regional quotas	488 (1,075,856 lb dw).	92.9 (204,750 lb dw).	.....	488 (1,075,856 lb dw).	488 (1,075,856 lb dw).	

[1] Landings are from January 1, 2010, until July 31, 2010, and are subject to change.

[2] 2010 annual base quotas for sandbar and non-sandbar LCS are the annual adjusted base quotas that are effective from July 24, 2008, until December 31, 2012 (50 CFR 635.27(b)(1)(iii) and (iv)).

[3] NMFS intends to adjust the 2011 quota for Atlantic non-sandbar LCS to account for the 2.6 mt dw that was over estimated in the landings report in 2010 after the final rule establishing the 2010 quota published.

1. Proposed 2011 Quotas for Non-Sandbar LCS and Sandbar Sharks Within the Shark Research Fishery

The 2011 proposed commercial quotas within the shark research fishery are 37.5 mt dw (82,673 lb dw) for non-sandbar LCS and 87.9 mt dw (193,784 lb dw) for sandbar sharks. This proposed rule would not change any of the overall adjusted base commercial quotas.

Within the shark research fishery, as of July 31, 2010, preliminary reported landings of non-sandbar LCS were at 67.1 percent (25.2 mt dw), and sandbar shark reported landings were at 48.4 percent (42.6 mt dw). Reported landings have not exceeded the 2010 quota to date. Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(1)(vii), NMFS is not proposing to reduce 2011 quotas in the shark research fishery based on any overharvests.

Under § 635.27(b)(1)(i)(A), because individual species, complexes, or species within a complex have been determined to be either overfished, have overfishing occurring, overfished with overfishing occurring, or have an unknown status, underharvests for these species and/or complexes would not be applied to the 2011 quotas. Therefore, NMFS proposes 2011 quotas for non-sandbar LCS and sandbar sharks within the shark research fishery would be 37.5 mt dw (82,673 lb dw) and 87.9 mt dw (193,784 lb dw), respectively.

2. Proposed 2011 Quotas for the Non-Sandbar LCS in the Gulf of Mexico Region

The 2011 proposed quota for non-sandbar LCS in the Gulf of Mexico region is 373.1 mt dw (822,536 lb dw). As of July 31, 2010, preliminary reported landings were at 104.5 percent (407.9 mt dw) for non-sandbar LCS in the Gulf of Mexico region. These reported landings exceed the 2010 quota by 17.4 mt dw. As such, NMFS's proposal deducts the overharvest from the 2011 annual quota. Therefore, the 2011 proposed quota for non-sandbar LCS in the Gulf of Mexico region is 373.1 mt dw (822,536 lb dw) (390.5 mt dw annual base quota—17.4 mt dw of 2010 overage = 373.1 mt dw 2011 adjusted annual quota).

3. Proposed 2011 Quotas for the Non-Sandbar LCS in the Atlantic Region

The 2011 proposed quota for non-sandbar LCS in the Atlantic region is 190.4 mt dw (419,756 lb dw). As of July 31, 2010, preliminary reported landings were at 13.1 percent (22.2 mt dw) for non-sandbar LCS in the Atlantic region as the commercial season opened on July 15, 2010. In the final rule establishing the 2010 quotas (75 FR 250, January 5, 2010), NMFS accounted for an overharvest of non-sandbar LCS of 18.1 mt dw (39,903 lb dw) using data that was reported as of October 31, 2009. Between that date and December 31, 2009, the reported landings dropped by 2.6 mt dw. This decline is due to normal quality control procedures that occur when updated data are supplied. As such, in accordance with § 635.27(b)(1)(i), the amount that was deducted from the 2010 annual quota, based on preliminary numbers that were later corrected, would be added to the proposed 2011 non-sandbar LCS quota in the Atlantic region. Thus, the 2011 proposed commercial non-sandbar LCS quota would be 190.4 mt dw (419,756 lb dw) (187.8 mt dw annual base quota + 2.6 mt dw 2009 over estimated landings = 190.4 mt dw 2011 adjusted annual quota).

4. Proposed 2011 Quotas for SCS and Pelagic Sharks

The 2011 proposed annual commercial quotas for non-blacknose SCS, blacknose sharks, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) are 221.6 mt dw (488,539 lb dw), 19.9 mt dw (43,872 lb dw), 273 mt dw (601,856 lb dw), 1.7 mt dw (3,748 lb dw), and 488 mt dw (1,075,856 lb dw), respectively.

As of July 31, 2010, preliminary reported landings of non-blacknose SCS, blacknose sharks, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) were at 18 percent (40 mt dw), 34.4 percent (6.8 mt dw), 1.2 percent (3.4 mt dw), 85 percent (1.3 mt dw), and 19 percent (92.9 mt dw), respectively. These landings are within the available quotas at this time. As described above, while NMFS may adjust quotas for underharvests depending on stock status, NMFS will always adjust quotas for overharvests.

Non-blacknose SCS have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. As such, any underharvests for the non-blacknose SCS would be applied to the 2011 quotas.

All the other SCS or pelagic species are considered overfished, to have overfishing occurring, or to have an unknown status. Therefore, the 2011 proposed quotas would be the base annual quotas for non-blacknose SCS, blacknose sharks, blue sharks, porbeagle

sharks, and pelagic sharks (other than blue and porbeagle sharks) (221.6 mt dw (488,539 lb dw), 19.9 mt dw (43,872 lb dw), 273 mt dw (601,856 lb dw), 1.7 mt dw (3,748 lb dw), and 488 mt dw (1,075,856 lb dw), respectively).

Proposed Adaptive Management Measures

Under the current regulations, the Atlantic shark commercial fishing seasons for each species or species complex is anticipated to open on or about January 1 of each year, and continue year-round. In recent years, the quota for some of the shark species groups and regions has lasted only a short period of time instead lasting year-round as expected under Amendment 2. For example, in the Atlantic region in 2009, the non-sandbar LCS quota lasted for approximately six months, and in the Gulf of Mexico in 2010, the non-sandbar LCS quota was taken within six weeks.

One approach to the proposed adaptive management measures in the environmental assessment would be to maintain the status quo approach to establishing trip limits (33 non-sandbar LCS/trip) as well as consider alternatives to allow inseason flexibility regarding trip limits in order to extend fishing opportunities year-round. This approach would either maintain the current 33 non-sandbar LCS trip limits (sub-alternative 1A) or consider reductions in the trip limits to help ensure the fishing season extends throughout the year (sub-alternatives 1B and 1C).

A second approach would be to allow flexibility in the opening of the season for Atlantic shark fisheries through the annual specifications process and inseason actions to adjust shark trip limits in either region to provide expanded opportunities for constituents across the fishery, as is the intent of Amendment 2. In addition, having such flexibility would help NMFS respond throughout the management region to any future unanticipated large and small scale events.

This second approach was also analyzed in Amendment 2; however, as described in Amendment 2, NMFS did not select this approach at that time because NMFS felt that fishermen would fish for non-sandbar LCS in an incidental manner. As described earlier, after Amendment 2, fishermen continued to direct on non-sandbar LCS. Neither approach would alter the objectives in the 2006 Consolidated HMS FMP or its Amendments. Rather, these two approaches look at different ways of maintaining the shark fishery given rebuilding plans and other management measures, such as time/area closures, that were designed to rebuild overfished stocks, prevent overfishing, and provide opportunities to fish for some shark species, as appropriate. Neither approach would change the overall quota, the rebuilding plan, time/area closures, or other management measures. Only the opening dates and retention limits would change under these approaches. Thus, the main differences between the approaches are how fast and at what time of year the quota will be taken. In considering these approaches, NMFS analyzed several alternatives in the environmental assessment.

Sub-alternative 1A, the no action alternative, would maintain the existing regulations for the current trip limits established in the 2006 Consolidated HMS FMP and its amendments. The Atlantic shark commercial fishing season for each species or species complex would be anticipated to open on or about January 1 of each year and continue until the fishery is closed. Additionally, over- or underharvests in a given fishing year would be accounted for in the following year depending on the status of the species.

Sub-alternative 1B would allow NMFS to modify the non-sandbar LCS trip limit through an inseason action, if needed, to extend the fishing season in the Gulf of Mexico region if the available quota is being harvested at a rate that would not ensure a reasonable season length. The trip limit could be reduced from the current trip limit established under Amendment 2 to the 2006 Consolidated HMS FMP down to zero non-sandbar LCS per trip based on the amount of remaining quota and the time left in a given fishing season. NMFS' decision to reduce the trip limit, and to what extent it would be reduced, would be based on the criteria discussed under sub-alternative 2B.

Sub-alternative 1C would modify the non-sandbar LCS trip limit through an inseason action, as needed, to extend the fishing season in the Atlantic region if the available quota is being harvested at a rate that would not allow for a reasonable season length. Similar to sub-alternative 1B, the trip limit could be reduced and decisions to reduce the trip limit would be based on the criteria discussed under sub-alternative 2B.

Alternative 2, the preferred alternative, considers multiple sub-alternatives that would revisit the current shark management structure. These proposed management measures would allow flexibility in setting the opening date of the Atlantic shark fisheries through the annual specifications process and allow for more equitable fishing opportunities for constituents across all areas. Another proposed management measure would provide flexibility by allowing inseason actions to make adjustments to the non-sandbar LCS trip limits in either region to provide equitable opportunities for constituents across the fishery, as is the intent of Amendment 2.

Sub-alternative 2A, a preferred alternative in the environmental assessment, would establish a process and criteria for selecting the opening dates of the shark fisheries through the annual specifications process in the Atlantic and Gulf of Mexico regions. This alternative presumes that the quotas for some fisheries, such as the non-sandbar LCS fisheries, would not last the entire fishing year given that the fishing behavior has changed since the implementation of Amendment 2. This alternative would provide additional flexibility to ensure the fisheries open at times beneficial for fishermen while also considering the ecological needs of the different species. Consistent with current practice, NMFS would establish the yearly shark quotas and announce the opening of the fishing season through annual rulemaking with notice and public comment at the beginning of each fishing season. Under this alternative, NMFS would consider the following criteria and other relevant factors in establishing the opening dates:

1. The available annual quotas for the current fishing season for the different species/complexes based on any over- and/or underharvests experienced during the previous commercial shark fishing seasons;

2. Estimated season length based on available quota(s) and average weekly catch rates of different species/complexes in the Atlantic and Gulf of Mexico regions from the previous years;

3. Length of the season for the different species/complexes in the previous years and whether fishermen were able to participate in the fishery in those years;

4. Variations in seasonal distribution, abundance, or migratory patterns of the different species/complexes based on scientific and fishery information;

5. Effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species/complexes quotas;

6. Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; and/or

7. Effects of a delayed opening with regard to fishing opportunities in other fisheries.

Sub-alternative 2B, a preferred alternative in the environmental assessment, would provide NMFS the ability to adjust the trip limits via inseason actions based on certain criteria. This alternative presumes that the quotas for some fisheries, such as the non-sandbar LCS fisheries, would not last the entire fishing year given that the fishing behavior has changed since the implementation of Amendment 2 and builds in flexibility to try to extend the availability of the quota. The goal of the alternative is to lengthen the season to provide, to the extent practicable, equitable opportunities across the fishing management region while also considering the ecological needs of the different species. The criteria NMFS would consider in making adjustments via inseason actions to trip limits in either the Atlantic or Gulf of Mexico regions would be the following:

1. The amount of remaining shark quota in the relevant area or region, to date, based on dealer reports;
2. The catch rates of the relevant shark species/complexes, to date, based on dealer reports;
3. Estimated date of fishery closure based on when the landings are projected to reach 80 percent of the quota given the realized catch rates;
4. Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments;
5. Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge; and/or,
6. Effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

For the 2011 Atlantic commercial shark fishing season, NMFS does not propose to change the trip limit when the season opens. Currently, the trip limits are 33 non-sandbar LCS per trip for shark directed permit holders and 3 non-sandbar LCS per trip for shark incidental permit holders. Under sub-alternative 2B, NMFS could later modify the trip limits through an inseason action with five days' advance notice from filing of such a change.

Proposed Fishing Season Notification for the 2011 Atlantic Commercial Shark Fishing Season

Based on the proposed criteria and processes described above, NMFS proposes that the 2011 Atlantic commercial shark fishing season for the shark research, non-sandbar LCS in the Gulf of Mexico region, non-blacknose SCS, blacknose sharks, blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, would open on the effective date of the final rule for this action. NMFS proposes to open the Atlantic non-sandbar LCS fishery on July 15, 2011. The delay in the Atlantic non-sandbar LCS fishery would provide, to the extent practicable, equitable opportunities across the fishing management region while also considering the ecological needs of the different species. Without delaying the opening date, based on catch rates from 2009, the south Atlantic fishermen would likely catch the regional quota before the sharks could migrate to the north Atlantic area.

All of the shark fisheries would remain open until December 31, 2011, unless NMFS determines that the fishing season landings for sandbar shark, non-sandbar LCS, blacknose sharks, non-blacknose SCS, blue sharks, porbeagle sharks, or pelagic sharks (other than porbeagle or blue sharks) have reached, or are projected to reach, 80 percent of the available quota. At that time, consistent with § 635.28(b)(1), NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species group and/or region that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the **Federal Register**, that additional quota is available, the fishery for the shark species group and, for non-sandbar LCS, region would remain closed, even across fishing years, consistent with § 635.28(b)(2).

Request for Comments

Comments on this proposed rule may be submitted via *http://www.regulations.gov,* mail, or fax. Comments may also be submitted at a public hearing (see Public Hearings and Special Accommodations below). NMFS solicits comments on this proposed rule by October 20, 2010 (see **DATES** and **ADDRESSES**). NMFS will hold four public hearings for this proposed rule. These hearings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Guý DuBeck at (301) 713–2347 or Jackie Wilson at (240) 338–3936 at least 7 days prior to the hearing date. The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a representative of NMFS will explain the ground rules (*e.g.,* alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the hearing.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

NMFS prepared an environmental assessment for this rule that discusses the impact on the environment as a result of this rule. In this proposed action, NMFS is considering adding flexibility to shark management measures by analyzing criteria that would allow for delays to the start of the different shark species/complex fishing seasons each year as well as allow for inseason adjustments to the shark trip limits, as appropriate, to extend the fishing season, as necessary. These measures are meant to provide, to the extent practicable, equitable opportunities across the fishing management region while also considering the ecological needs of the different species. A copy of the environmental assessment is available from NMFS (see **ADDRESSES**).

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

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the RFA (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis

is available from NMFS (see **ADDRESSES**).

In compliance with section 603(b)(1) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the Magnuson-Stevens Act and the 2006 Consolidated HMS FMP and its amendments, to adjust the 2011 proposed quotas for non-sandbar LCS, sandbar sharks, blacknose sharks, non-blacknose SCS, blue sharks, porbeagle sharks, or pelagic sharks (other than porbeagle or blue sharks) based on overharvests from the previous fishing year. An additional purpose is to provide flexibility in the regulations to allow for a delay in the opening of the fishing season, and allow inseason adjustments in the trip limits to slow the fishery down during the season, as necessary. This flexibility is intended to provide, to the extent practicable, equitable opportunities across the fishing management region while also considering the ecological needs of the different species.

In compliance with section 603(b)(2) of the Regulatory Flexibility Act, the objectives of this proposed rulemaking are to: (1) Adjust the annual quotas for non-sandbar LCS in the Atlantic region due to overestimations in the final rule in 2010 and non-sandbar LCS in the Gulf of Mexico region due to minor overharvests in 2010; (2) create new criteria and a process for selecting the opening dates of the shark fisheries in the Atlantic and Gulf of Mexico regions; and (3) adjust the trip limits inseason for non-sandbar LCS based on certain criteria and processes.

Section 603(b)(3) requires Federal agencies to provide an estimate of the number of small entities to which the rule would apply. NMFS considers all HMS permit holders to be small entities because they either had average annual receipts less than $4.0 million for fish-harvesting, average annual receipts less than $6.5 million for charter/party boats, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. These are the Small Business Administration (SBA) size standards for defining a small versus large business entity in this industry.

The commercial shark fishery is comprised of fishermen who hold a shark directed or incidental limited access permits (LAP) and the related industries including processors, bait houses, and equipment suppliers, all of which NMFS considers to be small entities according to the size standards set by the SBA. The proposed rule would apply to the approximately 221 directed commercial shark permit holders, 2782 incidental commercial shark permit holders, and 105 commercial shark dealers as of November 5, 2009.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603(b)(4)). Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)). Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. NMFS does not believe that the new regulations proposed to be implemented would duplicate, overlap, or conflict with any relevant regulations, Federal or otherwise.

Under section 603(c), agencies are required to describe any alternatives to the proposed rule which accomplish the stated objectives and which minimize any significant economic impacts. These impacts are discussed below and in the Environmental Assessment for the proposed action. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c) (1)–(4)) lists four general categories of significant alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities.

In order to meet the objectives of this proposed rule, consistent with Magnuson-Stevens Act and the Endangered Species Act (ESA), NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two above). NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. As described below, NMFS analyzed two different main alternatives in this proposed rulemaking with 5 sub-alternatives and provides justification for selection of the preferred alternative to achieve the desired objective.

NMFS considered two main alternatives for the shark fishery in the short term. One approach would be to maintain the status quo approach to establishing trip limits (33 non-sandbar LCS/trip) as well as consider alternatives to allow inseason flexibility regarding trip limits in order to extend fishing opportunities year-round (alternative 1 and its sub-alternatives). The other approach would be to allow flexibility in the opening of the season for Atlantic shark fisheries through the annual specifications process and allow adjustments via inseason actions to shark trip limits in either region to provide expanded opportunities for constituents across the fishery, as is the intent of Amendment 2 (alternative 2 and its sub-alternatives).

Under alternative 1, NMFS considered three sub-alternatives. Sub-alternative 1A, the No Action alternative, would maintain the current vessel trip regulations for non-sandbar LCS. This would result in no additional impacts to small entities. Limited access directed shark permit holders would continue to be able to land up to 33 non-sandbar LCS per trip. On average, between 2008 and 2009, approximately 47 vessels with directed shark permits and 15 vessels with incidental shark permits had non-sandbar LCS landings. The estimated total trip revenue for a maximum trip of 33 sharks is estimated to be $1,920 in the Gulf of Mexico and $1,767 in the Atlantic. However, this trip limit as implemented has resulted in shortened fishing seasons in 2009 and 2010 due to regional non-sandbar LCS quotas being filled before the end of the fishing year. Fishermen in some areas, such as the north Atlantic, were not able to harvest a portion of the 2009 non-sandbar LCS quota as intended in Amendment 2 because the quota was harvested before sharks migrated to northern waters in the Atlantic in 2009. As such, sub-alternative 1A is not likely to meet the objective of this proposed rule to provide fishery participants an equal opportunity to the extent practicable to harvest the full shark quotas.

Sub-alternative 1B would establish a new non-sandbar LCS trip limit that would extend the fishing season in the Gulf of Mexico region based on remaining quota and time left in the fishing season. On average between 2008 and 2009, approximately 20

vessels with directed shark permits and 4 vessels with incidental shark permits had non-sandbar LCS landings in the Gulf of Mexico region. The direct economic impacts to shark fishermen in the Gulf of Mexico region would depend on the reduction in the trip limit. Approximately 81 percent of the Gulf of Mexico trips retained 29 or fewer non-sandbar LCS per trip. Therefore, for a majority of trips, NMFS anticipates that a reduction in the trip limit from 33 non-sandbar LCS to 29 non-sandbar LCS would have a neutral impact on fishermen as fishing and business practices are not anticipated to change due to such a reduction. Reducing the trip limit from 33 non-sandbar LCS to 29 non-sandbar LCS would potentially reduce the maximum revenue per trip by an average of $233 per trip in the Gulf of Mexico. This estimate is based on the average non-sandbar shark weight and 2009 median ex-vessel prices for non-sandbar LCS and shark fin in the Gulf of Mexico region. Approximately 18 percent may lose additional gross revenues on a per trip basis as they were landing more than 33 non-sandbar LCS according to Coastal Fisheries data. In addition, on average, vessels in the Gulf of Mexico region retained 21 non-sandbar LCS per trip; however, the average trip landing numbers of non-sandbar LCS varied by month. If the trip limit were reduced to 21 non-sandbar LCS per trip, this could reduce gross revenues per trip from $1,920 to $1,222. While, on average, fishermen may only retain 21 non-sandbar LCS, such a reduction would preclude fishermen from being able to keep additional sharks (up to 33 non-sandbar LCS per trip). Therefore, such a reduction may change how they fish. It may also result in additional trips within a day to make up for lost individual trip revenues, which could result in higher fuel costs, longer fishing days, and increased time away from home. All of these factors are expected to result in negative economic impacts in the short term.

Reducing the trip limit to below 21 non-sandbar LCS per trip would be expected to result in economic impacts as it would further reduce gross revenues for shark fishermen on a trip basis. The reduction in gross revenues would range from $756 to $1,920 for a trip limit of 20 to 0 non-sandbar LCS, respectively. The lowest average number of non-sandbar LCS retained was 11 non-sandbar LCS per trip during the month of September, which equates to $640 in gross revenues per trip. Such reductions in the trip limits could translate into fishermen making multiple trips within a day to make up for lost individual trip revenues, which could result in higher fuel costs, longer fishing days, and increased time away from home. However, NMFS anticipates that at some reduced trip limit level, directed shark fishermen would stop targeting sharks because it would no longer be economically viable. At this point, NMFS expects that shark fishermen would target other species and retain sharks incidentally as anticipated under Amendment 2 and, therefore, the economic impacts in terms of changes in fishing practices and diversifying fishing effort toward other species to make up for lost shark revenues would be the same as described in Amendment 2.

Sub-alternative 1C would establish a new non-sandbar LCS trip limit that would extend the fishing season in the Atlantic region based on remaining quota and time left in the fishing season. On average between 2008 and 2009, approximately 27 vessels with directed shark permits and 11 vessels with incidental shark permits had non-sandbar LCS landings in the Atlantic region. The direct impacts to shark fishermen in the Atlantic region would depend on the reduction in the trip limit. As explained above, approximately 81 percent of the Atlantic trips retained 27 or fewer non-sandbar LCS per trip. Therefore, for a majority of the trips, NMFS anticipates that a reduction in the trip limit from the 33 non-sandbar LCS to 27 non-sandbar LCS would have minimal economic impacts on fishermen as fishing and business practices would not be anticipated to change with such a reduction. Approximately 11 percent may lose additional gross revenues on a trip basis as they were landing more than 33 non-sandbar LCS according to Coastal Fisheries data. In addition, on average, vessels in the Atlantic region retained 13 non-sandbar LCS per trip; however, the average trip landing numbers of non-sandbar LCS varied by month. If the trip limit was reduced to 13 non-sandbar LCS per trip, this could reduce potential gross revenues per trip from $1,767 to $696. However, on average, fishermen did not retain 33 non-sandbar LCS per trip during any month of the year. In addition, during 6 of the 12 months fishermen retained fewer than the overall monthly average retention of 13 non-sandbar LCS per trip. Therefore, such a reduction in the trip limit is only anticipated to have minor adverse direct economic impacts to fishermen in the short term; long term impacts are not anticipated as these reductions would not be permanent.

Reducing the trip limit below 13 non-sandbar LCS per trip would be expected to result in moderate adverse direct economic impacts as it would most likely reduce gross revenues for shark fishermen in the short term. Fishermen would be expected to stop fishing for sharks as it would no longer be profitable. The reduction in gross revenues would range from $1,125 to $1,767 for 12 to 0 non-sandbar LCS per trip, respectively. The lowest average number of non-sandbar LCS retained was 8 non-sandbar LCS per trip during the month of June, which equates to $428 in gross revenues per trip. These reductions in the trip limits could translate into fishermen making multiple trips within a day to make up for lost individual trip revenues, which could result in higher fuel costs, longer fishing days, and increased time away from home. However, NMFS anticipates that at some reduced trip limit level, directed shark fishermen would stop targeting sharks because it would no longer be economically viable. At this point, NMFS expects that shark fishermen would target other species and retain sharks incidentally as anticipated under Amendment 2, and therefore, the socioeconomic impacts in terms of changes in fishing practices and diversifying fishing effort toward other species to make up for lost shark revenues would be the same as described in Amendment 2.

Under alternative 2, the preferred alternative, NMFS considered two sub-alternatives. Sub-alternative 2A would establish new opening dates for the shark fisheries through the annual specifications process in the Atlantic and Gulf of Mexico regions based on certain criteria and processes. Sub-alternative 2A could potentially affect the 221 directed and 282 incidental shark permit holders along with the 105 shark dealers. NMFS plans to review the criteria on an annual basis to determine when to open each fishery at equitable and beneficial times for fishermen while also considering the ecological needs of the different species. The opening of the fishing season could vary based on the available annual quota, catch rates, and number of fishing participants during the year. For the 2011 fishing season, NMFS is proposing to open the shark research, non-sandbar LCS in the Gulf of Mexico region, blacknose shark, non-blacknose SCS, and pelagic shark fisheries on the effective date of the final rule for this action. The direct and indirect socioeconomic impacts would be neutral on a short and long-term basis, because NMFS is proposing not to change the opening dates of these

fisheries from the status quo. NMFS is proposing to delay the opening of the non-sandbar LCS in the Atlantic region until July 15, 2011, which would be the same opening date as 2010 fishing season. The delay in the Atlantic non-sandbar LCS fishing season would result in short- and long-term, direct, minor, adverse socioeconomic impacts as fishermen would have to fish in other fisheries to make up for lost non-sandbar LCS revenues at the beginning of the 2011 fishing season. The short and long-term effects for delaying the season would cause indirect, minor, adverse socioeconomic impacts on shark dealers and other entities that deal with shark products as they may have to diversify during the beginning of the season when non-sandbar LCS shark products would not be available. This would be most prevalent in areas of the southeast Atlantic where non-sandbar LCS are available early in the fishing season. The delay in the non-sandbar LCS fishing season could cause changes in ex-vessel prices. In 2009, the median ex-vessel price of LCS meat in January was approximately $0.25 per pound dressed weight in the Gulf of Mexico and $0.45 in the South Atlantic region, while the median ex-vessel price in July of 2008 was $0.45 in the Gulf of Mexico and $0.75 in the South Atlantic. The median ex-vessel price for shark fins in January was $17.00 per pound in the Gulf of Mexico and $16.00 in the South Atlantic. When the LCS fishery opens in July, the average price for fins would be approximately $14.00 per pound in the Gulf of Mexico and $12.00 per pound in the South Atlantic based on 2008 prices. Since the north Atlantic had a very limited 2009 non-sandbar LCS fishing season, the ex-vessel prices for 2008 were used for the comparison.

In the north Atlantic, the delayed opening for the non-sandbar LCS would have direct, minor, beneficial socioeconomic impacts in the short and long-term for fishermen as they would have access to the non-sandbar LCS quota in 2011. Fishermen in the North Atlantic did not have or had limited access to the non-sandbar LCS quota in 2009. There would be indirect, minor, beneficial socioeconomic impacts in the short and long-term for shark dealers and other entities that deal with shark products in this area as they would also have access to non-sandbar LCS products in 2011. Thus, delaying the non-sandbar LCS seasons under the preferred alternative would cause neutral cumulative socioeconomic impacts, since it would allow for a more equitable distribution of the quotas among constituents in this region, which was the original intent of Amendment 2.

Sub-alternative 2B would establish new inseason trip limit adjustment criteria for the Gulf of Mexico and Atlantic regions. Sub-alternative 2B would allow NMFS to adjust the trip limit through inseason actions, but would not adjust the overall shark quotas for the GOM and Atlantic regions. This sub-alternative is anticipated to have direct and indirect, short-term, neutral socioeconomic impacts in the GOM and Atlantic regions, because changing the trip limits inseason would not limit the overall harvest of sharks, but would provide the mechanism to modify the harvest spatially and temporally to allow equitable access to the resource. Directed fishing on sharks would continue as long as the trip limit is high enough to make it economically viable. Since the implementation of Amendment 2 directed shark fishing trips land, on average, 21 non-sandbar LCS in the GOM region, and 13 non-sandbar LCS in the Atlantic region. NMFS has not been able to determine at what trip limit directed fishing for non-sandbar LCS would not be economically viable, as directed non-sandbar LCS fishing trips have continued at lower landings than the annual averages during certain months. Different trip limit levels have been further analyzed in alternatives 1B and 1C, and the socioeconomic impacts associated with the range of trip limits are described above under sub-alternatives 1B and 1C. Trip limits set at levels too low for fishermen to continue targeting non-sandbar LCS would likely lead to shifts in effort to other fisheries, similar to effort shifts experienced during closures of the non-sandbar LCS fishery in 2009 and 2010. The criteria for changing trip limits inseason takes into account opportunities for equitable access to fishermen throughout the respective regions and ecological considerations of the stocks, but would not restrict or reduce the current quota. If trip limits are set in a manner that is beneficial to the ecological needs of the different shark species their populations may increase in the long-term, which could allow for increased quota levels in the future. Therefore, minor, beneficial long-term direct, indirect, and cumulative socioeconomic impacts may occur.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: September 15, 2010.

Samuel D. Rauch III,

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

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

2. In § 635.24, paragraph (a)(8) is added to read as follows:

§ 635.24 Commercial retention limits for sharks and swordfish.

* * * * *

(a) * * *

(8) *Inseason trip limit adjustment criteria.* NMFS will file with the Office of the Federal Register for publication notification of any inseason adjustments to trip limits. Before making any adjustment, NMFS will consider the following criteria and other relevant factors:

(i) The amount of remaining shark quota in the relevant area or region, to date, based on dealer reports;

(ii) The catch rates of the relevant shark species/complexes, to date, based on dealer reports;

(iii) Estimated date of fishery closure based on when the landings are projected to reach 80 percent of the quota given the realized catch rates;

(iv) Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments;

(v) Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge; and/or,

(vi) Effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

* * * * *

3. In § 635.27:

A. Paragraphs (b)(1)(ii) through (b)(1)(vi) are redesignated as paragraphs (b)(1)(iii) through (b)(1)(vii), respectively.

B. Paragraph (b)(1)(ii) is added to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(1) * * *

(ii) *Opening fishing season criteria.* NMFS will file with the Office of the

Federal Register for publication notification of the opening dates of the shark fishery for each species/complex. Before making any decisions, NMFS would consider the following criteria and other relevant factors in establishing the opening dates:

(A) The available annual quotas for the current fishing season for the different species/complexes based on any over- and/or underharvests experienced during the previous commercial shark fishing seasons;

(B) Estimated season length based on available quota(s) and average weekly catch rates of different species/complexes in the Atlantic and Gulf of Mexico regions from the previous years;

(C) Length of the season for the different species/complexes in the previous years and whether fishermen were able to participate in the fishery in those years;

(D) Variations in seasonal distribution, abundance, or migratory patterns of the different species/complexes based on scientific and fishery information;

(E) Effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species/complexes quotas;

(F) Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; and/or,

(G) Effects of a delayed opening with regard to fishing opportunities in other fisheries.

* * * * *

[FR Doc. 2010–23443 Filed 9–17–10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 100830405–0405–02]

RIN 0648–BA09

Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Charter/Party Fishery Control Date

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

ACTION: Advance notice of proposed rulemaking (ANPR).

SUMMARY: NMFS and the New England Fishery Management Council (Council) announce that they are seeking public comment on the reaffirmation of the current control date of March 30, 2006, in anticipation of developing a limited access program for the NE multispecies open access charter and party boat (charter/party) fishery. This component of the fishery includes vessels with open access charter/party permits, as well as limited access NE multispecies permits, while not on a NE multispecies day-at-sea (DAS) or fishing under the sector management program. The Council has not made a determination that limiting the number of participants in this fishery is necessary, but reaffirming the current control date keeps the stakeholders informed of possible future consideration of the issue and promotes awareness of potential eligibility criteria for future access so as to discourage speculative entry into the fishery, while the Council considers whether and how access to the charter/party fishery should be controlled. By this notification, NMFS reaffirms, on behalf of the Council, that March 30, 2006, may be used as a "control date" to establish eligibility criteria for determining levels of future access to the fishery.

DATES: Written comments must be received by 5p.m., local time October 20, 2010.

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

Written comments (paper, disk, or CD ROM) should be sent to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. Mark the outside of the envelope, "Comments- Multispecies Charter/Party Control Date."

Comments also may be sent via facsimile (fax) to (978) 465 3116.

Federal e-Rulemaking Portal: *http://www.regulations.gov*.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.*NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.*

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Management Specialist, (978) 281–9233; fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: The charter/party industry targets the following species: Atlantic cod (Gadus morhua), pollock (*Pollachius virens*); haddock (*Melanogrammus aeglefinus*); and winter flounder (*Pleuronectes americanus*); and, to a lesser extent, white hake (*Urophycis tenuis*) and wolffish (*Anarhichas lupus*). In light of the restrictions imposed by Framework 42 to the FMP in 2006 and their impacts, members of the charter/party industry and the Council's Recreational Advisory Panel recommended at that time that the Council restrict new entrants to the charter/party fishery to reduce the need for further restrictions on the recreational catch of cod and other groundfish. The Council did not take action to restrict entrants but, instead, established a control date of March 30, 2006. A "control date" is a time certain that may be used to limit access to a future limited access fishery by vessel owners who enter the fishery after the control date, versus those that entered the fishery before the control date. One of the purposes of the control date is to discourage speculative entry into the fishery by vessels hoping to qualify under any new limited access program, thereby ramping up fishing effort during the period the limited access program is being developed. The control date also serves as notice to any new entrants into the fishery that their financial investment to participate in the fishery may be jeopardized if they do not qualify to fully participate in any new limited access program that is adopted.

With the implementation of Amendment 16, many participants in the recreational fishery have expressed concern that the number of party/charter operators will increase due to low allocation of some stocks to the commercial fishery. The Council has decided to reaffirm the original control date in order to discourage further speculative entry while it takes time to develop appropriate measures for the recreational fishery.

This notification reiterates that March 30, 2006, is the control date for potential use in determining historical or traditional participation in the NE multispecies charter/party fishery. Consideration of a control date does not commit the Council or NMFS to develop any particular management system or criteria for participation in this fishery. The Council may choose a different control date, or may choose a

management program that does not make use of such a date. Fishers are not guaranteed future participation in the fishery, regardless of their entry dates or level of participation in this fishery before or after the control date. The Council may choose to give variably weighted consideration to fishers active in the fishery before and after the control date. The Council may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council will be taken pursuant to the requirements for the development of FMP amendments established under the Magnuson-Stevens Act. This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the NE multispecies charter/party fishery in Federal waters.

Classification

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

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

Dated: September 15, 2010.

Samuel D. Rauch III,

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

[FR Doc. 2010–23444 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 75, No. 181

Monday, September 20, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden, USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency. including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before November 19, 2010.

ADDRESSES: Send comments via e-mail at *kmonsess@usaid.gov,* mail comments to: Kenneth Monsess, Office of Acquisition and Assistance, Policy Division, United States Agency for International Development, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20523, (202–567–4681).

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management. Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington. DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov.*

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0520.

Form No.: AID 1420–17.

Title: Contract Employee Biographical Data Sheet.

Type of Review: Renewal of Information Collection.

Purpose: The U.S. Agency for International Development (USAID) is authorized to make contracts with any corporation, international organization, or other body of persons in or outside of the United States in furtherance of the purposes and within limitations of the Foreign Assistance Act (FAA). The information collections requirements placed on the public are published in 48 CFR chapter 7, and include such items as the Contractor Employee Biographical Data Sheet and Performance and Progress Reports (AIDAR 752.7026). These are all USAID unique procurement requirements. The pre-award requirements are based on a need for prudent management in the determination that an offeror either has or can obtain the ability to competently manage development assistance programs utilizing public funds.

The requirements for information collection requirements during the post-award period are based on the need to administer public funds prudently.

Annual Reporting Burden: Respondents: 14,939.

Total annual responses: 41,573.

Total annual hours requested: 63,152 hours.

Dated: September 10, 2010.

Marilyn Collins,

Acting Director, Office of Administrative Services, Bureau for Management.

[FR Doc. 2010–23316 Filed 9–17–10; 8:45 am]

BILLING CODE M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for a Revision of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) intention to request a revision for a currently approved information collection in support of the foreign donation of agricultural commodities under the section 416(b), Food for Progress, and the McGovern-Dole International Food for Education and Child Nutrition programs.

DATES: Comments on this notice must be received by November 19, 2010.

ADDITIONAL INFORMATION: Contact Ronald Croushorn, Director, Food Assistance Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1034, Washington, DC 20250–1034; or by telephone at (202) 720–3038; or by e-mail at *ron.croushorn@fas.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Foreign Donation of Agricultural Commodities (Section 416(b), Food for Progress, and McGovern-Dole International Food for Education and Child Nutrition programs).

OMB Number: 0551–0035.

Expiration Date of Approval: November 30, 2010.

Type of Request: Revision of a currently approved information collection.

Abstract: Under the section (416(b), Food for Progress, and McGovern-Dole International Food for Education and Child Nutrition programs (the Foreign Donation Programs), information will be gathered from applicants desiring to receive grants under the programs to determine the viability of requests for resources to implement activities in foreign countries. Program participants that receive grants must submit compliance reports until commodities or local currencies generated from the sale thereof are utilized. Participants that use the services of freight forwarders must submit certifications from the freight forwarders regarding their activities and affiliations. Documents are used to develop effective grant agreements and assure that statutory requirements and objectives are met.

Estimate of Burden: The public reporting burden for each respondent resulting from information collection under the Foreign Donation Programs or the McGovern-Dole Program varies in direct relation to the number and complexity of the agreements entered into by such respondent. The estimated average reporting burden for the Foreign

Donation Programs is 36 hours per response.

Respondents: U.S. private voluntary organizations, U.S. cooperatives, foreign governments, freight forwarders, ship owners and brokers, and survey companies.

Estimated Number of Respondents: 301 per annum.

Estimated Number of Responses per Respondent: 20 per annum.

Estimated Total Annual Burden of Respondents: 141,989 hours.

Copies of this information collection can be obtained from Tamoria Thompson-Hall, the Agency Information Collection Coordinator, by telephone at (202) 690–1690; or by e-mail at *tamoria.thompson@fas.usda.gov.*

Request for comments: Send comments regarding (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Ronald Croushorn, Director, Food Assistance Division, Foreign Agricultural Service, U. S. Department of Agriculture, Stop 1034, Washington, DC 20250–1034; or by e-mail at *ron.croushorn@fas.usda.gov.* Comments may also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503. Persons with disabilities who require an alternative means for communication of information (*e.g.* Braille, large print, audiotape, *etc.*) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, DC, on September 2, 2010.

Suzanne Hale,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 2010–23339 Filed 9–17–10; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will meet in Hamilton, Montana. The purpose of the meeting is assigning monitor's contacts.

DATES: The meeting will be held September 28, 2010.

ADDRESSES: The meeting will be held at 1801 N. First Street. Written comments should be sent to Stevensville RD, 88 Main Street, Stevensville, MT 59870. Comments may also be sent via e-mail to *dritter@fs.fed.us* or via facsimile to 406–777–5461.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 88 Main Street, Stevensville, MT 59870. Visitors are encouraged to call ahead to 406–777–5461 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Dan Ritter or Nancy Trotter, 406–777–5461. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council discussion is limited to Forest Service staff and Council members. However, persons who wish to bring matters to the attention of the Council may file written statements with the Council staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by September 24, 2010 will have the opportunity to address the Council at those sessions.

Dated: September 13, 2010.

Julie K. King,

Forest Supervisor.

[FR Doc. 2010–23302 Filed 9–17–10; 8:45 am]

BILLING CODE M

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No.: CFPB–HQ–2010–1]

Designated Transfer Date

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice.

SUMMARY: Pursuant to the Consumer Financial Protection Act of 2010 ("CFP Act"),[1] the Secretary of the Treasury designates July 21, 2011, as the date for the transfer of functions to the Bureau of Consumer Financial Protection ("CFPB"). On this "designated transfer date," certain authorities will transfer from other agencies to the CFPB, and the CFPB will be able to exercise certain additional, new authorities under the CFP Act and other laws. After consulting with the heads of the agencies whose functions will transfer to the CFPB, as well as the Director of the Office of Management and Budget, the Secretary finds that designating July 21, 2011, as the transfer date will advance the mission of the CFPB and promote an orderly and organized startup.

FOR FURTHER INFORMATION CONTACT: Wally Adeyemo, Office of the Chief of Staff, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220; telephone number: (202) 622–2000; e-mail address: *CFPB_Transition@do.treas.gov.*

DATES: The designated transfer date shall be July 21, 2011.

SUPPLEMENTARY INFORMATION: On July 21, 2010, the President signed into law the CFP Act, which is title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 1062 of the CFP Act, in relevant part, requires the Secretary to designate a single calendar date for the transfer of functions, under section 1061, to the CFPB.

Consultation With Transferor Agencies

Section 1062(a)(1) requires the Secretary to consult with the heads of the seven "transferor agencies"[2] and the Director of the Office of Management and Budget ("OMB") and, in accordance with section 1062(c)(1), select a date between 6 and 12 months after the date of enactment of the CFP Act as the designated transfer date. Following enactment of the Act, the Secretary conducted a meeting with the heads of the transferor agencies and the OMB Director. Treasury staff, working on

[1] Tit. X, Public Law 111–203.

[2] Section 1061(a)(2) of the CFP Act defines the terms "transferor agency" and "transferor agencies" to mean—"(A) the Board of Governors (and any Federal reserve bank, as the context requires), the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Department of Housing and Urban Development, and the heads of those agencies; and (B) the agencies listed in subparagraph (A), collectively."

behalf of the Secretary and for the CFPB, also consulted with the transferor agencies and OMB to obtain additional input on issues relating to the transfer date.

Functions of the CFPB

On the designated transfer date, the "consumer financial protection functions" [3] currently carried out by the Federal banking agencies, as well as certain authorities currently carried out by the Department of Housing and Urban Development and the Federal Trade Commission, will be transferred to the CFPB. In particular, as of the designated transfer date, the CFPB will assume responsibility for consumer compliance supervision of very large depository institutions and their affiliates and promulgating regulations under various Federal consumer financial laws.[4] The transfer of certain employees from six of those agencies to the CFPB must also occur within 90 days after the designated transfer date.[5] New authorities of the CFPB under subtitle C of the Act, as well as other consumer protection provisions, will become effective on the designated transfer date as well.[6]

In the intervening period, the CFPB will lay the groundwork for an efficient transfer and prepare for consumer protection activities after July 21, 2011. For instance, prior to the designated transfer date, the CFPB will begin to conduct research relating to consumer financial products and services, develop its nationwide consumer complaint response center, plan and take steps to implement the risk-based supervision of nondepository covered persons, and prepare for the opening of outreach offices.

Development of the supervision program for certain nondepository covered persons is particularly significant because no Federal agency previously has had the responsibility of supervising these entities, such as payday lenders, mortgage companies, debt collectors, and consumer reporting agencies.[7] Prior to the designated transfer date, the CFPB will begin the significant task of building this supervision program, including hiring and training examination staff and making preparations necessary to begin a risk-based supervision program.

The CFPB will also work during the intervening period to prepare for the new authorities that will transfer or take effect as of the designated transfer date, for instance by planning the orderly integration of bank, thrift, and credit union examiners from five different Federal agencies and preparing for rulemakings required under the Dodd-Frank Wall Street Reform and Consumer Protection Act. For example, the CFPB is holding a roundtable to begin gathering public input regarding the merger of overlapping mortgage forms required by the Truth in Lending Act and Real Estate Settlement Procedures Act.

Congress contemplated that the lead time for the "orderly implementation" of the CFPB's functions could range between 6 to 18 months after the date of enactment.[8] To fulfill the statutory goal of an "orderly and organized startup" of the new agency,[9] the CFPB should be provided a reasonable period of time to develop its operations and organization prior to the transfer of functions and employees from other agencies. A transfer date of July 21, 2011, 12 months after the date of enactment, will provide the CFPB an appropriate period of time to hire and assign employees to support its new functions, as well as to plan and make important decisions necessary to build a strong foundation for the new agency.

Designation

For all of the reasons set forth in this notice and in light of the comments provided by the transferor agencies and the Director of OMB, the designated transfer date under section 1062(a) of the CFP Act shall be July 21, 2011.

Timothy F. Geithner,

Secretary of the Treasury.

[FR Doc. 2010–23487 Filed 9–17–10; 4:15 pm]

BILLING CODE 4810–25–P

[3] Section 1061(a)(1).

[4] *See, e.g.,* Section 1025(b); subtitles C and H.

[5] Section 1064(b)(1).

[6] *See, e.g.,* section 1037.

[7] Section 1024(b) (requiring the CFPB to implement a risk-based supervision program for covered persons described in section 1024(a)(1)).

[8] Section 1062(c) (providing that the designated transfer date must be a date between 180 days and 12 months after the date of enactment of the CFP Act, subject to an extension of up to 18 months after the date of enactment).

[9] *See* section 1067(a)(1).

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2011 Field Test of the Re-Engineered Survey of Income and Program Participation.

OMB Control Number: 0607–0957.

Form Number(s): SIPP 105(L)DR(2011) Director's Letter; SIPP 105(L)(SP)DR(2011) Director's Letter Spanish; SIPP 2011DR106(L); SIPP 2011DR107(L); SIPP/CAPI Automated Instrument.

Type of Request: Reinstatement of an expired collection.

Burden Hours: 5,681.

Number of Respondents: 5,500.

Average Hours per Response: 1 hour.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget (OMB) to conduct the 2011 Field Test for the Re-engineered Survey of Income and Program Participation (SIPP).

The Census Bureau's SIPP CAPI interview will use an event history calendar (EHC) interviewing method and a 12-month, calendar-year reference period in place of the current SIPP questionnaire approach with a sliding 4-month reference period. The Census Bureau is re-engineering the SIPP to accomplish several goals including improving the collection instrument and processing system, development of the EHC, use of the administrative records data, and increased stakeholder interaction.

The SIPP represents a source of information for a wide variety of separate topics to be integrated to form a single and unified database in order to examine the interaction between tax, transfer, and other government and private policies. Government domestic policy formulators depend heavily upon the SIPP information to determine the effect of tax and transfer programs on the distribution of income received directly as money or indirectly as in-kind benefits. They also need improved and expanded data on the income and general economic and financial situation of the U.S. population. The SIPP has provided these kinds of data on a continuing basis since 1983, by measuring levels of economic well-being and changes in these levels over time.

The main objective of the SIPP has been to provide accurate and comprehensive information about the income and program participation of individuals and households in the United States. The survey's mission is to provide a nationally representative sample for evaluating: (1) Annual and sub-annual income dynamics, (2) movements into and out of government transfer programs, (3) family and social context of individuals and households, and (4) interactions among these items.

The re-engineering of SIPP pursues these objectives in the context of several goals—cost reduction and improved accuracy, relevance, timeliness, reduced burden on respondents, and accessibility. The Re-engineered SIPP will collect detailed information on cash and non-cash income (including participation in government transfer programs) one time per year. A major use of the SIPP has been to evaluate the use of and eligibility for government programs and to analyze the impacts of options for modifying them.

A key component of the re-engineering process involves the proposed shift from the every-four-month data collection schedule of traditional SIPP to an annual data collection schedule for the re-engineered survey. To accomplish this shift with minimal impact on data quality, the Census Bureau proposes employing the use of an event history calendar (EHC) to gather SIPP data. The Re-engineered SIPP will interview respondents in one year intervals, collecting data for the previous calendar year as the reference period. The content of the Re-engineered SIPP will combine the content of the 2008 Panel SIPP core as well as selected topical module questions. The Re-engineered SIPP will not contain free-standing topical modules. The EHC will allow recording dates of events and spells of coverage and should provide monthly transitions of program receipt and coverage, labor force transitions, health insurance transitions, and others.

As the SIPP transitions from three interviews per year to one interview per year, new methods need to be tested for how to stay in contact with respondents so they can be located for the following year's interview. Once interviews have been completed for the 2011 SIPP field test, a recontact experiment will take place. The objectives of this experiment are: (1) To test how a combination of change of address cards mailed with or without a small monetary incentive, a newsletter reporting findings from the 2008 SIPP Panel, or no contact between interview periods, effect attrition and the ability to locate respondents in the second wave of interviewing (Type A and Type D wave 2 non-response), and (2) to develop address update procedures which will facilitate locating original sample members who may have moved, and which can be implemented prior to and during the next interview field period.

As part of the recontact experiment we will be mailing out a letter of explanation with the change of address cards. The SIPP–2011DR106(L) will be mailed to a subset of cases with the offer of monetary incentive. The SIPP–2011DR107(L) will be mailed to a subset of cases that will not offer a monetary incentive.

Implementing the EHC methodology in 2011 is intended to help respondents recall information in a more natural "autobiographical" manner by using life events as triggers to recall other economic events. For example, a residence change can in many cases occur contemporaneously with a change in employment. The entire process of compiling the calendar focuses, by its nature, on consistency and sequential order of events, and attempts to correct for otherwise missing data. For example, if the respondents are unemployed, they may then look for a job, and then become employed.

The 2011 Field Test instrument will be evaluated in several domains including field implementation issues and data comparability vis-à-vis the SIPP 2008 Panel and administrative records. Distributional characteristics such as the percent of persons receiving TANF, Food Stamps, Medicare, who are working, who are enrolled in school, or who have health insurance coverage reported in the EHC will be compared to the same distributions from the 2008 SIPP Panel. The primary focus will be to demonstrate to data users that the new instrument yields data for low-income programs that are of sufficient quality. The field test sample is focused in low income areas in order to increase the "hit rate" of households likely to participate in government programs. In general, there are two ways we will evaluate data quality:

(1) We will compare monthly estimates from the field test to estimates from parallel sample areas in the 2008 SIPP panel for characteristics such as participation in Food Stamps, TANF, SSI, WIC, and Medicaid. To the extent those estimates are reasonably aligned with each other, we can assume that data quality is reasonably comparable. Misalignment of the estimates, and especially misalignment in the direction of the EHC estimates being consistently lower than the SIPP estimates, would be worrisome, because it would be suggestive of (*not* definitive evidence of) reduced data quality in the EHC.

(2) For a small subset of characteristics, and for a subset of sample areas, we will have access to administrative record data. These data will permit a more objective data quality assessment.

Results from both the 2011 Field Test and the 2008 SIPP Panel will be used to inform final decisions regarding the design, content, and implementation of the Re-engineered SIPP for production beginning in 2013.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 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 Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: September 14, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–23338 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 100726309–0311–02]

American Community Survey 5-Year Data Product Plans

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Final Notice.

SUMMARY: The Bureau of the Census (Census Bureau) currently releases American Community Survey (ACS) data products in the form of 1-year estimates and 3-year estimates. Most recently, the 2008 ACS 1-year estimates were released in September 2009, and the 2006–2008 ACS 3-year estimates were released in October 2009. By this notice, the Census Bureau announces plans for the release of ACS 5-year data products covering the period of 2005–2009. The release of the ACS 5-year estimates will achieve a goal of the ACS to provide small-area data similar to the data published after Census 2000, based on the long-form sample. This notice provides general information on the Census Bureau's modifications to its current line of ACS data products to accommodate the 5-year estimates.

DATES: The Census Bureau plans to release 2005–2009 ACS data in

December 2010. The plan for the 2005–2009 ACS data products will be implemented on September 20, 2010.

ADDRESSES: Please send any correspondence about the Census Bureau's American Community Survey 5-year estimates or data product plans to Sharon M. Stern, Assistant Division Chief, American Community Survey Office, Room 3H463, Mail Stop 7500, Washington, DC 20233–7500.

FOR FURTHER INFORMATION CONTACT: For information about the Census Bureau's American Community Survey, contact Sharon M. Stern, Assistant Division Chief, American Community Survey Office, on (301) 763–5638, by e-mail at *sharon.m.stern@census.gov,* or by mail at Room 3H463, Mail Stop 7500, Washington, DC 20233–7500.

SUPPLEMENTARY INFORMATION:

I. Purpose of the ACS 5-year Data Products

The ACS is part of the 2010 Decennial Census Program and provides annually updated, detailed demographic, socioeconomic, and housing information for communities across the United States and Puerto Rico. One goal of the ACS is to provide small-area data similar to the data published after Census 2000, based on the long-form sample data. This goal will be met with the release of the 2005–2009 ACS 5-year estimates.

On March 6, 2009, the Census Bureau published a **Federal Register** notice (74 FR 9785) that proposed releasing the 5-year estimates using the same set of ACS data products that were produced for the ACS 3-year data estimates, and included proposed geographic summary levels for the 5-year data products.

Descriptions of the suite of ACS data products follow:

Detailed tables include the most detailed ACS data and cross-tabulations of ACS variables.

Download files provide the detailed table estimates in comma-delimited, ASCII-formatted files that are in the standard Census "Summary File" format.

Data profiles provide separate fact sheets on social, economic, housing, and demographic characteristics.

Narrative profiles provide clear, concise, textual descriptions of the data included in the data profiles.

Subject tables include detailed ACS data, organized by subject such as employment, education, and income.

Selected population profiles provide social, economic, and housing characteristics for a large number of groups based on race, Hispanic origin, country of birth, and ancestry.

Geographic comparison tables allow the comparison of ACS data for a given time period across a variety of geographic areas.

Thematic maps provide graphic displays of the data available from the geographic comparison tables, which compare ACS data for different areas in a given time period.

Public Use Microdata Sample (PUMS) Files provide access to ACS microdata for data users to create summaries that are not available as ACS summary products.

In the March 6, 2009 **Federal Register** notice, the Census Bureau sought input and feedback on the suite of data products for the ACS 5-year estimates and in particular, expressed interest in data users' specific feedback on the following four dimensions:

1. *Block Group Level Geography*—The Census Bureau proposed releasing block group data only as downloadable Summary Files through the *American FactFinder* Download Center. The *American Factfinder* is the electronic system for access and dissemination of Census Bureau data on the Internet. Tables can be accessed through the American Community Survey Data Sets page on *American FactFinder* or downloaded in file format from the *American FactFinder* Download Center.

2. *Types of Data Products*—The Census Bureau proposed releasing 5-year estimates in detailed tables, summary files, subject tables, data profiles, narrative profiles, selected population profiles, thematic maps, geographic comparison tables, and PUMS files. Narrative profiles and selected population profiles were not proposed for particular geographic summary levels, such as block groups.

3. *Restrictions Required for Disclosure Avoidance or Statistical Reliability*—As done with all data released by the Census Bureau, the proposal included restrictions on the release of 5-year estimates that were based on disclosure avoidance requirements.

4. *Frequency of Data Release*—The Census Bureau proposed that ACS 5-year estimates be released annually.

II. Summary of Comments Received and the Response of the Census Bureau

The Census Bureau received comments from 26 organizations and individuals regarding the four above-mentioned categories, in response to the March 6, 2009 **Federal Register** notice. Some commenters addressed more than one category in their comments. All comments have been summarized and organized according to subject matter. The subject matter categories are: (1) The option of alternative dissemination methods for data at the block group geography level, (2) the types of data products to be included in the 5-year data products, (3) the limitations on the availability of the 5-year estimates due to restrictions required for disclosure avoidance and statistical reliability, and (4) the proposed annual release for the ACS 5-year data products. Comments were provided by a variety of Federal and State agencies and organizations, non-profit policy research and analysis organizations, non-governmental organizations, and a private sector company. Federal, State, local, and private sector organizations from agencies representing the transportation community provided 17 of the total 26 comments received. All comments received are posted on the Census Bureau's ACS Web site, *http://www.census.gov/acs.* A summary of the comments and the Census Bureau's response is below.

1. Block Group Level Geography

The Census Bureau received six comments in response to the question of using downloadable Summary Files rather than releasing tables on *American FactFinder* for block group data. All six comments were in favor of ACS producing block group level data and releasing the block group data tables separately from the standard ACS tables currently found on *American Factfinder.* Two comments strongly recommended not releasing block group data tables on *American Factfinder.* Specifically they wanted the block group data released with cautions and instructions for combining data for block group areas into larger geographic areas "to achieve greater reliability."

In considering this proposal, the Census Bureau reviewed the complexity of using the block group data with the sheer volume of the estimates to be produced for approximately 210,000 block group geographies and agreed that releasing tables on *American Factfinder* was not the preferred approach. As a result of public comments and staff review, the Census Bureau will release to the public through the *American Factfinder* Download Center the block group estimates only as files that can be accessed by more sophisticated users.

2. Types of Data Products

The Census Bureau received thirteen comments in response to the proposed data products for the ACS 5-year estimates. The comments were all in support of the data products proposed; one group interested in data on American Indian and Alaska Native (AIAN) populations requested specific AIAN data products. The Census Bureau

agrees with the comment and plans to produce data specifically for American Indians and Alaska Natives with the release of the 2006–2010 ACS American Indian and Alaska Native Summary File. One comment from the transportation community requested expanded transportation data, and six comments were concerned about how confidentiality protections might limit the availability of detailed transportation data at very low levels of geography. These confidentiality protections focus on tables that have many cells but few sample cases. To address the concerns expressed in the comments, the Census Bureau has for several years been working with the transportation community to develop ACS data products that provide a balance between the low geographic levels required by the work of the transportation community and confidentiality protections required by the Census Bureau's collection authority, Title 13. For example, the ACS 1-, 3- and 5-year standard data products now contain 59 new transportation tables that were not a part of the Census 2000 standard data products; some of these ACS transportation tables had formerly only been provided through custom tabulation requests paid for by the transportation community (in Census 2000 and earlier censuses). The Census Bureau is also providing some tables with low geographic levels of transportation data sooner and more frequently in the ACS data products than they have from past Censuses. Finally, the Census Bureau continues to work in collaboration with the transportation community to determine the best set of products to provide more data for very small geographic areas without violating confidentiality protections. One comment from a private sector firm offered suggestions for organizing ACS data for download to enhance analysis. The Census Bureau agrees with this comment and is developing improvements for data products available for download.

To arrive at a final plan for the data products to be released for the 2005–2009 ACS, the Census Bureau considered all comments and also undertook a comprehensive staff review of the many ACS data products released for the 3-year estimates. The objective of this review was to determine if those products were appropriate for very small counties, towns, and incorporated places, as well as for specific government data uses and public use. The final plan for the ACS 5-year data products will provide a very large percentage of the data that were previously found in Census Summary Files 1 and 3. Some tables previously provided only upon request for a custom tabulation will be made available routinely to the public in the standard ACS data products. Additionally, tables not present in Census 2000 data products have been added to this set of available ACS tables. When comparing the plan for the 2005–2009 ACS to what was released in Census 2000, most of the new tables reflect new content, but some tables were added because they were determined by subject matter experts to be desirable by data users.

Census Bureau staff also reviewed the practical matter of providing public access to the large volume of data being produced by releasing 5-year estimates for such a large number of geographic areas. Staff reviewed the available data products and tables and determined that a reduced set of tables will be released on *American FactFinder* with the remainder to be available to the public through downloadable Summary Files from the *American FactFinder* Download Center.

The Census Bureau plans to deliver to the public the tables for the 5-year estimates on *American FactFinder* in a single release. The release of the Summary Files (including all data at the block group level) and the PUMS files will follow soon after the initial release of tables on *American FactFinder.* The plan for future releases of the ACS 5-year data products may be subject to change as Census Bureau staff improves the data products and receives input and feedback from data users.

3. Restrictions Required for Disclosure Avoidance or Statistical Reliability

The March 6, 2009 **Federal Register** notice directed readers to a file containing supplementary information located on the Census Bureau's Web site (*http://www.census.gov/acs*). The table describing disclosure avoidance protections was in the file that provided this supplementary information, and these protections were listed by number. The Census Bureau received 20 comments in response to the proposed disclosure avoidance. Three comments supported the Census Bureau's plans for disclosure avoidance. Some commenters, mostly from the transportation data community, had comments or suggestions concerning disclosure avoidance. Disclosure avoidance number seven from the March 6, 2009 **Federal Register** notice stated

> For the residence and workplace tables where means of transportation (mode) is crossed with one or more other variables, there must be at least three unweighted workers in sample for each transportation mode in a given place for the table to be released. Otherwise the data must be collapsed or suppressed and complementary suppression must be applied. There is no threshold on univariate tables.

Commenters expressed objections to disclosure avoidance number seven, stating that its implementation would negatively impact data needed for planning requirements, particularly for very small geographic levels including traffic analysis zones and block-groups.

In response to these concerns, Census Bureau staff reviewed the published disclosure avoidance and determined that number seven, which impacts residence and workplace tables where means of transportation (mode) is crossed with one or more other variables, does not apply to the standard ACS data products, but rather it applies only to some custom tabulations that the Census Bureau produces upon request. However, because of general Census Bureau Disclosure Review Board restrictions pertaining to non-residential geographies, some of the tables of interest to transportation data users will still be limited or suppressed. The Census Bureau is aware of the needs that the transportation community has for these data and has expanded the number of transportation tables in the ACS standard annual data products to include ones that were not provided in Census 2000 standard tabulations. In addition, the Census Bureau continues to work closely with staff from the Department of Transportation to produce custom tabulations that will fit the needs of transportation data users and that also uphold the Census Bureau's duty to protect the confidentiality of ACS respondents.

Additionally, another commenter was concerned that disclosure avoidance number six would suppress data for small reservations and many Alaska Native Village Statistical Areas. Disclosure avoidance number six from the March 6, 2009 **Federal Register** notice stated:

> For workplace tables, there must be at least 50 unweighted or 300 weighted workers in sample over the 5-year period in a given workplace for the table to be released.

Census Bureau staff recognizes the difficult balance in producing tables for small populations and ensuring that confidentiality is protected. Disclosure avoidance number six, originally developed for Census 2000 data, had a restriction of workplace tables to areas with 50 unweighted or 300 weighted workers. The 300 weighted workers restriction was based on the 50

unweighted workers and the Census 2000 average long form weight of six. The Disclosure Review Board, upon closer review for the ACS 5-year data products, decided that the key restriction to protect confidentiality for the ACS was the 50 unweighted workers, so the reference to a weighted number of workers has been dropped. Census Bureau staff also expanded the language on disclosure avoidance number six to clarify that in addition to workplace tables, the requirement for at least 50 unweighted workers in sample over the 5-year period applies to all non-residential geographies including residence 1 year ago and place-of-birth tables.

4. Frequency of Data Release

The Census Bureau received five comments on the proposed annual release of the ACS 5-year estimates. All five comments were in favor of the annual release.

III. ACS 5-year Data Products Plans

The Census Bureau is releasing its plans for the ACS 5-year data products via the Web. The plan provides a list of the tables and geographies expected to be included in the ACS 5-year products and will be updated periodically with new and expanded information. This information can be accessed at: *http://www.census.gov/acs.*

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 United States Code, Chapter 35, the OMB approved the ACS under OMB Control Number 0607–0810. We will furnish report forms to organizations included in the survey, and additional copies will be available upon written request to the Director, U.S. Census Bureau, Washington, DC 20233–0001.

Dated: September 13, 2010.

Robert M. Groves,

Director, U.S. Census Bureau.

[FR Doc. 2010–23373 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–837, A–570–954]

Certain Magnesia Carbon Bricks From Mexico and the People's Republic of China: Antidumping Duty Orders

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (the ITC), the Department is issuing antidumping duty orders on certain magnesia carbon bricks (MCB) from Mexico and the People's Republic of China (PRC). On September 8, 2010, the ITC notified the Department of its affirmative determinations of material injury to a U.S. industry. *See Certain Magnesia Carbon Bricks from China and Mexico* (Investigation Nos. 701–TA–468 and 731–TA–1166–1167 (Final), USITC Publication 4182, September 2010).

DATES: *Effective Date:* September 20, 2010.

FOR FURTHER INFORMATION CONTACT: David Goldberger (Mexico) or Paul Walker (PRC), AD/CVD Operations, Offices 2 and 9 respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0413, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2010, the Department published its affirmative final determinations of sales at less than fair value in the antidumping duty investigations of MCB from Mexico and the PRC. *See Certain Magnesia Carbon Bricks from Mexico: Notice of Final Determination of Sales at Less Than Fair Value,* 75 FR 45097 (August 2, 2010); and *Certain Magnesia Carbon Bricks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Critical Circumstances,* 75 FR 45468 (August 2, 2010) (*MCB from the PRC Final*).

On September 8, 2010, the ITC notified the Department of its final determinations pursuant to section 735(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured by reason of less-than-fair-value imports of MCB from Mexico and the PRC.[1] *See* section 735(b)(1)(A)(i) of the Act. In addition, the ITC notified the Department of its final determination that critical circumstances do not exist with respect to imports of subject merchandise from the PRC that are subject to the Department's affirmative critical circumstances finding.[2] Pursuant to section 736(a) of the Act, the Department is publishing antidumping duty orders on the subject merchandise.

Scope of the Orders

The scope of these orders includes certain chemically-bonded (resin or pitch), magnesia carbon bricks with a magnesia component of at least 70 percent magnesia ("MgO") by weight, regardless of the source of raw materials for the MgO, with carbon levels ranging from trace amounts to 30 percent by weight, regardless of enhancements (for example, magnesia carbon bricks can be enhanced with coating, grinding, tar impregnation or coking, high temperature heat treatments, anti-slip treatments or metal casing) and regardless of whether or not antioxidants are present (for example, antioxidants can be added to the mix from trace amounts to 15 percent by weight as various metals, metal alloys, and metal carbides). Certain magnesia carbon bricks that are the subject of these orders are currently classifiable under subheadings 6902.10.1000, 6902.10.5000, 6815.91.0000, 6815.99.2000 and 6815.99.4000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). While HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive.

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that

[1] Because the vote of the ITC with respect to imports of MCB from Mexico was evenly divided between an affirmative determination of material injury and a negative determination, the Department is treating this vote, for purposes of duty assessment, as an affirmative finding of material injury consistent with section 771(11) of the Act. Likewise, because the vote of the ITC with respect to imports of MCB from the PRC was evenly divided between a determination of material injury and a determination of threat of material injury, the Department is treating this vote, for purposes of duty assessment, as an affirmative finding of material injury consistent with section 771(11) of the Act.

[2] Critical circumstances were not alleged with respect to imports of subject merchandise from Mexico.

four-month period to no more than six months. At the request of the exporters that accounted for a significant proportion of exports of the subject merchandise in the investigations of MCB from Mexico and the PRC, we extended the four-month period to no more than six months. *See Certain Magnesia Carbon Bricks from Mexico: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 75 FR 11517 (March 11, 2010) (*MCB from Mexico Prelim*); and *Certain Magnesia Carbon Bricks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination* 75 FR 11847 (March 12, 2010) (*MCB from the PRC Prelim*).

In these investigations, the six-month period beginning on the date of the publication of the preliminary determinations (*i.e.,* March 11, 2010, for Mexico and March 12, 2010, for the PRC) will end on September 7, 2010, and September 8, 2010, respectively. Furthermore, section 737 of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination. Therefore, in accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of MCB from Mexico and the PRC entered, or withdrawn from warehouse, for consumption on or after September 7, 2010, for Mexico and September 8, 2010, for the PRC, and before the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on or after the date of publication of the ITC's final injury determination in the **Federal Register**.

Antidumping Duty Orders

On September 8, 2010, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determinations that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of less-than-fair-value imports of MCB from Mexico and the PRC.

In accordance with section 736(a)(1) of the Act, the Department will direct CBP to assess, upon further advice by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price or constructed export price of the merchandise for all relevant entries of MCB from Mexico and the PRC. These antidumping duties will be assessed on all unliquidated entries of MCB entered from Mexico and the PRC, or withdrawn from warehouse, for consumption on or after March 11, 2010 (Mexico), or March 12, 2010 (PRC), the date on which the Department published its notices of preliminary determination in the **Federal Register**, but prior to September 7, 2010 (Mexico), or September 8, 2010 (PRC). *See MCB from Mexico Prelim,* 75 FR at 11521; and *MCB from the PRC Prelim,* 75 FR at 11848.

On or after the date of publication of the ITC's notice of final determinations in the **Federal Register**, CBP, pursuant to section 736(a)(3) of the Act, will require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated dumping margins listed below. The estimated dumping margins for imports of subject merchandise from the PRC will be adjusted for export subsidies found in the final determination of the companion countervailing duty investigation of this merchandise imported from the PRC. *See Certain Magnesia Carbon Bricks from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 75 FR 45472 (August 2, 2010). Specifically, for cash deposit purposes, we are subtracting from the applicable cash deposit rate that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination on MCB from the PRC for respondent RHI Refractories Liaoning Co., Ltd. and for the separate-rate companies, whose rate is the calculated rate received by RHI Refractories Liaoning Co., Ltd. *See MCB from the PRC Final,* 75 FR at 45471.

Exporter	Producer	Margin
Mexico		
RHI-Refmex S.A. de C.V	RHI-Refmex S.A. de C.V	57.90
All Others		57.90
PRC		
RHI Refractories Liaoning Co., Ltd	RHI Refractories Liaoning Co., Ltd	128.10
Dashiqiao City Guancheng Refractor Co., Ltd	Dashiqiao City Guancheng Refractor Co., Ltd	128.10
Fengchi Imp. And Exp. Co., Ltd. Of Haicheng City	Fengchi Refractories Co., of Haicheng City	128.10
Jiangsu Sujia Group New Materials Co. Ltd	Jiangsu Sujia Group New Materials Co. Ltd	128.10
Liaoning Fucheng Refractories Group Co., Ltd	Liaoning Fucheng Refractories Group Co., Ltd	128.10
Liaoning Fucheng Special Refractory Co., Ltd	Liaoning Fucheng Special Refractory Co., Ltd	128.10
Liaoning Jiayi Metals & Minerals Co., Ltd	Liaoning Jiayi Metals & Minerals Co., Ltd	128.10
Yingkou Bayuquan Refractories Co., Ltd	Yingkou Bayuquan Refractories Co., Ltd	128.10
Yingkou Dalmond Refractories Co., Ltd	Yingkou Dalmond Refractories Co., Ltd	128.10
Yingkou Guangyang Co., Ltd	Yingkou Guangyang Co., Ltd	128.10
Yingkou Jiahe Refractories Co., Ltd	Yingkou Jiahe Refractories Co., Ltd	128.10
Yingkou Kyushu Refractories Co., Ltd	Yingkou Kyushu Refractories Co., Ltd	128.10
Yingkou New Century Refractories Ltd	Yingkou New Century Refractories Ltd	128.10
Yingkou Wonjin Refractory Material Co., Ltd	Yingkou Wonjin Refractory Material Co., Ltd	128.10
PRC-wide Entity*		236.00

*This rate also applies to Liaoning Mayerton Refractories Co., Ltd. and Dalian Mayerton Refractories Co., Ltd.

With regard to the ITC negative critical circumstances determination on imports of the subject merchandise from the PRC, we will instruct CBP to lift suspension and to release any bond or other security, and refund any cash deposit made, to secure the payment of estimated antidumping duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption on or after December 12, 2009 (*i.e.,* 90 days prior to the date

of publication of the preliminary determination in the **Federal Register**), but before March 12, 2010.

This notice constitutes the antidumping duty orders with respect to MCB from Mexico and the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 7046 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are issued and published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: September 13, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–23427 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY54

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; 2011 Research Fishery

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

ACTION: Notice of intent; request for applications.

SUMMARY: NMFS announces its request for applications for the 2011 shark research fishery from commercial shark fishermen with a directed or incidental limited access permit. The shark research fishery allows for the collection of fishery-dependent data for future stock assessments while also allowing NMFS and commercial fishermen to conduct cooperative research to meet the shark research objectives for the Agency. The only commercial vessels authorized to land sandbar sharks are those participating in the shark research fishery. Shark research fishery permittees may also land non-sandbar large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks. Commercial vessels not participating in the shark research fishery may only land only non-sandbar LCS, SCS, and pelagic sharks. Commercial shark fishermen who are interested in participating in the shark research fishery need to submit a completed Shark Research Fishery Permit Application in order to be considered.

DATES: Shark Research Fishery Applications must be received no later than 5 p.m., local time, on October 20, 2010.

ADDRESSES: Please submit completed applications to the HMS Management Division at:

- Mail: Attn: Guy DuBeck, HMS Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- Fax: (301) 713–1917

For copies of the Shark Research Fishery Permit Application, please write to the HMS Management Division at the address listed above, or call (301) 713–2347 (phone), or (301) 713–1917 (fax). Copies of the Shark Research Fishery Application are also available at the HMS website at *http://www.nmfs.noaa.gov/sfa/hms/index.htm*.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Guy DuBeck, at (301) 713–2347 (phone) or (301) 713–1917 (fax).

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Consolidated HMS Fishery Management Plan (FMP) is implemented by regulations at 50 CFR part 635.

The final rule for Amendment 2 to the Consolidated HMS FMP (73 FR 35778, June 24, 2008, corrected at 73 FR 40658, July 15, 2008) established, among other things, a shark research fishery to maintain time series data for stock assessments and to meet NMFS' research objectives. The shark research fishery also allows selected commercial fishermen the opportunity to earn revenue from selling more sharks, including sandbar sharks, than allowed outside of the commercial shark fishery. Only the commercial shark fishermen selected to participate in the shark research fishery are authorized to land/harvest sandbar sharks subject to the sandbar quota available each year. The base quota is 87.9 mt dw per year through December 31, 2012, although this number may be reduced in the event of overharvests, if any. The selected shark research fishery permittees will also have access to the non-sandbar LCS, SCS, and pelagic shark quotas. Commercial fishermen not participating in the shark research fishery may land non-sandbar LCS, SCS, and pelagic sharks subject to retention limits and quotas per 50 CFR 635.24 and 635.27, respectively.

The 2011 trip limits and number of trips per month will depend on the number of selected vessels, available quota, objectives of the research fishery, and the actual vessels selected. The trip limits and the number of trips taken have changed each year the research fishery has been active. Participants may also be limited on the amount of gear they can deploy on a given set (e.g., number of hooks, length of longline). In 2010, selected vessels fishing outside of the Mid-Atlantic shark time/area closure off the coast of North Carolina were allowed a trip limit of 33 sandbar sharks and 33 non-sandbar large coastal sharks. Selected vessels fishing inside of the Mid-Atlantic shark time/area closure off the coast of North Carolina until July 31 were allowed a trip limit of 66 sandbar sharks and 33 non-sandbar large coastal sharks. The vessels participating in the shark research fishery fished an average of 1.5 trips per month.

In order to participate in the shark research fishery, commercial shark fishermen need to submit a completed Shark Research Fishery Application showing the vessel and owner(s) meet the specific criteria outlined below.

Research Objectives

Each year, NMFS determines the research objectives for the upcoming shark research fishery. The research objectives are developed by a shark board, which is comprised of representatives within NMFS, including representatives from the Southeast Fisheries Science Center (SEFSC) Panama City Laboratory, Northeast Fisheries Science Center (NEFSC) Narragansett Laboratory, the Southeast Regional Office, Protected Species Division (SERO\PSD), and the HMS Management Division. The research objectives for 2011 are similar to the research objectives for 2010, and the shark board based them on the Southeast Data, Assessment and Review (SEDAR) 11, 2005/2006 LCS stock assessment. The 2011 research objectives are:

- Collect reproductive and age data from sandbar sharks throughout the calendar year;
- Collect reproductive and age data for blacktip sharks for determination of the reproductive cycle (i.e., annual or biennial frequency);
- Collect reproductive and age data from all species of sharks for additional species-specific assessments;
- Monitor the size distribution of sandbar sharks and other species captured in the fishery;
- Continue on-going tagging programs for identification of migration corridors and stock structure;
- Maintain time-series of abundance from previously derived indices for the shark BLL observer program;

- Acquire fin-clip samples of all species for genetic analysis;
- Attach satellite archival tags to endangered smalltooth sawfish to provide information on critical habitat and preferred depth, consistent with ESA requirements for such tagging under the SEFSC observer program take permit obtained through the 2008 Section 7 Consultation and Biological Opinion (BiOp) for the Continued Authorization of Shark Fisheries (Commercial Shark Bottom Longline, Commercial Shark Gillnet and Recreational Shark Handgear Fisheries) as Managed under the Consolidated Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (Consolidated HMS FMP), including Amendment 2 to the Consolidated HMS FMP (F/SER/2007/05044);
- Attach satellite archival tags to prohibited dusky sharks and other sharks, as needed, to provide information on daily and seasonal movement patterns, and preferred depth;
- Evaluate hooking mortality and survivorship of dusky and other sharks using hook timers and temperature-depth recorders;
- Evaluate the effects of controlled gear experiments in order to determine the effects of potential hook changes to prohibited species interactions and fishery yields; and
- Examine the size distribution of sandbar sharks and other species captured in the Mid-Atlantic shark time/area closure off the coast of North Carolina from January 1 through July 31.

Selection Criteria

Shark Research Fishery Permit Applications will only be accepted from commercial shark fishermen that hold a current directed or incidental limited access permit. While incidental permit holders are welcome to submit an application, to ensure that an appropriate number of sharks are landed/harvested to meet the research objectives for this year, NMFS will be giving priority to directed permit holders. As such, qualified incidental permit holders will only be selected if there are not enough qualified directed permit holders to meet research objectives.

The Shark Research Fishery Permit Application includes, but is not limited to, a request for the following information: type of commercial shark permit possessed; past participation in the commercial shark fishery (not including sharks caught for display); past involvement and compliance with HMS observer programs per § 635.7; past compliance with HMS regulations at 50 CFR part 635; availability to participate in the shark research fishery; ability to fish in the regions and season requested; ability to attend necessary meetings regarding the objectives and research protocols of the shark research fishery; and ability to carry out the research objectives of the Agency. An applicant that has been charged criminally or civilly (e.g., issued a Notice of Violation and Assessment (NOVA) or Notice of Permit Sanction) for any HMS-related violation will not be considered for participation in the shark research fishery. In addition, applicants who were selected to carry an observer in the previous 2 years for any HMS fishery, but failed to communicate with NMFS observer programs in order to arrange the placement of an observer before commencing any fishing trip that would have resulted in the incidental catch or harvest of any Atlantic HMS, per § 635.7, will not be considered for participation in the 2010 shark research fishery. Applicants who were selected to carry an observer in the previous 2 years for any HMS fishery and failed to comply with all the observer regulations per § 635.7, including failure to provide adequate sleeping accommodations per § 635.7(e)(1), a sufficiently sized survival craft per § 600.746(f)(6), or failure to pass a USCG safety examination per § 600.746(c)(2) will also not be considered. Exceptions will be made for vessels that were selected for HMS observer coverage but did not fish in the quarter when selected. Applicants that do not possess a valid Unites States Coast Guard (USCG) safety inspection decal when the application is submitted will not be considered. Applicants that have been non-compliant with any of the HMS observer program regulations in the previous 2 years, as described above, may be eligible for future participation in shark research fishery activities by demonstrating 2 subsequent years of compliance with observer regulations at § 635.7.

Selection Process

The HMS Management Division will review all submitted applications that are deemed complete and develop a list of qualified applicants. A qualified applicant is an applicant that has submitted a complete application and has met the selection criteria. Qualified applicants are eligible to be selected to participate in the shark research fishery for 2011. The HMS Management Division will provide the list of qualified applicants without identification information to the SEFSC. The SEFSC will then evaluate the list of qualified applicants and, based on the temporal and spatial needs of the research objectives, the availability of qualified applicants, and the available quota for a given year, will randomly select approximately 10 qualified applicants to conduct the prescribed research. Where there are multiple qualified applicants that meet the criteria, permittees will be randomly selected through a lottery system. If a public meeting is deemed necessary, NMFS will announce details of a public selection meeting in a subsequent **Federal Register** notice.

Once the selection process is complete, NMFS will notify the selected applicants and issue the shark research fishery permits. If needed, NMFS will communicate with the shark research fishery permit holders to arrange a captain's meeting to discuss the research objectives and protocols. The shark research fishery permit holders must contact the NMFS observer coordinator to arrange the placement of a NMFS-approved observer for each shark research trip.

A shark research fishery permit will only be valid for the vessel and owner(s) and terms and conditions listed on the permit, and thus, cannot be transferred to another vessel or owner(s). Issuance of a shark research permit does not guarantee that the permit holder will be assigned a NMFS-approved observer on any particular trip. Rather, issuance indicates that a vessel may be issued a NMFS-approved observer for a particular trip, and on such trips, may be allowed to harvest Atlantic sharks, including sandbar sharks, in excess of the retention limits described in § 635.24(a). These retention limits will be based on available quota, number of vessels participating in the 2011 shark research fishery, the research objectives set forth by the shark board, and may vary by vessel and/or location. When not operating under the auspices of the shark research fishery, the vessel would still be able to land non-sandbar, SCS, and pelagic sharks subject to existing retention limits on trips without a NMFS-approved observer. The shark research permit may be revoked or modified at any time and does not confer the right to engage in activities beyond those listed on the shark research fishery permit.

Commercial shark permit holders (directed and incidental) are invited to submit an application to participate in the shark research fishery on an annual basis. Permit applications can be found on the HMS Management Division's website at *http://www.nmfs.noaa.gov/sfa/hms/index.htm* or by calling (301) 713–2347. Final decisions on the

issuance of a shark research fishery permit will depend on the submission of all required information, and NMFS' review of applicant information as outlined above. The 2011 shark research fishery will start after the opening of the shark fishery and under available quotas as published in a separate **Federal Register** final rule.

Dated: September 15, 2010.

Emily H. Menashes,

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

[FR Doc. 2010–23442 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Correction of Date for the Extension of Time Limit for Preliminary Results of the Seventh Antidumping Duty New Shipper Reviews

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

DATES: *Effective Date:* September 20, 2010.

FOR FURTHER INFORMATION CONTACT: Alan Ray, 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) 482–5403.

Correction of the Extension of Time Limits for Preliminary Results

On August 9, 2010, the Department of Commerce ("Department") published in the **Federal Register** a notice of extension of time limit for preliminary results of the seventh antidumping duty new shipper reviews for certain frozen fish fillets from the Socialist Republic of Vietnam covering the period August 1, 2009, through February 15, 2010. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Reviews,* 74 FR 74441 (August 9, 2010). The **Federal Register** notice incorrectly stated that the preliminary results are currently due on January 17, 2010. The correct due date for the preliminary results is actually January 17, 2011.

This notice is published in accordance with section 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: September 10, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–23351 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2010–0066]

Request for Comments on Incentivizing Humanitarian Technologies and Licensing Through the Intellectual Property System

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) is considering pro-business strategies for incentivizing the development and widespread distribution of technologies that address humanitarian needs. One proposal being considered is a fast-track *ex parte* reexamination voucher pilot program to create incentives for technologies and licensing behavior that address humanitarian needs. Because patents under reexamination are often the most commercially significant patents, a fast-track reexamination proceeding would allow patent owners to more readily and less expensively affirm the validity of their patents. Therefore, the opportunity to utilize a voucher for a fast-track reexamination proceeding could provide a valuable incentive for entities to pursue humanitarian technologies or licensing. The USPTO is requesting comments from the public regarding this proposal as well as other incentive proposals set forth in this notice.

DATES: *Comment Deadline Date:* To be ensured of consideration, written comments must be received on or before November 19, 2010. No public hearing will be held.

ADDRESSES: Written comments should be sent by electronic mail message over the Internet addressed to *HumanitarianProgram@uspto.gov.* Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Joni Y. Chang. Although comments may be submitted by mail, the USPTO prefers to receive comments via the Internet.

The written comments will be available for public inspection at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the USPTO's Internet Web site (*address: http://www.uspto.gov*). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Robert A. Clarke (at 571–272–7735) or Joni Y. Chang (at 571–272–7720), Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy. Inquiries regarding the current reexamination practice may be directed to the Office of Patent Legal Administration, by telephone at (571) 272–7703, or by electronic mail at *PatentPractice@uspto.gov.*

Inquiries regarding electronic filings should be directed to the Patents Electronic Business Center (EBC) at 866–217–9197.

SUPPLEMENTARY INFORMATION: The USPTO is considering a fast-track *ex parte* reexamination voucher pilot program as an incentive to stimulate technology creation or licensing that addresses humanitarian needs. Under the proposed pilot program, a fast-track *ex parte* reexamination voucher would be offered to patent holders demonstrating humanitarian uses of patented technologies. This voucher could then be used on any patent owned by the patent holder or transferred on the open market. The U.S. Food and Drug Administration (FDA) currently has a similar voucher program for fast-track review in place. Under this program, the FDA awards priority review vouchers to entities that develop drugs to treat neglected tropical diseases. Recent legislative proposals such as the Creating Hope Act, S. 3697 (2010), on rare childhood diseases shows a desire on the part of Congress to expand such efforts. The USPTO is also exploring ideas for other strategies that would use the patent system to incentivize activity addressing humanitarian needs.

Fast-track *ex parte* reexamination proceedings would be given the highest priority, such that an examiner would take any necessary action in a reexamination proceeding as if the proceeding were the next item in the examiner's queue. In addition, the USPTO would accelerate the time for which fast-track *ex parte* reexamination proceedings are handled by the USPTO (*i.e.,* examiner and the Board of Patent

Appeals and Interferences (BPAI)). The USPTO's goal for this time would be six months. The patent owner would not be required to waive any current statutory and procedural rights, and would have the same time periods for filing responses and other communications as those under the existing procedure. The six-month goal would only measure the time periods that the USPTO takes for actions (*e.g.,* from the date of filing of a response to the date of mailing of the action), excluding the time that the patent owner takes for responding to an action. This goal compares to the current 19 to 20-month period that the USPTO takes for action in *ex parte* reexamination based on a review of 100 certificates issued between June 15, 2010, and July 31, 2010.

In the pilot program, a fast-track *ex parte* reexamination voucher would be offered to patent holders demonstrating humanitarian practices with patented technologies as described below. Specifically, organizations may be eligible for the program if they engage in intellectual property practices that qualify as either humanitarian use or humanitarian research.

"Humanitarian use" would comprise four principles: *subject matter, effectiveness, availability,* and *access.* In general terms, *subject matter* evaluates whether the patented technology addresses a recognized humanitarian problem. *Effectiveness* judges whether the technology can be used or is being used to address that issue. *Availability* determines whether the technology is available to an affected impoverished population. *Access* evaluates whether the applicant has made significant efforts to increase access to the technology among such populations. The USPTO seeks to develop a workable test to apply these principles that is clear, concise, administratively efficient, and resistant to abuse.

"Humanitarian research" would comprise two principles: *significance* and *access. Significance* requires that the patented technology make a significant contribution to research on a problem that predominantly affects an impoverished population, such as the tropical diseases identified by the FDA in its priority review voucher scheme. *Access* determines that the patented technology was made available to researchers on generous terms. The USPTO seeks to develop a workable test to apply these principles which is clear, concise, administratively efficient, and resistant to abuse.

Comments on one or more of the following questions would be helpful to the USPTO:

1. The FDA awards priority review vouchers to entities that develop drugs which treat a tropical disease under 21 U.S.C. 360n. Should recipients of this FDA voucher automatically receive a humanitarian fast-track *ex parte* reexamination voucher from the USPTO?

2. FDA priority review vouchers are transferable on the open market. Should USPTO fast-track *ex parte* reexamination vouchers similarly be transferable on the open market?

3. What humanitarian issues should qualify for the voucher program? Neglected diseases, debilitating health conditions in developing countries, chronic hunger, widespread public health problems such as lack of sanitation or potable water, and/or other issues predominantly affecting impoverished populations? Can these be defined with reference to existing humanitarian aid organizations?

4. Other than actual use, how can a patent owner demonstrate that a patented technology would be effective at addressing a particular humanitarian issue? What kinds of expertise would be required to make those judgments?

5. Should the USPTO consider statements from independent third parties (particularly humanitarian organizations or researchers) on the effectiveness or actual use of an invention to address humanitarian needs? Should such submissions be required to qualify for a voucher?

6. Should certain elements (*e.g.,* neglected diseases, tropical crops, developing countries) of qualifying humanitarian criteria be defined with reference to lists or criteria provided by external organizations experienced in such matters, such as the World Health Organization, National Institutes of Health, Food and Drug Administration, United Nations, or U.S. Agency for International Development? If so, which criteria of other public or private organizations should be followed?

7. What actions should be considered to determine whether a patent holder has made significant efforts to increase access to a patented technology? What types of evidence of such actions can be submitted to minimize the burden on both patent owners and the USPTO?

8. How should a patented technology's significance to a humanitarian research project be determined? Should significance mean that the research could or would not have occurred without the use of the patented technology? Would considering economic or logistical factors suffice? Should qualifying research efforts meet certain minimum thresholds (resources, number of researchers involved, involvement from recognized humanitarian groups, *etc.*) to prevent abuse?

9. For the humanitarian research qualification, what factors should determine whether terms of use are generous? Should it only focus on the cost of the patented technology or consider other factors? What if the granting entity retains any rights over the results of the humanitarian research?

10. How can the program encompass humanitarian issues affecting impoverished populations in more developed countries in a way that is efficient to administer and deters abuse? In particular, how should an applicant demonstrate the existence of an impoverished group and that the product or treatment primarily targets that group?

11. Should vouchers to accelerate initial examination rather than reexamination be offered for technologies addressing humanitarian needs? Are there other pro-business strategies that the Department of Commerce or the USPTO should pursue in future programs to incentivize humanitarian research and development and/or best practices for intellectual property with humanitarian uses?

12. Would non-monetary prizes or awards sponsored by the USPTO recognizing humanitarian efforts encourage greater investment in the field? What criteria should be used for selecting recipients?

Dated: September 13, 2010.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2010–23395 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XZ11

New England and Mid-Atlantic Fishery Management Councils; Amendment 5 to the Monkfish Fishery Management Plan

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

ACTION: Supplemental Notice of Intent to prepare an environmental assessment (EA); request for comments.

SUMMARY: This supplemental notice is to alert the interested public of the New

England Fishery Management Council's (Council) intent to change the level of NEPA analysis for Amendment 5 to the Monkfish Fishery Management Plan (FMP) from an Environmental Impact Statement (EIS) to an EA and to provide for public comment on this course of action. The primary purpose of Amendment 5 is to address the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements for annual catch limits (ACLs) and accountability measures (AMs), to set multi-year specifications of days-at-sea (DAS) and trip limits, and to make other adjustments to measures in the FMP.

DATES: Written comments must be received on or before 5 p.m., EST, on October 5, 2010.

ADDRESSES: Written comments may be sent by any of the following methods:

- E-mail to the following address: *0648–XZ11@noaa.gov*;
- Mail or hand deliver to Paul Howard, Executive Director, New England Fishery Management Council, 50 Water St., Mill 2, Newburyport, MA, 01950. Mark the outside of the envelope "Monkfish Amendment 5 EA Comments"; or
- Fax to (978) 465–3116.

Questions about this action may be directed to the Council office at the previously provided address, or by request to the Council by telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul Howard, Executive Director, New England Fishery Management Council, 50 Water St., Mill 2, Newburyport, MA, 01950, (telephone 978–465–0492).

SUPPLEMENTARY INFORMATION: On February 20, 2009, the Council announced its intention to prepare, in cooperation with NMFS, an EIS in accordance with NEPA to assess potential effects on the human environment of alternative measures to address the new Magnuson-Stevens Act requirements for ACLs and AMs (74 FR 7880). The Magnuson-Stevens Act also required that the ACLs and AMs be adopted by 2011. During the early development stages of Amendment 5, the Council considered including proposals for adopting a major revision to the management program, shifting from effort controls (DAS and trip limits) to catch share management (individual vessel quotas or sectors). By September 2009, the Council recognized that, due to their complexity, development of catch share alternatives would likely delay Amendment 5, and risk not meeting the statutory ACL/AM deadline. At that time, the Council decided to separate the catch shares portion of the amendment so it could focus on the remaining elements. It also agreed to consider catch shares in the next management action. With this decision, it was determined that remaining measures contained in Amendment 5 were not likely to be significant under NEPA, and the development of an EIS was no longer necessary.

The Council held six public hearings on the EA prepared for Amendment 5 between February 8 and March 9, 2010. Based on comments received and the preliminary analysis contained in the EA, the preparation of an EIS no longer appears necessary.

Dated: September 15, 2010.

Carrie Selberg,

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

[FR Doc. 2010–23441 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New Policy Announcing That Traditional Horizontal Survey Projects Performed With Terrestrial Survey Techniques Will No Longer Be Accepted for Processing or Loading Into NGS Databases

AGENCY: National Geodetic Survey (NGS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA).

ACTION: Informational Notice.

SUMMARY: Beginning January 1, 2011 the National Geodetic Survey (NGS) will cease accepting data, all orders and classes, from triangulation and traverse geodetic surveys as they are described in the Federal Geodetic Control Committee September 1984 "Standards and Specifications for Geodetic Control Networks" for inclusion into the NGS Integrated Data Base (NGSIDB).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Mr. Mark Eckl, Observation and Analysis Division Chief, National Geodetic Survey (N/NGS4), 1315 East-West Highway, Silver Spring, MD 20910; Phone: (301) 713–3176 x 117; E-mail: *mark.eckl@noaa.gov.*

SUPPLEMENTARY INFORMATION: The National Geodetic Survey has not received a traditional (triangulation or traverse) survey for purely horizontal work since 2006. All horizontal surveys relevant to the mission of NGS performed by individuals external to NGS are now performed with GPS. The maintenance of computer software and hardware dedicated to traditional horizontal surveys requires use of resources that are limited and will be used more appropriately elsewhere.

Dated: September 1, 2010.

Juliana P. Blackwell,

Director, Office of National Geodetic Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–23356 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

International Trade Administration

Solicitation of Nominations for Membership on the Civil Nuclear Trade Advisory Committee

AGENCY: International Trade Administration, DOC.

ACTION: Notice.

SUMMARY: The Department of Commerce is currently seeking nominations for membership on the Civil Nuclear Trade Advisory Committee (CINTAC). The purpose of the CINTAC is to advise the Secretary regarding the development and administration of programs to expand United States exports of civil nuclear goods and services in accordance with applicable United States regulations.

DATES: Nominations for members must be received on or before Tuesday, October 12, 2010.

ADDRESSES: All nominations should be submitted either via e-mail to *civilnuclear@trade.gov,* or via mail to Frank Caliva, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Frank Caliva, Office of Energy & Environmental Industries, Room 4407, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; phone 202–482–8245; fax 202–482–5665; e-mail *civilnuclear@trade.gov*.

SUPPLEMENTARY INFORMATION: The Department of Commerce is in the process of renewing the CINTAC charter for another two-year term. The Secretary of Commerce invites nominations to the CINTAC for the upcoming two-year charter term. Members will be selected, in accordance with applicable Department of Commerce guidelines, based on their ability to advise the

Secretary of Commerce on matters relating to the development and administration of programs to expand United States exports of civil nuclear goods and services, as articulated in the CINTAC's charter. Members of the CINTAC shall be selected in a manner that ensures that the CINTAC is balanced in terms of points of view, company size, and geographic location, and that the CINTAC shall include representatives of U.S. civil nuclear manufacturing and services companies, U.S. utilities, U.S. trade associations, and U.S. private sector organizations involved in the promotion of exports of civil nuclear products and services.

Members shall serve in a representative capacity, expressing the views and interests of a U.S. entity or organization, as well as its particular sector. Each member of the Committee must be a U.S. citizen, not a federally-registered lobbyist, and not registered as a foreign agent under the Foreign Agents Registration Act. No member may represent a company that is majority owned or controlled by a foreign government entity.

Self-nominations will be accepted. If you are interested in nominating someone to become a member of the Committee, please provide the following information (2 pages maximum):

(1) Name.

(2) Title.

(3) Work phone number; fax number; and email address.

(4) Company or trade association name and address including website address.

(5) Short biography of nominee including credentials.

(6) Brief description of the company or trade association and its business activities; company size (number of employees and annual sales); and export markets served.

(7) An affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

(8) An affirmative statement that the applicant is not a federally-registered lobbyist, and that the applicant understands that if appointed, the applicant will not be allowed to continue to serve as a CINTAC member if the applicant becomes a federally registered lobbyist.

Please do not send company or trade association brochures or any other information.

All nominations should be submitted either via e-mail to *civilnuclear@trade.gov,* or via mail to Frank Caliva, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230 and must be received by the deadline of Tuesday, October 12, 2010. Nominees selected for appointment to the Committee will be notified by return mail.

Dated: September 14, 2010.

Edward A. O'Malley,

Director, Office of Energy & Environmental Industries.

[FR Doc. 2010–23353 Filed 9–17–10; 8:45 am]

BILLING CODE 3510–DR–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, September 22, 2010; 2 p.m.–3 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

Matters To Be Considered

Compliance Status Report

The Commission staff will brief the Commission on the status of compliance matters. For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: September 14, 2010.

Todd A. Stevenson,

Secretary.

[FR Doc. 2010–23518 Filed 9–16–10; 4:15 pm]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, September 22, 2010, 10 a.m.–12 Noon.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public.

Matters To Be Considered

1. *Decisional Matter:* Final Interpretative Rule: Interpretation of Children's Product.

2. *Briefing Matter:* Strategic Plan.

A live webcast of the Meeting can be viewed at *http://www.cpsc.gov/webcast.* For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: September 14, 2010.

Todd A. Stevenson,

Secretary.

[FR Doc. 2010–23520 Filed 9–16–10; 4:15 pm]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Inland Waterways Users Board

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In Accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting.

Name of Committee: Inland Waterways Users Board (Board).

Date: October 20, 2010.

Location: The Isle Casino Hotel Bettendorf, 1777 Isle Parkway, Bettendorf, Iowa 52722 at 1–800–843–4753 or 1–800–724–5825.

Time: Registration will begin at 8:30 a.m. and the meeting is scheduled to adjourn at approximately 1 p.m.

Agenda: The Board will consider its project investment priorities for the next year, will hear the status of the implementation of the Inland Marine Transportation System (IMTS) Investment Strategy Team recommendations, as well as the status of the funding for inland navigation projects and studies and the status of the Inland Waterways Trust Fund.

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, Headquarters, U.S. Army Corps of Engineers, CECW–ID, 441 G Street, NW., Washington, DC 20314–1000; *Ph:* 202–761–4691.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2010–23210 Filed 9–17–10; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before October 20, 2010.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov*. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. 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.

Dated: September 14, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Innovation and Improvement

Type of Review: Revision.

Title of Collection: Credit Enhancement for Charter School Facilities Program Performance Report.

OMB Control Number: 1855–0010.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 30.

Total Estimated Annual Burden Hours: 750.

Abstract: The Department uses will use the information through this report to monitor and evaluate competitive grants. These grants are made to private, non-profits; governmental entities; and consortia of these entities. These organizations will use the funds to leverage private capital to help charter schools construct, acquire, and renovate charter schools.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's website at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4357. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address I*CDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–23449 Filed 9–17–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC10–547–001]

Commission Information Collection Activities (FERC–547); Comment Request; Submitted for OMB Review

September 13, 2010.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission or FERC) has submitted the information collection described below to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (75 FR 34107, 6/16/2010) requesting public comments. FERC received no comments on the FERC–547 and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by October 20, 2010.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer. Comments to OMB should be filed electronically, c/o *oira_submission@omb.eop.gov* and include OMB Control Number 1902–0084 for reference. The Desk Officer may be reached by telephone at 202–395–4638.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission and should refer to Docket No. IC10–547–001. Comments may be filed either electronically or in paper format. Those persons filing electronically do not need to make a paper filing. Documents filed electronically via the Internet must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines. Complete filing instructions and acceptable filing formats are available at *http://www.ferc.gov/help/submission-guide.asp*. To file the document electronically, access the Commission's Web site and click on Documents & Filing, E-Filing (*http://www.ferc.gov/docs-filing/efiling.asp*), and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

For paper filings, the comments should be submitted to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First

Street, NE., Washington, DC 20426, and should refer to Docket No. IC10–547–001.

Users interested in receiving automatic notification of activity in FERC Docket Number IC10–547 may do so through eSubscription at *http://www.ferc.gov/docs-filing/esubscription.asp*. All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the "eLibrary" link. For user assistance, contact *ferconlinesupport@ferc.gov*, or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by e-mail at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–547, "Gas Pipeline Rates: Refund Report Requirements" (OMB Control No. 1902–0084), is used by the Commission to implement the statutory refund provisions governed by sections 4, 5, and 16 of the Natural Gas Act (NGA).[1] Sections 4 and 5 authorize the Commission to order a refund, with interest, for any portion of a natural gas company's increased rate or charge found to be unjust or unreasonable. Refunds may also be instituted by a natural gas company as a stipulation to a Commission-approved settlement agreement or a provision under the company's tariff. Section 16 of the NGA authorizes the Commission to prescribe rules and regulations necessary to administer its refund mandates. The Commission's refund reporting requirements are found in 18 CFR 154.501 and 154.502.

The Commission uses the data to monitor refunds owed by natural gas companies to ensure that the flow-through of refunds owed by these companies are made as expeditiously as possible and to assure that refunds are made in compliance with the Commission's regulations.

Action: The Commission is requesting a three-year extension of the FERC–547 reporting requirements, with no changes.

Burden Statement: The estimated annual public reporting burden for FERC–547 is reduced from the estimate made three years ago due to a reduction in the average number of filings received annually, from 60 in 2007, to 30 presently.

FERC data collection	Number of respondents (1)	Average number of reponses per respondents (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
FERC–547	30	1	75	2,250

The total estimated annual cost burden to respondents is $149,143 (2250 hours/2080 hours[2] per year, times $137,874[3]).

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information, including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) 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) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–23364 Filed 9–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 1975–102 and P–2061–086]

Idaho Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

September 13, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to amend project operation from run-of-river to load-following.

b. *Project Nos.:* 1975–102 and P–2061–086.

c. *Date Filed:* May 11, 2010 and May 5, 2010.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Bliss (P–1975) and Lower Salmon Falls (P–2061).

f. *Location:* The Bliss Project (P–1975) is located on the Snake River in Gooding, Twin Falls and Elmore Counties, Idaho. The Lower Salmon Falls Project (P–2061) is located on the Snake River in Gooding and Twin Falls Counties, Idaho. Both projects occupy lands managed by the Bureau of Land Management. The Lower Salmon Falls

[1] 15 U.S.C. 717–717w.

[2] Estimated number of hours an employee works each year.

[3] Estimated average annual cost per employee.

project also occupies lands within the Hagerman Fossil Beds National Monument managed by the National Park Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* Nathan F. Gardiner, Idaho Power Company, 1221 West Idaho Street, P.O. Box 70, Boise, Idaho 83707–0070; telephone (208) 388–2975.

i. *FERC Contact:* Andrea Claros, telephone: (202) 502–8171, and e-mail address: *andrea.claros@ferc.gov*.

j. *Deadline for filing comments, motions to intervene and protests:* October 13, 2010.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*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 (*http://www.ferc.gov/docs-filing/ecomment.asp*) and must include name and contact information at the end of comments. The Commission strongly encourages electronic filings.

All documents (original and eight copies) filed by paper should be sent to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project numbers (P–1975–102 and P–2061–086) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* After the completion of a six-year study on the effects of load-following operation on the federally threatened Bliss Rapids snail, Idaho Power Company (licensee) is proposing to amend Article 401 of the licenses for the Bliss and Lower Salmon Falls Hydroelectric Projects to implement load-following operation rather than run-of-river operation. For the Bliss Project, the licensee proposes a minimum flow of 4,500 cubic feet per second (cfs), a hourly tailwater ramp rate of 3 feet per hour, a daily tailwater ramp rate of 6 feet per day and a headwater fluctuation limit of 2 feet from full pool. For the Lower Salmon Falls Project, the licensee proposes a minimum flow of 3,500 cfs, a hourly tailwater ramp rate of 2.5 feet per hour, a daily tailwater ramp rate of 5 feet per day and a headwater fluctuation limit of 2 feet from full pool. These limits were previously proposed by the licensee prior to the issuance of the project licensees in 2004.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://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. 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, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–23365 Filed 9–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11480–024]

Haida Energy, Inc.; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

September 13, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 11480–024.

c. *Date Filed:* August 31, 2010.

d. *Applicant:* Haida Energy, Inc.

e. *Name of Project:* Reynolds Creek Project.

f. *Location:* On Reynolds Creek, near the town of Hydaburg, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Michael V. Stimac, Vice President, HDR Engineering, Inc., 500 108th Avenue, NE., Suite 1200, Bellevue, WA 98004, (425) 450–6330.

i. *FERC Contact:* Steven Sachs, (202) 502–8666, or *Steven.Sachs@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* September 30, 2010.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*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 (*http://www.ferc.gov/docs-filing/ecomment.asp)* and must include name and contact information at the end of comments. The Commission strongly encourages electronic filings.

All documents (original and seven copies) filed by paper should be sent to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE.,

Washington, DC 20426. Please include the project number (P–11480–024) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Application:* In its amendment application, the licensee proposes to modify the following at its unconstructed project: (1) Utilize a fish screen on the penstock intake; (2) alter approximately 1,500 feet of the western portion of the penstock route resulting in a straightened alignment; (3) move the location of the powerhouse about 300 feet to the northwest; (4) modify the tailrace to consist of a 380-foot-long, 54-inch-diameter pipe discharging to the same location as the previously licensed tailrace; and (5) extend the length of the transmission line about one mile to the town of Hydaburg. The licensee proposes no change to the installed capacity or operation of the project.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site using the "eLibrary" link at *http://elibrary.ferc.gov/idmws/search/fercgensearch.asp.* Enter the docket number excluding the last three digits (P–11480) in the docket number field to access the document. 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, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–23366 Filed 9–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–103–000; Docket No. PR10–104–000; Docket No. PR10–105–000 (Not Consolidated)]

Notice of Baseline Filings

September 13, 2010.

Duke Energy Ohio, Inc.	Docket No. PR10–103–000.
Duke Energy Kentucky, Inc.	Docket No. PR10–104–000.
Washington Gas Light Company.	Docket No. PR10–105–000. (Not Consolidated).

Take notice that on September 9, 2010, and September 10, 2010, respectively the applicants listed above submitted their baseline filing of its Statement of Operating Conditions for services provided under section 311 of the Natural Gas Policy Act of 1978 (NGPA).

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern time on Monday, September 27, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–23367 Filed 9–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[EG10–40–000; EG10–41–000; EG10–42–000; EG10–43–000; EG10–44–000; EG10–45–000; EG10–46–000; EG10–47–000; EG10–49–000; EG10–50–000]

Notice of Effectiveness of Exempt Wholesale Generator Status

September 13, 2010.

Taloga Wind, LLC	Docket Nos. EG10–40–000
Stephentown Regulation Services, LLC.	EG10–41–000
Longview Power, LLC	EG10–42–000
Alta Wind I, LLC	EG10–43–000
Alta Wind II, LLC	EG10–44–000
Alta Wind III, LLC	EG10–45–000
Alta Wind IV, LLC	EG10–46–000
Alta Wind V, LLC	EG10–47–000
Synergics Roth Rock Wind Energy, LLC.	EG10–49–000
Synergics Roth Rock North Wind Energy, LLC.	EG10–50–000

Take notice that during the month of August 2010, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–23362 Filed 9–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–477–000]

Southern LNG Company, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed LNG Truck Loading Project and Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting

September 13, 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 LNG Truck Loading Project involving construction and operation of facilities by Southern LNG Company, LLC (Southern) in Chatham County, Georgia. This EA will be used by the Commission in its decision-making process to make a public interest determination whether the 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 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 October 13, 2010.

Comments may be submitted in written form or verbally. Further details on how to submit written comments are provided in the Public Participation section of this notice. In lieu of or in addition to sending written comments, the Commission invites you to attend the public scoping meeting scheduled as follows:

FERC Public Scoping Meeting, LNG Truck Loading Project, September 29, 2010, 7 p.m., Hilton Garden Inn Savannah Midtown, 5711 Abercorn Street, Savannah, Georgia 31405.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

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 Proposed Project

Southern seeks to abandon by removal a portion of the existing truck loading facilities at its existing Elba Island Liquefied Natural Gas (LNG) Terminal located on Elba Island in Chatham County, Georgia. Southern also proposes to reactivate, expand, and modify the remainder of its existing truck loading facilities at the Terminal. The proposed activities would be completed in two phases: Phase I would include removal of certain out-dated facilities and construction of two loading facilities; Phase II would include an expansion of the trucking facilities to provide two additional loading bays.

Southern intends to operate and lease the truck loading facilities to Southeast LNG Distribution Company, LLC (Southeast LNG), a joint venture between El Paso Corporation and a subsidiary of AGL Resources Inc. Southeast LNG would distribute LNG by truck from the Elba Island Terminal to end users throughout the Southeast, to peak shaving facilities in Georgia and as an alternative fuel for use by heavy-duty vehicles. Southeast LNG anticipates distribution from about ten trucks per day at the start of reactivation and ramping up over a 10-year period to about 58 trucks per day. Southern proposes to commence construction during the second quarter of 2011, with an in-service date of November 2012.

The general location of the project facilities is shown in Appendix 1.[1]

Land Requirements for Construction

All land disturbance would occur on 2.20 acres within the existing Elba Island LNG Terminal. The new facilities would replace those authorized as part of the original terminal construction.

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 proposed 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
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

[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, or call (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.

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 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 beginning on page 5.

We are already involved in discussions with other jurisdictional agencies to identify their issues and concerns. These agencies include, but are not limited to, the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration and the Georgia Department of Transportation. 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 the Georgia State Historic Preservation Office, and to solicit its 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 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.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities, the results of the public open house hosted by Southern on August 24, 2010, and the environmental information provided by Southern. This preliminary list of issues may be changed based on your comments and our analysis.

- Public safety, and
- Public concern over LNG trucking on local highways.

While we will address concerns related to LNG trucking in the EA, it is important for commentors to understand that the FERC has no jurisdiction over truck transport of LNG.

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 October 13, 2010.

For your convenience, there are three methods which you can use to submit written comments to the Commission. In all instances please reference the project docket number (CP10–477–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the 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 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 proposed 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 compact-disk version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, 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.

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 at *http://www.ferc.gov* using the

[3] The Advisory Council on Historic Preservation's regulations are at Title 36 of the 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 for Historic Places.

"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.,* CP10–477). Be sure you have selected an appropriate date range. 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. 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, 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. 2010–23361 Filed 9–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–88–000]

Linden VFT, LLC; Notice of Filing

September 13, 2010.

Take notice that on August 24, 2010, Linden VFT, LLC, pursuant to the Federal Energy Regulatory Commission's (Commission) instructions regarding the submission of FERC Form No. 715—Annual Transmission Planning and Evaluation Report, filed a request for a waiver of the annual submission requirements.

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.

Comment Date: 5 p.m. Eastern Time on September 28, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–23363 Filed 9–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Creating an Offshore Wind Industry in the United States: A National Vision

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of public meeting and general solicitation of comments.

SUMMARY: The U.S. Department of Energy (DOE) Office of Energy Efficiency and Renewable Energy (EERE), Wind and Water Power Program, is planning a series of public events to exchange information on the development of offshore wind energy in the United States. In these events, the Program will outline the vision it has developed to guide the U.S. in creation of a world-leading offshore wind industry; focusing on ways in which the various interested sectors (*i.e.* academia, industry, state and local governments, the public at large) can harmonize their efforts to address barriers to deployment. During those meetings, and via emailed responses, the Program is welcoming comments from interested individuals on the draft document entitled: *Creating an Offshore Wind Industry in the United States: A Strategic Work Plan for the United States Department of Energy, Fiscal Years 2011–2015,* available at: *http://www.windpoweringamerica.gov/pdfs/offshore/offshore_wind_strategic_plan.pdf.*

DATES: Comments are welcome through October 29, 2010. Events will occur:

- September 16, 2010; Webinar held entitled *Creating an Offshore Wind Industry in the United States: A National Vision and Call to Action;* from DOE Offices, Washington, DC;
- September 21, 2010; Seminar entitled *Creating an Offshore Wind Industry in the United States: A National Vision and Call to Action;* Cleveland, Ohio;
- September 28, 2010; Seminar entitled *Creating an Offshore Wind Industry in the United States: A National Vision and Call to Action;* Washington, DC.

ADDRESSES: Comments may be submitted electronically to *OffshoreWindComments@go.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Chris Hart, Offshore Wind Team Lead, Wind and Water Power Program; 1000 Independence Ave., SW.; Washington, DC 20585; *chris.hart@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: More information on DOE's Wind and Water Power Program can be found at: *http://www1.eere.energy.gov/windandhydro/*

Additional information on the September 16 Webinar is available at: *http://www.windpoweringamerica.gov/filter_detail.asp?itemid=2817.* Information on the September 21 seminar is available at: *http://www.windpoweringamerica.gov/filter_detail.asp?itemid=2819.* Information on the September 28 seminar is available at: *http://www.windpoweringamerica.gov/filter_detail.asp?itemid=2820.*

Disclaimer

DOE will not reimburse costs associated with participation in the events described herein, or for preparing any comments on its draft documents. Participation in these activities will in no way influence any subsequent awards made by DOE under its planned Offshore Wind Initiative.

Issued in Washington, DC, on September 15, 2010.

Jacques Beaudry-Losique,

Program Manager, Wind and Water Power Program, Energy Efficiency and Renewable Energy, Department of Energy.

[FR Doc. 2010–23446 Filed 9–17–10; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9203–6]

Proposed CERCLA Administrative Cost Recovery Settlement; Gilberts/Kedzie Site, Village of Gilberts, IL

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(I) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(I), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Gilberts/Kedzie Site in the Village of Gilberts, Illinois with the following settling parties: Glen J. Kedzie, Big Timber Landscape Company, Inc., and GTCS Corp. (the settling parties). The settlement requires the settling parties to pay $3,000.00 to the Hazardous Substance Superfund and additional payments when the Site is sold. The settlement includes a covenant not to sue the settling parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the U.S. EPA Record Center, Room 714 U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois.

DATES: Comments must be submitted on or before October 20, 2010.

ADDRESSES: The proposed settlement is available for public inspection at the U.S. EPA Records Center, Room 714, 77 West Jackson Boulevard, Chicago, Illinois. A copy of the proposed settlement may be obtained from Associate Regional Counsel, Steven P. Kaiser, 77 West Jackson Boulevard, Chicago, Illinois 60604 whose telephone number is (312) 353–3804. Comments should reference the Gilberts/Kedzie Site and EPA Docket No. V–W–10–C–952 and should be addressed to Steven P. Kaiser, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven P. Kaiser, 77 West Jackson Boulevard, Chicago, Illinois 60604 whose telephone number is (312) 353–3804.

Dated: September 3, 2010.

Douglas Ballotti,

Acting Director, Superfund Division, Region 5, United States Environmental Protection Agency.

[FR Doc. 2010–23403 Filed 9–17–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 5, 2010.

A. Federal Reserve Bank of St. Louis, (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Richard E. Workman as sole trustee for the Richard E. Workman 2001 Trust, Windermere, Florida, to acquire shares of Midland States Bancorp, Inc., Effingham, Illinois and indirectly acquire voting shares of Midland States Bank, Effingham, Illinois.

Board of Governors of the Federal Reserve System, September 15, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–23376 Filed 9–17–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[Docket No. 9342]

The Dun & Bradstreet Corporation; Analysis of Agreement Containing Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

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

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to"Dun & Bradstreet, Docket No. 9342" to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . .," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9©), 16 CFR 4.9©).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://ftcpublic.commentworks.com/ftc/mdr*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

comment, you must file it on the web-based form at the weblink: (*https://ftcpublic.commentworks.com/ftc/mdr*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the "Dun & Bradstreet, Docket No. 9342" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act ("FTC Act") and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Jonathan W. Platt (212-607-2819), FTC Northeast Regional Office, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 3.25(f) of the Commission Rules of Practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for September 10, 2010), on the World Wide Web, at (*http://www.ftc.gov/os/actions.shtm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

I. Introduction

I. Overview

The Federal Trade Commission ("Commission") has accepted for public comment an Agreement Containing Consent Order ("Consent Agreement") with Respondent The Dun & Bradstreet Corporation ("D&B"), and has issued a final Decision and Order ("Order") that resolves an administrative Complaint issued by the Commission on May 7, 2010. The Complaint alleges that the $29 million acquisition by Market Data Retrieval ("MDR") (a division of D&B) of Quality Educational Data ("QED") (a division of Scholastic, Inc.) in February 2009 eliminated its closest rival and created a near monopoly in the United States K-12 data market, in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

The Commission issued the administrative Complaint because it had reason to believe that MDR and QED were the only significant U.S. suppliers of kindergarten through twelfth-grade educational marketing data ("K-12 data"), which is used by customers for their direct mail and email marketing efforts. The K-12 data that companies like MDR and QED sell include contact, demographic, and other information that allow their customers to market to teachers, administrators, schools, and individual school districts. MDR, QED, and Mailings Clearing House ("MCH") were the only companies prior to the acquisition that provided that data. Other sources of marketing data, such as teacher association membership lists, are not close substitutes because of their more limited coverage, reduced functionality, and less frequent updating. Customers indicated that they would not shift their purchases toward these alternatives in response to a small but significant nontransitory increase in price.

According to documentary evidence and customers, competition from QED had constrained MDR's pricing and spurred MDR to improve product quality, including the development of new product features. Customers viewed MDR and QED as offering the most comparable products and were able to obtain better terms by the threat of turning to the other company. By contrast, MCH lacked a K-12 database comparable to MDR or QED's, generally served a different customer base, was not viewed by many MDR and QED customers as capable of meeting their needs, and had a very small share of the K-12 data market. MDR's near-monopoly position in the K-12 data market after the transaction is protected in part by significant barriers to entry, including the time and cost to develop a database with market coverage and accuracy comparable to MDR or QED's pre-merger databases and the need to obtain a reputation for data quality. A small firm that has begun to offer K-12 data is unlikely to be able to replace the lost competition resulting from the acquisition of QED for at least several years.

One of MDR's primary defenses to the acquisition was that MDR's purportedly high margins created a disincentive to raise prices post-merger. The Bureau of Economics and the Bureau of Competition were not persuaded by this critical loss argument because, as set forth in Section 4.1.3 of the 2010 Merger Guidelines, it failed to account for the possibility that high margins might also imply highly inelastic demand and thus fewer lost sales from a price increase. Indeed, as described above, the weight of the evidence indicated that post-merger market conditions would provide an incentive to raise prices.

The Consent Agreement is designed to remedy the likely anticompetitive effects of the acquisition by restoring, to the extent possible, the lost competition between MDR and QED. Among other things, it requires that D&B divest an updated and augmented K-12 database of names, addresses, and other pertinent information to MCH, a competitor in the K-12 data market. The Order also provides for the divestiture to MCH of the QED name and associated intellectual property as well as the appointment by the Commission of a monitor to ensure that all of the terms

of the Consent Agreement are fully implemented by D&B.

II. Respondent D&B

D&B is a corporation organized, existing and doing business under the laws of the State of Delaware, with its principal place of business at 103 JFK Parkway, Short Hills, New Jersey 07078. D&B is the world's leading supplier of commercial information on businesses. In 2008, D&B's revenue exceeded $1.7 billion. MDR, a division of D&B, has its headquarters at 6 Armstrong Road, Suite 301, Shelton, Connecticut 06484. MDR also has offices in Chicago, Illinois, and San Francisco, California.

III. The Commission's Complaint

The Complaint alleges that, prior to MDR's acquisition of QED, MDR was the largest provider of K-12 data in the United States. K-12 data is sold or leased to customers, including book publishers and other suppliers of educational products and services, that use the information to market the various products and services that they offer to education institutions. The Complaint further alleges that MDR's closest competitor in the K-12 data market was QED. After acquiring QED, MDR attained a near monopoly. Two firms, one of which was MCH, accounted for the remaining competition.

The Complaint alleges that if allowed to stand, the acquisition would likely enable MDR unilaterally to exercise market power in various ways, including by increasing prices and reducing product quality and services.

IV. Terms of the Order

A. MCH is the Acquirer.

MCH is a privately held company with offices located at 601 E. Marshall Street, Sweet Springs, Missouri 65351. The Commission believes that MCH is an appropriate acquirer of the assets to be divested, and that with those assets, it will be in a position to restore the competition that was lost when MDR acquired QED. MCH currently has a small share of the K-12 data market, but is a company with over 80 years of experience in the broader data market industry.

B. The Assets to be Divested.

The key asset that MCH will acquire is an updated K-12 database. As a result, MCH's database not only will rival MDR's, but will exceed the size and scope of the QED database when MDR acquired it.

A second important asset that MCH will acquire is the QED name and its associated intellectual property. The combination of the QED name and the updated database has the potential to enable MCH to compete for and offer customers K-12 data comparable to what QED had been offering when it was acquired by MDR.

C. Other Requirements Imposed upon MDR.

The Order also includes several provisions that will facilitate the ability of MCH to compete on a more even footing with MDR. The Order grants certain categories of MDR customers the option to terminate their contracts with MDR, without penalty, for a period of 21 months, upon 30 days notice to MDR that the customer intends to terminate its contract(s) for the purpose of considering alternative sources of K-12 data. The Order does not require that these customers actually make a purchase from an alternative source, nor does it require that the alternative source be limited to MCH. MDR will be required to notify customers with potentially terminable contracts, by certified mail, of their termination rights.

To facilitate the ability of customers to switch away from MDR to MCH, the Order also requires that MDR grant such customers access to a data translation table containing both MDR's and QED's unique identification numbers assigned to educational institutions contained in their K-12 databases [PIN/PID numbers]. The table assists customers in converting their internal marketing data systems from MDR's data reference numbering system [PIN] to QED's data reference numbering system [PID].

Former QED employees and certain MDR employees also are released from any restrictions on their ability to join MCH.

Another provision of the Order requires that for a period of 21 months, MDR offer all third parties placing orders for K-12 data with MDR a "net names" discount of up to 30% for names obtained from MCH (*i.e.*, a discount for overlap names).

The Order also requires that MDR, for up to one year, provide MCH with reasonably necessary technical assistance within five days of such a request and further requires MDR to facilitate the ability of MCH to enter into contracts with any vendor that had been doing business with QED.

D. A Monitor Will Help Ensure Compliance.

The Order provides for the appointment by the Commission of an independent monitor, with fiduciary responsibilities to the Commission, to help ensure that D&B carries out all of its responsibilities and obligations under the Order. The Commission has appointed Mr. Richard Casabonne, a person with significant experience in the K-12 data market, as monitor. Mr. Casabonne is chief executive officer of Casabonne Associates, Inc., a consulting firm that focuses on educational activities. In the event D&B fails to comply with its divestiture obligations, the Order also provides that the Commission may also appoint a divestiture trustee to fulfill those requirements.

V. Opportunity for Public Comment

The Consent Agreement has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the comments received and determine whether to take further action.[2] The purpose of this analysis is to facilitate comment on the Order. This analysis does not constitute an official interpretation of the Consent Agreement or Order, nor does it modify their terms in any way. The Consent Agreement does not constitute an admission by D&B that it violated the law or that the facts as alleged in the Complaint, other than jurisdictional facts, are true.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. 2010–23436 Filed 9–17–10: 8:45 am]

BILLING CODE: 6750–01–S

GOVERNMENT ACCOUNTABILITY OFFICE

Financial Management and Assurance; Government Auditing Standards

AGENCY: Government Accountability Office.

ACTION: Notice of document availability.

SUMMARY: On August 23, 2010, the U.S. Government Accountability Office (GAO) issued an exposure draft of

[2] The Commission normally will issue an order for public comment but not issue a final order until it considers all comments received during the comment period. Here, however, consistent with the provisions of Commission Rule 2.34(c)(2), 16 C.F.R. § 2.34(c)(2), the Commission has issued the final Order in advance of the comment period. The Commission took this step because it believed it was important to enable MCH expeditiously to acquire the divested assets and begin to compete during the upcoming back-to-school selling season. After the public comment period, the Commission will have the option to initiate a proceeding to reopen and modify the Decision and Order or commence a new administrative proceeding – if the public comments lead it to believe that such action is appropriate.

proposed revisions to Government Auditing Standards (GAGAS) (also known as the Yellow Book). To help ensure that the standards continue to meet the needs of the audit community and the public it serves, the Acting Comptroller General of the United States appointed the Advisory Council on Government Auditing Standards to review the standards and recommend necessary changes. The Advisory Council includes experts in financial and performance auditing drawn from all levels of government, private enterprise, public accounting, and academia. This exposure draft of the standards includes the Advisory Council's suggestions for proposed changes. We are currently requesting public comments on the proposed revisions in the exposure draft.

The proposed 2010 revision to GAGAS will be the sixth revision since the standards were first issued in 1972. The 2010 Yellow Book exposure draft seeks to emphasize the critical role of high quality government audits in achieving credibility and accountability in government. The proposed changes contained in the 2010 Exposure Draft update GAGAS to reflect major developments in the accountability and audit profession and emphasize specific considerations applicable to the government environment. In addition, this proposed revision modernizes GAGAS, with updates to reflect major developments in the accountability and audit environment, including a conceptual framework approach for independence. Clarifications have also been made throughout the standards.

DATES: Comments will be accepted through November 22, 2010.

ADDRESSES: A copy of the exposure draft (GAO–1O–853G) can be obtained on the GAO Internet page *http://www.gao.gov/govaud/vbkOl.htm.*

FOR FURTHER INFORMATION CONTACT: Michael Hrapsky, Specialist, Auditing Standards at (202) 512–9535.

SUPPLEMENTARY INFORMATION: To ensure that your comments are considered by GAO and the Advisory Council in their deliberations, please submit them by November 22, 2010. Please send your comments electronically to *yeJlowbookgao.gov.*

Public Law 67–13, 42 Stat. 20.

James R. Dalkin,

Director, Financial Management and Assurance.

[FR Doc. 2010–23374 Filed 9–17–10; 8:45 am]

BILLING CODE 1610–02–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–00XX; Docket No. 2010–0002; Sequence 22]

Information Collection; Supplier Greenhouse Gas Emissions Inventory Pilot

AGENCY: Federal Acquisition Service, General Services Administration (GSA).

ACTION: Notice of request for public comments regarding a new emergency OMB information clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), GSA will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement regarding the agency's Supplier Greenhouse Gas (GHG) Emissions Inventory pilot.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Supplier GHG Emissions Inventory pilot, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before November 19, 2010.

ADDRESSES: Submit comments identified by Information Collection 3090–00XX; Supplier Greenhouse Gas Emissions Inventory Pilot, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal e-Rulemaking portal by inputting "Information Collection 3090–00XX; Supplier GHG Emissions Inventory Pilot" under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 3090–00XX; Supplier GHG Emissions Inventory Pilot". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090–00XX; Supplier GHG Emissions Inventory Pilot" on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, Washington, DC 20405. ATTN: Hada Flowers/IC 3090–00XX.

Instructions: Please submit comments only and cite Information Collection 3090–00XX; Supplier GHG Emissions Inventory Pilot, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mrs. Maleka B. Greene, Procurement Analyst, Federal Acquisition Service, at telephone (703) 605–9452 or via e-mail to *Maleka.Greene@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA is launching a pilot to ask questions and conduct focus groups with the top 200 Federal suppliers that voluntarily participated in the Carbon Disclosure Project's 2010 annual questions of GHG emissions measurement practices. The pilot questions and focus groups will assist GSA in identifying the benefits and challenges associated with inventorying and disclosing GHG emissions data via a registry. They will also assist the agency in identifying the type of outreach, training, and other direct assistance and incentives that will encourage Federal contractors to inventory and disclose their GHG emissions data in the future.

B. Annual Reporting Burden

Respondents: 200.

Responses Per Respondent: 2.

Hours Per Response: 4 Hours.

Total Burden Hours: 1,600 Hours.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 3090–00XX; Supplier Greenhouse Gas Emissions Inventory Pilot, in all correspondence.

Dated: September 14, 2010.

Casey Coleman,

Chief Information Officer.

[FR Doc. 2010–23391 Filed 9–17–10; 8:45 am]

BILLING CODE 6820–89–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; HIT Policy Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a workgroup of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: Health IT Policy Committee's Governance Workgroup.

General Function of the Health IT Policy Committee: To provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed. Purpose of the Governance Workgroup: To draft a set of recommendations on the scope and process of governance for the nationwide health information network, including measures to ensure accountability and oversight. The charge to the Governance Workgroup is to draft a set of recommendations on the scope and process of governance for the nationwide health information network, including measures to ensure accountability and oversight.

DATE AND TIME: The meeting will be held on September 28, 2010, from 9 a.m. to 5 p.m. Eastern Time.

LOCATION: Washington Marriott Wardman Park Hotel, 2660 Woodley Road, NW., Washington, DC 20008. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov.*

CONTACT PERSON: Judy Sparrow, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, 202–205–4528, Fax: 202–690–6079, e-mail: *judy.sparrow@hhs.gov*. Please call the contact person for up-to-date information on this meeting. A notice in the Federal Register about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The Workgroup will hear testimony from invited panelists on information on governance of the nationwide health information network. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posed on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, in writing, on issues identified by the Workgroup. Written submissions may be made to the contact person on or before September 24, 2010. Written comments are limited to 10 pages, and should be either mailed to the address above or e-mailed to *judy.sparrow@hhs.gov,* with the Subject Line: Responses for Governance Workgroup. The questions the Workgroup is interested in are as follows:

Panel 1: Governance Models in Other Domains

1. Please share your experiences in establishing governance requirements to ensure trust in the privacy and security of the information exchange, *e.g.,* to secure the data, to assure appropriate use of the data exchanged, to address responsibilities for obtaining consent, etcetera. Were governance requirements established to ensure a certain level of interoperability? What types of governance mechanisms and processes were established? What conditions, requirements, and processes facilitated the resolution of disputes between parties with differing interests?

2. Please describe whether and how you have included multiple stakeholders in governance? To what extent have consumers been engaged?

3. Please describe the relationship between the private sector parties and the government—was authority delegated from the government, did the government oversee either the governance process or the results of the process, was the government simply participating as a member of the group etc.? What changes, if any, would you recommend? Because the relationship between the government and the private sector may differ in governance mechanisms in technical and policy domains, please share your views as to how to determine and establish the most appropriate relationship.

4. In considering the question as to how to determine the most appropriate governance mechanism, please address: the costs and benefits involved in delegation of authority from the government; the need for ensuring some degree of openness in the process of developing requirements when authority is delegated; and the most appropriate means available for determining compliance and enforcing any requirements that have been established through the governance mechanism.

Panels 2 and 3: Governance Experience of Implementers of Health Information Exchange

1. Please Provide an Introduction to Your Organization

- Describe the stakeholders that are governed by the governance process.
- Describe the group that executes the governance process.
- How is the authority of the governing body established (contract, law, other)?

2. Trust

- Please share your experiences in governance mechanisms for trust—what types of governance mechanisms and processes do you have in place (or are needed) to promote trust in the exchange?
- How have you addressed privacy and security obligations (*e.g.,* to safeguard information, to assure appropriate use of the data exchanged, to address responsibilities for obtaining consent, etc.) through governance?
- Please describe how you have included multiple stakeholders in governance (*e.g.,* how they were able to engage those stakeholders in effective participation? what challenges/enablers to engage in effective participation? To what extent have consumers been engaged?)
- Please identify issues, if any, that still need to be addressed. What types of governance mechanisms are needed to promote trust to facilitate exchange?
- What suggestions do you have for ONC for establishing governance in this area?

2. Interoperability

- Please share experiences in governance mechanisms for interoperability—what that types of governance mechanisms and processes do you have in place (or are needed) to promote interoperability in the exchange?
- How are expectations for interoperability established and assured?
- What suggestions do you have for ONC for establishing governance in this area?

3. Accountability, Enforcement and Oversight

• Please share your experiences in establishing accountability, enforcement and oversight with regard to both trust and interoperability.

• What suggestions do you have for ONC for establishing governance in this area? Examples of specific issues include:

• How should organizations be vetted for participation?

• How should the exchange of information be monitored for appropriateness in a large volume/distributed environment?

• How should information be provided to a consumer regarding who accessed his/her information?

• How should consumer complaints be investigated?

• How should "bad actors" be disciplined?

Panel 4: Existing Governance Authorities

1. Please describe the scope and jurisdiction of your authority/authorities, with particular reference to areas that are/may be related to the exchange of health information over a network.

2. Please describe how your authorities are implemented.

3. Please offer suggestions to the Office of the National Coordinator for developing, implementing and coordinating governance.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Judy Sparrow at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: September 13, 2010.

Judith Sparrow,

Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2010–23311 Filed 9–17–10; 8:45 am]

BILLING CODE 4150–45–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: HRSA AIDS Drug Assistance Program Quarterly Report—(OMB No. 0915–0294)—Extension

HRSA's AIDS Drug Assistance Program (ADAP) is funded through Part B of Title XXVI of the Public Health Service Act, the Ryan White HIV/AIDS Program, which provides grants to States and Territories. The ADAP provides medications for the treatment of HIV disease. Program funds may also be used to purchase health insurance for eligible clients or for services that enhance access, adherence, and monitoring of drug treatments.

Each of the 50 States, the District of Columbia, Puerto Rico, and several Territories receive ADAP grants. As part of the funding requirements, ADAP grantees submit quarterly reports that include information on patients served, pharmaceuticals prescribed, pricing, and other sources of support to provide AIDS medication treatment, eligibility requirements, cost data, and coordination with Medicaid. Each quarterly report requests updates from programs on number of patients served, type of pharmaceuticals prescribed, and prices paid to provide medication. The first quarterly report of each ADAP fiscal year (due in July of each year) also requests information that only changes annually (*e.g.,* State funding, drug formulary, eligibility criteria for enrollment, and cost-saving strategies including coordinating with Medicaid).

The quarterly report represents the best method for HRSA to determine how ADAP grants are being expended and to provide answers to requests from Congress and other organizations.

The estimated annual burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
1st Quarterly Report	57	1	57	3	171
2nd, 3rd, & 4th Quarterly Reports	57	3	171	1.5	256.5
Total	57		228		427.5

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: September 14, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–23417 Filed 9–17–10; 8:45 am]

BILLING CODE 4165–15–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 the 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 on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Ryan White HIV/AIDS Program: Client-Level Data Reporting System: (OMB No. 0915–0323)—Extension

The Ryan White HIV/AIDS Program's client-level data reporting system, the Ryan White HIV/AIDS Program Services Report or Ryan White Services Report (RSR), created in 2008 by HRSA, is designed to collect information from grantees, as well as their subcontracted service providers, funded under Parts A, B, C, and D, and the Part F Minority AIDS Initiative of the Title XXVI of the Public Health Service Act (Ryan White HIV/AIDS Program). The Ryan White HIV/AIDS Program provides the programs with the flexibility to respond effectively to the changing HIV epidemic. Its emphasis is on providing life-saving and life-extending services for people living with HIV/AIDS across the country, and on targeting resources to areas that have the greatest needs.

All parts of the Ryan White HIV/AIDS Program specify HRSA's responsibilities in the administration of grant funds, the allocation of funds, the evaluation of programs for the population served, and the improvement of the quality of care. Accurate records of the providers receiving Ryan White HIV/AIDS Program funding, the services provided, and the clients served continue to be critical to the implementation of the legislation and thus are necessary for HRSA to fulfill its responsibilities.

The RSR provides data on the characteristics of Ryan White HIV/AIDS Program-funded grantees, their contracted service providers, and the clients being served with program funds. The reporting system consists of two online data forms: the Grantee Report, completed by all grantees, and the Service Provider Report, completed by all subcontracted service providers. Each provider that delivers direct client services also submits a data file containing one de-identified record for each client that received a Ryan White-funded service during the year. The client record contains information on demographic status, HIV medical and support services received, and HIV clinical information.

The RSR provides the grantees with the requisite information to assess quality of care and unmet need, and the ability to more accurately and efficiently report these figures to HRSA and other funding agencies than is possible with an aggregate data reporting system. In addition, HRSA will be able to perform detailed analyses and to characterize accurately the number of clients served by the Ryan White HIV/AIDS Program and the outcomes of the program services on a national scale. Because grantees associate a unique client identifier that is encrypted before transfer to each client record, HRSA is able to link data for clients across Ryan White HIV/AIDS Program-funded grantees and their subcontracted service providers.

With an increased emphasis on grantee accountability and linking performance to budget, the RSR will be used to ensure compliance with the requirements of the legislation; to evaluate the progress of programs; to monitor grantee and provider performance; to measure the Government Performance and Result Act (GPRA) and the Performance Assessment Rating Tool (PART) goals; and to meet reporting responsibilities to the Department, Congress, and OMB. In addition to meeting the goal of accountability to Congress, clients, advocacy groups, and the general public, information collected through the RSR is critical for HRSA, State and local grantees, and individual providers. Through the RSR, these groups will assess the status of existing HIV-related service delivery systems, investigate trends in service utilization, and identify areas of greatest need.

The response burden for grantees is estimated as:

Component	Source of funding	Number of respondents	Responses per grantee	Hours per response	Total hour burden
Grantee Report	Part A	56	1	1.02	57
	Part B	59	1	1.50	89
	Part C	354	1	0.32	113
	Part D	98	1	0.33	32
	Part A MAI	56	1	1.02	57
	Part B MAI	30	1	2.00	60
	Subtotal	653			408

The response burden for service providers is estimated as:

Component	Number of respondents	Responses per provider	Total responses	Hours per response	Total burden hours
Provider Report	2,080*	1	2,080*	2.30	4,784

Component	Electronic data system	Number of respondents	Responses per provider	Total responses	Hours per response	Total burden hours
Client Report	No	56	1	56	106.25	5,950
	Yes	1,822	1	1,822	3.75	6,832.5
	Subtotal	**1,878		**1,878		12,782.5

* All providers, including providers of administrative support services and direct client services.
** Providers of direct client services only.

Total Burden Hours: 17,974.5

E-mail comments to *paperwork@hrsa.gov* or mail comments to the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, 20857. Written comments should be received within 60-days of this notice. Information can also be accessed at *http://datasupport.hab.hrsa.gov/*.

Dated: September 14, 2010.

Sahira Rafiullah,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–23416 Filed 9–17–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Request for State Data Needed to Determine Amount of a Tribal Family Assistance Grant.

OMB No.: 0970–0173.

Description: 42 U.S.C. 612 (Section 412 of the Social Security Act) gives Federally recognized Indian Tribes the opportunity to apply to operate a Tribal Temporary Assistance for Needy Families (TANF) program. The Act specifies that the Secretary shall use State-submitted data to determine the amount of the grant to the Tribe. This form (letter) is used to request those data from the States. ACF is proposing to extend this information collection without change.

Respondents: States that have Indian Tribes applying to operate a TANF program.

ANNUAL BURDEN ESTIMATES

Information collection	Number of respondents	Number of responses per respondent	Average burden per response	Total burden hours
Request for State Data Needed to Determine the Amount of Tribal Family Assistance Grant	4	1	42	168

Total Estimated Burden: 168 hours.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project. *Fax:* 202–395–7285. E-mail: *OIRA_SUBMISSION@OMB.EOP.GOV. Attn:* Desk Officer for the Administration for Children and Families.

Dated: September 13, 2010.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2010–23319 Filed 9–17–10; 8:45 am]

BILLING CODE M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Risk Communication 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: Risk Communication 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 November 8, 2010, from 8 a.m. to 5 p.m. and November 9, 2010, from 8 a.m. to 2 p.m.

Location: FDA White Oak Campus, Building 31 Conference Center, Great Room, 10903 New Hampshire Ave., Silver Spring, MD 20993. Please note visitors can park in the southwest garage near Building 31 or the northwest parking lot near Building 22 (for a campus map, see *http://www.fda.gov/downloads/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/UCM194893.pdf*). Visitors to the White Oak Campus must have a valid driver's license or other picture ID, and must enter through Building 1.

Contact Person: Lee L. Zwanziger, Office of Policy, Planning and Preparedness, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 3278, Silver Spring, MD, 20993, 301–796–9151, FAX: 301–847–8611, e-mail: *RCAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 8732112560. 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 November 8 and 9, 2010, the Committee will hear and discuss developments in FDA's ongoing communications programs, such as FDA's Strategic Plan for Risk Communication, FDA's Transparency Initiative, and the challenges of effectively communicating with patients and caregivers about appropriate use of medical devices when a patient is prescribed a medical device for home use.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 29, 2010. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on November 8, 2010, and 10:30 to 11:30 a.m. on November 9, 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 October 21, 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 October 22, 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 Lee Zwanziger at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 14, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–23368 Filed 9–17–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: October 17–19, 2010.

Closed: October 17, 2010, 7 p.m. to 10 p.m

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: October 18, 2010, 8:30 a.m. to 11:50 a.m.

Agenda: An overview of the organization and research in the Laboratory of Reproductive and Developmental Toxicology.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Conference Rooms 101 A, B, and C, Research Triangle Park, NC 27709.

Closed: October 18, 2010, 11:50 a.m. to 12:35 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Conference Rooms 101 A, B, and C, Research Triangle Park, NC 27709.

Open: October 18, 2010, 1:30 p.m. to 2:45 p.m.

Agenda: An overview of the organization and research in the Laboratory of Reproductive and Developmental Toxicology.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Conference Rooms 101 A, B, and C, Research Triangle Park, NC 27709.

Closed: October 18, 2010, 2:45 p.m. to 3 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Conference Rooms 101 A, B, and C, Research Triangle Park, NC 27709.

Open: October 18, 2010, 3:15 p.m. to 4:30 p.m.

Agenda: Scientific Presentations.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Conference Rooms 101 A, B, and C, Research Triangle Park, NC 27709.

Closed: October 18, 2010, 4:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Conference Rooms 101 A, B, and C, Research Triangle Park, NC 27709.

Closed: October 18, 2010, 7:30 p.m. to Adjournment.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Closed: October 19, 2010, 8:30 a.m. to 10 a.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T. W. Alexander Drive, Conference Rooms 101 A, B, and C, Research Triangle Park, NC 27709.

Contact Person: William T Schrader, PhD, Deputy Scientific Director, Office of the Scientific Director, National Institute of Environmental Health Sciences, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709, (919) 541–3433, *schrader@niehs.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 9, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–23382 Filed 9–17–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Time and Date: 11 a.m.–2 p.m., October 7, 2010.

Place: Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1(866) 659–0537 and the pass code is 9933701.

Status: Open to the public, but without a public comment period.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines, which have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals and will expire on August 3, 2011.

Purpose: This Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: The agenda for the conference call includes: NIOSH 10-Year Review of its Division of Compensation Analysis and Support (DCAS) Program; Review of Public Comments to the Advisory Board during May 2010 Meeting; Status of DOL Policy Issuance on Use of Ruttenber Data; Coordinating DCAS Support of Board Activities; Advisory Board Subcommittee and Work Group Updates; and, DCAS SEC Petition Evaluations Update for the November 2010 Advisory Board Meeting.

The agenda is subject to change as priorities dictate.

Because there is not a public comment period, written comments may be submitted. Any written comments received will be included in the official record of the meeting and should be submitted to the contact person below in advance of the meeting.

Contact Person for More Information: Theodore M. Katz, M.P.A., Executive Secretary, NIOSH, CDC, 1600 Clifton Road NE., Mailstop: E–20, Atlanta, GA 30333, Telephone (513) 533–6800, Toll Free 1(800) CDC–INFO, E-mail *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: September 14, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–23378 Filed 9–17–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary delisting

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS

ACTION: Notice of Delisting.

SUMMARY: AHRQ has accepted a notification of voluntary relinquishment from the Florida Patient Safety Corporation of its status as a Patient Safety Organization (PSO). The Patient Safety and Quality Improvement Act of 2005 (Patient Safety Act), Public Law 109–41, 42 U.S.C. 299b–21—b–26, provides for the formation of PSOs, which collect, aggregate, and analyze confidential information regarding the quality and safety of health care

delivery. The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule), 42 CFR Part 3, authorizes AHRQ, on behalf of the Secretary of HHS, to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be "delisted" by the Secretary if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, including when a PSO chooses to voluntarily relinquish its status as a PSO for any reason.

DATES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. The delisting was effective at 12 Midnight ET (2400) on April 1, 2010.

ADDRESSES: Both directories can be accessed electronically at the following HHS Web site: *http://www.pso.AHRQ.gov/index.html.*

FOR FURTHER INFORMATION CONTACT: Diane Cousins, RPh., Center for Quality Improvement and Patient Safety, AHRQ, 540 Gaither Road, Rockville, MD 20850; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; E-mail: *pso@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity is to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule (PDF file, 450 KB. PDF Help) relating to the listing and operation of PSOs. Section 3108(d) of the Patient Safety Rule requires AHRQ to provide public notice when it removes a PSO from listing. AHRQ has accepted a notification from the Florida Patient Safety Corporation, PSO number P0001, to voluntarily relinquish its status as a PSO. Accordingly, the Florida Patient Safety Corporation was delisted effective at 12 Midnight ET (2400) on April 1, 2010.

More information on PSOs can be obtained through AHRQ's PSO Web site at *http://www.pso.AHRQ.gov/index.html.*

Dated: September 3, 2010.

Carolyn M. Clancy,

Director.

[FR Doc. 2010–23078 Filed 9–17–10; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 75 FR 51088–51091 dated August 18, 2010).

This notice reflects organizational changes in the Health Resources and Services Administration. This notice updates the functional statement for the Office of Special Health Affairs (RA1) and the functional statement for the Office of Planning, Analysis and Evaluation (RA5). Specifically, this notice moves the Office of Health Information Technology and Quality (RA52) from the Office of Planning, Analysis and Evaluation (RA5) to the Office of Special Health Affairs (RA1); abolishes the Office of Data Management and Research (RA54) and establishes the Office of Research and Evaluation (RA56); and eliminates the Office of Planning and Evaluation (RA51) and moves its functions to the Office of Research and Evaluation (RA56).

Chapter RA1—Office of Special Health Affairs

Section RA1–10, Organization

Delete in its entirety and replace with the following:

The Office is headed by the Director, Office of Special Health Affairs (RA1), who reports directly to the Administrator, Health Resources and Services Administration. Office of Special Health Affairs includes the following components:

(1) Office of the Director (RA1);

(2) Office of Health Equity (RA11);

(3) Office of Global Health Affairs (RA12);

(4) Office of Strategic Priorities (RA13); and

(5) Office of Health Information Technology and Quality (RA14).

Section RA1–20, Functions

(1) Delete the functional statement for the Office of the Director (RA1) and replace in its entirety; and (2) establish the Office of Health Information Technology and Quality (RA14).

Office of the Director (RA1)

Provides overall leadership, direction, coordination, and planning in the support of the Agency's special health programs. Specifically: (1) Plans and directs activities to advance health equity and improve minority health and eliminate health disparities; (2) develops strategies to maximize HRSA's participation in efforts to improve health care for vulnerable populations worldwide; (3) provides leadership and direction to improve the delivery and quality of oral health care, mental health and other priority health concerns; (4) provides leadership in the development of policies on health information technology and quality; and (5) provides support for the Department's Medical Claims Review Panel.

Office of Health Information Technology and Quality (RA14)

Serves as the principal advisor and coordinator to the Agency for health information technology and quality. Specifically: (1) Provides support, policy direction, and leadership for HRSA's health quality efforts; (2) serves as the focal point for developing policy to promote the coordination and advancement of health information technology, including telehealth, to HRSA's programs, including the use of electronic health record systems; (3) develops an Agency-wide health information technology and telehealth strategy for HRSA; (4) assists HRSA components in program-level health information technology and health quality efforts; (5) ensures successful dissemination of appropriate information technology advances, such as electronic health records systems, to HRSA programs; (6) works collaboratively with States, foundations, national organizations, private sector providers, as well as departmental agencies and other Federal departments in order to promote the adoption of health information technology and health quality policy; (7) ensures the health information technology policy and activities of HRSA are coordinated with those of other HHS components; (8) assesses the impact of health information technology and quality initiatives in the community, especially for the uninsured, underserved, and special needs populations; (9) translates technological advances in health information technology to HRSA's programs; (10) provides guidance in using the results of the medical claims review process to HRSA programs to improve quality; and (11) provides support for the Department's Medical Claims Review Panel.

Chapter RA5—Office of Planning, Analysis and Evaluation

Section RA5–10, Organization

Delete in its entirety and replace with the following:

The Office is headed by the Director, Office of Planning, Analysis and Evaluation (RA5), who reports directly to the Administrator, Health Resources and Services Administration. Office of Planning, Analysis and Evaluation includes the following components:

(1) Office of the Director (RA5);

(2) Office of Policy Analysis (RA53); and

(3) Office of Research and Evaluation (RA56).

Section RA5–20, Functions

(1) Delete the functional statement for the Office of the Director (RA5) and replace in its entirety; and (2) delete the functional statement for the Office of Data Management and Research (RA54) and replace with the newly established Office of Research and Evaluation (RA56).

Office of the Director (RA5)

(1) Provides Agency-wide leadership for policy development, data collection and management, major analytic activities, research, and evaluation; (2) develops HRSA-wide policies; (3) participates with HRSA organizations in developing strategic plans for their component; (4) coordinates the Agency's long term strategic planning process; (5) conducts and/or guides analyses, research, and program evaluation; (6) analyzes budgetary data with regard to planning guidelines; (7) coordinates the Agency's intergovernmental activities; (8) maintains liaison between the Administrator, other OPDIVs, Office of the Secretary staff components, and other Departments on critical matters involving analysis of program policy undertaken in the Agency; (9) prepares policy analysis papers and planning documents as required; and (10) collaborates with Office of Operations in the development of budgets, performance plans, and other administration reporting requirements.

Office of Research and Evaluation (RA56)

(1) Serves as the principal source of leadership and advice on program information and research; (2) analyzes and coordinates the Agency's need for information and data for use in the management and direction of Agency programs; (3) manages an Agency-wide information and data group as well as an Agency-wide research group; (4) maintains an inventory of HRSA databases; (5) provides technical assistance to HRSA staff in database development, maintenance, analysis, and distribution; (6) promotes the availability of HRSA data through web sites and other on-line applications; (7) conducts, oversees, and fosters high quality research across HRSA programmatic interests; (8) develops an annual research agenda for the Agency; (9) conducts, leads, and/or participates with HRSA staff in the development of research and demonstration projects; (10) coordinates HRSA participation in institutional review boards and the protection of human subjects; (11) conducts, guides, and/or participates in major program evaluation efforts and prepares reports on HRSA program efficiencies; (12) develops annual performance plans; (13) analyzes budgetary data with regard to planning guidelines; (14) develops and produces performance reports required under the Government Performance and Accountability Report and OMB; and (15) manages HRSA activity related to the Paperwork Reduction Act, and other OMB policies.

Section RA–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is upon date of signature.

Dated: September 14, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–23429 Filed 9–17–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

Agency Information Collection Activities: Passenger and Crew Manifest

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

ACTION: 30–Day notice and request for comments; Revision of an existing information collection: 1651–0088.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Passenger and Crew Manifest (Advance Passenger Information System–APIS). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (75 FR 42115) on July 20, 2010, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before October 20, 2010.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION:

U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one 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/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies'/components' 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 collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Passenger and Crew Manifest (Advance Passenger Information System–APIS).

OMB Number: 1651–0088.

Form Number: None.

Abstract: The Advance Passenger Information System (APIS) is an automated method in which U.S. Customs and Border Protection (CBP) receives information on passengers and crew onboard inbound and outbound international flights before their arrival in or departure from the United States. APIS data includes biographical information for international air passengers arriving in or departing from the United States, allowing the data to be checked against CBP databases.

The information is submitted for both commercial and private aircraft flights. Specific data elements required for each passenger and crew member include: Full name; date of birth; gender; citizenship; document type; passport number, country of issuance and expiration date; and alien registration number where applicable.

APIS is authorized under the Aviation and Transportation Security Act, Public Law 107–71. Under this statute, the transmission of passenger and crew manifest information is required even for flights where the passengers and crew have already been pre-screened or pre-cleared at the foreign location for admission to the United States. APIS is required under 19 CFR 122.49a, 122.49b, 122.49c, 122.75a, 122.75b, and 122.22.

Respondents submit their electronic manifest either through a direct interface with CBP, or using eAPIS which is a web-based system that can be accessed at *https://eapis.cbp.dhs.gov/.*

Current Actions: This submission is being made to request an extension, and to revise the burden hours as a result of revised estimates by CBP. There is no change to the information that is being collected.

Type of Review: Extension with a change to the burden hours.

Affected Public: Businesses, Individuals.

Commercial Airlines:

Estimated Number of Respondents: 1,130.

Estimated Number of Total Annual Responses: 1,850,878.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 307,245.

Estimated Costs: $68,361,719.

Commercial Airline Passengers (3rd party):

Estimated Number of Respondents: 184,050,663.

Estimated Number of Total Annual Responses: 184,050,663.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 3,128,861.

Private Aircraft Pilots:

Estimated Number of Respondents: 460,000.

Estimated Number of Total Annual Responses: 460,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 115,000.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: September 14, 2010.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2010–23348 Filed 9–17–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Cost Submission

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

ACTION: 60–Day Notice and request for comments; Extension of an existing collection of information: 1651–0028.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning: Cost Submission. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 19, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates 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 including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Cost Submission.

OMB Number: 1651–0028.

Form Number: 247.

Abstract: The information collected on Form 247, Cost Submission, is used by CBP to assist in correctly calculating the duty on imported merchandise. This form provides details regarding actual costs and helps CBP determine which costs are dutiable and which are not. This collection of information is provided for by subheadings 9801.00.10, 9802.00.40, 9802.00.50, 9802.00.60 and 9802.00.80 of the Harmonized Tariff Schedule of the United States (HTSUS) and by 19 CFR 10.11–10.24, 19 CFR 141.88 and 19 CFR 152.106. Form 247 can be found at *http://www.cbp.gov/xp/cgov/toolbox/forms/.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated time per Response: 50 hours.

Estimated Total Annual Burden Hours: 50,000.

Dated: September 14, 2010.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2010–23349 Filed 9–17–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket No. BOEM–2010–0040]

BOEMRE Information Collection Activity: 1010–0172, Open and Nondiscriminatory Access to Oil and Gas Pipelines, Extension of a Collection; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of an extension of an information collection (1010–0172).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), BOEMRE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in 30 CFR Part 291, Open and Nondiscriminatory Access to Oil and Gas Pipelines under the OCS Lands Act.

DATES: Submit written comments by November 19, 2010.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Policy and Management Improvement at (703) 787–1025. You may also contact Arlene Bajusz to obtain a copy, at no cost, of the information collection.

ADDRESSES: You may submit comments by either of the following methods listed below.

- *Electronically:* go to *http://www.regulations.gov.* In the entry titled Enter Keyword or ID, enter docket ID "BOEM–2010–0040," then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection. The BOEMRE will post all comments.
- *E-mail: arlene.bajusz@boemre.gov.* Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; Attention: Arlene Bajusz; 381 Elden Street, MS–4020; Herndon, Virginia 20170–4817. Please reference ICR 1010–0172 in your comment and include your name and return address.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 291, Open and Nondiscriminatory Access to Oil and Gas Pipelines under the OCS Lands Act.

OMB Control Number: 1010–0172.

Abstract: The Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331 *et seq.*), as amended, requires the Secretary of the Interior to preserve, protect, and develop OCS oil, gas, and sulphur resources; make such resources available to meet the Nation's energy needs; balance orderly energy resources development with protection of the human, marine, and coastal environments; ensure the public a fair and equitable return on the resources offshore; and preserve and maintain free enterprise competition.

Section 1334(f)(1) states "Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the Outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles: (A) The pipeline must provide open and nondiscriminatory access to both owner and non-owner shippers * * *."

These responsibilities are among those delegated to the BOEMRE, which replaced the Minerals Management Service (MMS) on June 18, 2010. In order to provide shippers with a methodology to file complaints alleging denial of access or that access is discriminatory access, the MMS promulgated regulations at 30 CFR Part 291. The BOEMRE will use the information submitted during the complaint process to determine whether the shipper has been denied such access or to initiate a more detailed investigation into the specific circumstances of the complainant's allegation. The complaint information will be provided to the alleged offending party. The BOEMRE may request additional information upon completion of the initial investigation.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR Part 2). No items of a sensitive nature are collected. Responses are required to obtain a benefit.

Frequency: The frequency is on occasion.

Description of Respondents: Shippers who do business on the OCS and companies that pay royalties on the OCS.

Estimated Annual Reporting and Recordkeeping Hour Burden: The currently approved hour burden for this collection is 254 hours. Refer to the table below for a break down of the complete burden. This includes the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information.

Citation 30 CFR 291	Reporting amd recordkeeping requirement	Hour burden	Average number annual responses
105, 106, 108, 109, 111.	Submit complaint (with fee) to BOEMRE and affected parties. Request confidential treatment and respond to BOEMRE decision.	50 ..... $7,500 processing fee.	5.
106(b), 109	Request waiver or reduction of fee	1	4.
104(b), 107, 111 ...	Submit response to a complaint. Request confidential treatment and respond to BOEMRE decision.	Information required after an investigation is opened against a specific entity is exempt under the PRA (5 CFR 1320.4).	
110	Submit required information for BOEMRE to make a decision.		
114, 115(a)	Submit appeal on BOEMRE final decision.		

Estimated Annual Reporting and Recordkeeping Non-Hour Cost Burden: We have identified a "non-hour" cost burden of $37,500. The BOEMRE requires that shippers pay a nonrefundable fee of $7,500 for each complaint submitted to recover the Federal Government's processing costs.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *". Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the non-hour cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: 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.

BOEMRE Information Collection Clearance Office: Arlene Bajusz (703) 787–1025.

Dated: September 13, 2010.

George F. Triebsch,

Associate Director, Policy and Management Improvement.

[FR Doc. 2010–23424 Filed 9–17–10; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS03000 L51010000.ER0000 LVRWF09 F8770 241A; 10–08807; MO# 4500014131; TAS: 14X5017]

Notice of Availability of the Final Environmental Impact Statement for the NextLight Renewable Power, LLC, Silver State Solar Project, Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Silver State Solar Project, Clark County, Nevada, and by this notice is announcing its availability.

DATES: The BLM will not issue a final decision on the Silver State Solar Project for a minimum of 30 days after the date that the Environmental Protection Agency publishes its notice of availability in the **Federal Register**.

ADDRESSES: Copies of the Silver State Solar Project Final EIS will be mailed to individuals, agencies, organizations, or companies who previously requested copies or who responded to the BLM on the Draft EIS. Printed copies or a compact disc of the Final EIS are available on request from the BLM Southern Nevada District Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130, phone (702) 515–5000, or e-mail: *nextlight_primm_nv_sep@blm.gov.* Interested persons may also review the Final EIS at the following Web site: *http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/energy.html.* Copies of the Final EIS are available for public inspection at the following locations:

- BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada.
- BLM Southern Nevada District Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Gregory Helseth, Renewable Energy Project Manager, phone: (702) 515–5173; address: BLM Southern Nevada District Office, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130; e-mail: *Gregory_Helseth@blm.gov.*

SUPPLEMENTARY INFORMATION: NextLight Renewable Power, LLC, applied to the BLM for a right-of-way on public lands to construct a solar photovoltaic (PV) facility approximately 2 miles southeast of Primm, Nevada, in Clark County. As originally proposed, the project included 6,320 acres of BLM managed lands and was expected to operate for approximately 50 years. The proposed project would be capable of producing 400 megawatts of electricity.

The solar field and infrastructure would consist of fixed panels, an underground and overhead electrical power collection system, two step-up transformers, 230-kilovolt (kV) and 220-kV transmission lines, an operation and maintenance area, a switchyard, paved access and maintenance roads, flood and drainage controls, and a fire break.

The Final EIS describes and analyzes site-specific impacts of the proposed project on air quality; biological, cultural, water, soil, visual, paleontological, and geological resources; recreation; land use; noise; public health; socioeconomics; and traffic and transportation.

The Final EIS analyzes three alternatives, including the no action alternative (Alternative 1) and 2 action alternatives. Alternative 2, the proposed action and the BLM's preferred alternative, would disturb up to 2,967 acres of BLM managed land and would include the use of berms to reduce erosion. Alternative 3 would disturb up to 4,818 acres of BLM managed land and would employ an alternate drainage and flood control design to control erosion. The Final EIS describes the different types of solar arrays and trackers that were considered and their respective impacts.

On April 16, 2010, the BLM published the Notice of Availability for the Draft EIS for this project in the **Federal Register** [75 FR19990]. The BLM held 3 public meetings and accepted written comments during a 45-day comment

period. Comments primarily addressed concerns with tortoise mitigation, groundwater drawdown, visual resource management, and air quality/dust control during construction.

Comments on the Draft EIS received from the public and internal BLM review were considered and are incorporated as appropriate into the Final EIS.

Authority: 40 CFR 1506.6 and 1506.10.

Robert B. Ross, Jr.,

Las Vegas Field Manager.

[FR Doc. 2010–23334 Filed 9–14–10; 4:15 pm]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–10–L19100000–BJ0000–LRCM08RS4649]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on October 20, 2010.

DATES: Protests of the survey must be filed before October 20, 2010 to be considered.

ADDRESSES: Protests of the survey should be sent to Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Indian Affairs, Rocky Mountain Region, Billings, Montana, and was necessary to determine individual and tribal trust lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 27 N., R. 52 E.

The plat, in 1 sheet, representing the corrective dependent resurvey of a portion of the section line between sections 12 and 13, the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of sections 11 and 13, and the adjusted original meanders of the former left bank of the Missouri River, downstream, through sections 11 and 13, the subdivision of sections 11 and 13, and the survey of the meanders of the present left bank of the Missouri River and an informative traverse, downstream, through portions of sections 11 and 13 and certain division of accretion lines in Township 27 North, Range 52 East, Principal Meridian, Montana, was accepted September 3, 2010.

We will place a copy of the plat, in 1 sheet, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in 1 sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in 1 sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Dated: September 14, 2010.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2010–23379 Filed 9–17–10; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: Oshkosh Public Museum, Oshkosh, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the Oshkosh Public Museum, Oshkosh, WI, that meets the definition of unassociated funerary object under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural item. The National Park Service is not responsible for the determinations in this notice.

The cultural item is a partially reconstructed and undecorated shell-tempered ceramic bowl, 8 cm high and 12 cm in diameter. The bowl was reconstructed and labeled "47/WN/139 Vessel Q" by the University of Wisconsin-Oshkosh. After reconstruction, the University returned the bowl to the landowner, Gerald Lee. According to the Wisconsin State site report (47–WN–139) the bowl is a small undecorated shell-tempered pot that was found in 1971. It was found in association with an adult burial on the property of Gerald Lee in Poygan, WI, and the burial was reburied at St. Thomas Cemetery, Omro, WI. The Oshkosh Public Museum accessioned the bowl on April 27, 2010, after Dennis Lee, son of Gerald Lee, donated the bowl to the museum.

The Wisconsin State site report lists the cultural affiliation for the Gerald Lee site as Late Woodland, Oneota and Unknown Prehistoric. The vessel is identified as Oneota by Carol L. Mason in "Site Survey of Upland and Endangered Areas of Winnebago and Green Lake Counties," (Reports of Investigations, Number 6, University of Wisconsin-Oshkosh, 1995, p. A–11).

In response to notification letters sent by the Oshkosh Public Museum, the Ho-Chunk Nation has claimed the bowl. In support of their claim, the Ho-Chunk Nation stated that present-day archeology recognizes shell-tempered ceramics as Oneota in origin and strongly suggests that the Ho-chunk, Iowa, Otoe and Missouri are present-day descendents of the Oneota. The Ho-Chunk Nation further claim that their oral tradition coincides with an Oneota origin and that the Poygan,WI, area is part of the their aboriginal homeland.

Officials of the Oshkosh Public Museum have determined that, pursuant to 25 U.S.C. 3001(3)(B), the one cultural item described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and is believed, by preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Oshkosh Public Museum also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary object and the Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Otoe-Missouria Tribe of Indians, Oklahoma; and Winnebago Tribe of Nebraska.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary

object should contact Joan Lloyd, Oshkosh Public Museum, 1331 Algoma Blvd., Oshkosh, WI 54901, telephone (920) 236–5766, before October 20, 2010. Repatriation of the unassociated funerary object to the Ho-Chunk Nation of Wisconsin may proceed after that date if no additional claimants come forward.

The Oshkosh Public Museum is responsible for notifying the Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Menominee Indian Tribe of Wisconsin; Otoe-Missouria Tribe of Indians, Oklahoma; and the Winnebago Tribe of Nebraska, that this notice has been published.

Dated: September 10, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–23406 Filed 9–17–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Utah Museum of Natural History, Salt Lake City, UT

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession and control of the Utah Museum of Natural History, Salt Lake City, UT. The human remains and associated funerary objects were removed from Millard and Washington Counties, UT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Utah Museum of Natural History professional staff and a report sent to representatives of the Confederated Tribes of the Goshute Reservation, Nevada and Utah; Northwestern Band of Shoshoni Nation of Utah (Washakie); Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Skull Valley Band of Goshute Indians of Utah; and the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah, on January 15, 2010, and consultation with the Confederated Tribes of the Goshute Reservation, Nevada and Utah, and Paiute Indian Tribe of Utah, followed.

Before 1931, human remains representing a minimum of six individuals were removed from a cave in Millard County, UT, by a private collector. In 1931, the human remains and associated funerary objects were donated to the University of Utah. On November 10, 1972, transfer of the University anthropology collections to the Utah Museum of Natural History occurred. It is unknown if the individuals were found together or in separate areas of the cave. No known individuals were identified. Originally, leather fragments were collected, but are currently missing. The remaining three associated funerary objects are one steel knife and two fragments of unworked faunal bone.

The associated funerary objects found with the interments indicate that the human remains are from the contact period. The result of an osteological analysis indicates that the individuals are Native American and likely of Numic descent. Based on the geographical location of the burials, it has been determined descendants of these individuals are members of the Kanosh Band of the Paiute Indian Tribe of Utah, who inhabited this area during the protohistoric and contact periods.

Between 1990 and 1995, human remains representing a minimum of one individual were discovered on private property in Panguitch, Washington County, UT. The human remains were taken to the Panguitch Sheriff's department, and then to the Anasazi State Park. In 1997, the human remains were transferred to the Utah Museum of Natural History and accessioned into the collections. No known individual was identified. No associated funerary objects are present.

The result of an osteological analysis indicates that the individual is Native American and likely of Numic descent. Based on the geographical location of the burial, it has been determined that the individual was likely a member of the Paiute Indian Tribe of Utah, who inhabited this area during the protohistoric and contact periods. The Kanosh Band of the Paiute Indian Tribe of Utah is taking responsibility for the repatriation of this individual.

In 1932, human remains representing a minimum of one individual were removed from Black Rock Butte, Millard County, UT, by a private collector. In 1932, the human remains were loaned to the University of Utah. On November 10, 1972, transfer of the University anthropology collections to the Utah Museum of Natural History occurred. In 1992, the loan was converted to ownership by the museum under Utah law. No known individual was identified. The burial goods claimed to have been found with the remains were not located in 2009. It is unknown if the objects were ever in the possession of the University of Utah. Therefore, no associated funerary objects are present.

The result of an osteological analysis indicates that the individual is Native American and likely of Numic descent. Based on the geographical location of the burial, it has been determined that the individual was likely a member of the Kanosh Band of the Paiute Indian Tribe of Utah, who inhabited this area during the protohistoric and contact periods.

Officials of the Utah Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of eight individuals of Native American ancestry. Officials of the Utah Museum of Natural History also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the three objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Utah Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Kanosh Band of the Paiute Indian Tribe of Utah.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Duncan Metcalfe, Utah Museum of Natural History, 1390 E. Presidents Circle, Salt Lake City, UT 84112, telephone (801) 581–3876, before October 20, 2010. Repatriation of the human remains and associated funerary objects to the Kanosh Band of the Paiute Indian Tribe of Utah may proceed after that date if no additional claimants come forward.

The Utah Museum of Natural History is responsible for notifying the Confederated Tribes of the Goshute Reservation, Nevada and Utah; Northwestern Band of Shoshoni Nation of Utah (Washakie); Paiute Indian Tribe of Utah; Skull Valley Band of Goshute

Indians of Utah; and the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah, that this notice has been published.

Dated: September 10, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–23405 Filed 9–17–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Pioneer Historical Society of Bent County, Las Animas, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of the Pioneer Historical Society of Bent County, Las Animas, CO. The human remains were removed from unknown locations.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Pioneer Historical Society of Bent County professional staff in consultation with representatives of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma; Citizen Potawatomi Nation, Oklahoma; Comanche Nation, Oklahoma; Crow Tribe of Montana; Delaware Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Fort Sill Apache Tribe of Oklahoma; Hannahville Indian Community, Michigan; Ho-Chunk Nation, Wisconsin; Hopi Tribe of Arizona; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Kickapoo Traditional Tribe of Texas; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Ohkay Owinegh, New Mexico; Omaha Tribe of Nebraska; Osage Nation, Oklahoma; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Peoria Tribe of Indians of Oklahoma; Prairie Band of Potawatomi Nation, Kansas; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Sac & Fox Tribe of the Mississippi in Iowa; Sac & Fox Nation of Missouri in Kansas & Nebraska; Sac & Fox Nation, Oklahoma; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Winnebago Tribe of Nebraska; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

On unknown dates, human remains representing a minimum of two individuals were removed from unknown locations possibly by B.F. Jackson. Jackson later donated them to the Pioneer Historical Society of Bent County (catalog number O 1298). No known individuals were identified. No associated funerary objects are present.

The human remains are more likely than not Native American based on biological information obtained through a non-destructive osteological study.

Officials of the Pioneer Historical Society of Bent County have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of two individuals of Native American ancestry. Lastly, officials of the Pioneer Historical Society of Bent County have determined that, pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot reasonably be traced between the Native American human remains and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for the disposition of culturally unidentifiable human remains. In October 2009, the Pioneer Historical Society of Bent County requested that the Review Committee recommend disposition of four culturally unidentifiable human remains and associated funerary objects to the Cheyenne and Arapaho Tribes, Oklahoma. The Arapahoe Tribe of the Wind River Reservation, Wyoming; Comanche Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Hopi Tribe of Arizona; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Santa Clara, New Mexico; and Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado, wrote letters in support of the disposition to the Cheyenne and Arapaho Tribes, Oklahoma. The Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, testified in support of the disposition to the Cheyenne and Arapaho Tribes, Oklahoma, before the Review Committee during the May 15–16, 2008, meeting. Furthermore, none of the Indian tribes consulted objected to the determination of the "culturally unidentifiable" status by the Pioneer Historical Society of Bent County and the disposition to the Cheyenne and Arapaho Tribes, Oklahoma.

The Review Committee considered the proposal at its October 30–31, 2009, meeting and recommended the disposition of the human remains and associated funerary objects to the Cheyenne and Arapaho Tribes, Oklahoma. The Secretary of the Interior independently reviewed the recommendation. A June 3, 2010, letter from the Designated Federal Officer, writing on behalf of the Secretary of the Interior, transmitted the authorization for the Pioneer Historical Society of Bent County to effect disposition of the physical remains of two of the culturally unidentifiable individuals to the Cheyenne and Arapaho Tribes, Oklahoma, contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Kathryn Finau, Project Coordinator, Pioneer Historical Society of Bent County, PO Box 68, Las Animas,

CO 81045, telephone (719) 469-8818, before October 20, 2010. Disposition of the human remains to the Cheyenne and Arapaho Tribes, Oklahoma, may proceed after that date if no additional claimants come forward.

The Pioneer Historical Society of Bent County is responsible for notifying the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma; Citizen Potawatomi Nation, Oklahoma; Comanche Nation, Oklahoma; Crow Tribe of Montana; Delaware Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Fort Sill Apache Tribe of Oklahoma; Hannahville Indian Community, Michigan; Ho-Chunk Nation, Wisconsin; Hopi Tribe of Arizona; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Kickapoo Traditional Tribe of Texas; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Ohkay Owinegh, New Mexico; Omaha Tribe of Nebraska; Osage Nation, Oklahoma; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Peoria Tribe of Indians of Oklahoma; Prairie Band of Potawatomi Nation, Kansas; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Sac & Fox Tribe of the Mississippi in Iowa; Sac & Fox Nation of Missouri in Kansas & Nebraska; Sac & Fox Nation, Oklahoma; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Winnebago Tribe of Nebraska; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: September 10, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–23426 Filed 9–17–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Colorado Museum, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the University of Colorado Museum, Boulder, CO. The human remains and associated funerary objects were removed from unknown locations.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the University of Colorado Museum professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Bridgeport Indian Colony of California; Cheyenne and Arapaho Tribes, Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Crow Tribe of Montana; Death Valley Timbi-Sha Shoshone Band of California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Ely Shoshone Tribe of Nevada; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Fort McDowell Yavapai Nation, Arizona; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kiowa Indian Tribe of Oklahoma; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Northwestern Band of the Shoshoni Nation of Utah (Washakie); Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico (formerly Pueblo of San Juan); Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes); Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Salt River Pima-Maricopa Indian Community of the Salt River Indian Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Skull Valley Band of Goshute Indians of Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Summit Lake Paiute Tribe of Nevada; Susanville Indian

Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band); Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Walker River Paiute Tribe of the Walker River Reservation, Nevada; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Winnemucca Indian Colony of Nevada; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; Yomba Shoshone Tribe of the Yomba Reservation, Nevada; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

On unknown dates, human remains representing a minimum of 150 individuals were removed from unknown locations by unknown individuals. No known individuals were identified. The six associated funerary objects are one lot of corn, one soil matrix, one cord-wrapped ceramic sherd, one lot of projectile points and two non-human bones (catalog numbers 02268, 99084a-g, and A1405). One additional associated funerary object, a shell, is missing but will be repatriated if located (catalog number 99084h).

The human remains are represented by catalog numbers: 02268; 04798; 07704a; 07846; 07867; 32166; 32191; 99003; 99014; 99018; 99020; 99023; 99028; 99030; 99036; 99039; 99049; 99050; 99051; 99052; 99053; 99072; 99073; 99074; 99076; 99084a-d, f; 99085; 99086; 99087; 99089; 99124; 99126 (two individuals); 99127; 99136; 99139; 99141; 99512; 99516; 99517 (107 individuals); 99522; A1405-#1; A1405-#2; and education collection no catalog number assigned. The human remains are Native American based on osteological evidence obtained through non-destructive examination by a physical anthropologist.

On an unknown date, human remains representing a minimum of one individual (catalog number 07704b) were removed from an unknown location by unknown individuals. No known individual was identified. No associated funerary objects are present.

The human remains are Native American based on the physical association with an individual described above (catalog number 07704a). The individual (catalog number 07704a) is determined to be Native American based on osteological evidence obtained through non-destructive examination by a physical anthropologist.

On unknown dates, human remains representing a minimum of six individuals were removed from unknown locations by unknown individuals. No known individuals were identified. The three associated funerary objects are two ceramic sherds and a non-human bone (catalog numbers 99101a and 99134).

The human remains are represented by catalog numbers: 99101–1; 99101–2; 99134a; 99134b; 99134c; and 99134d. The human remains are Native American based on associated archeological evidence, such as the funerary objects.

Officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of 157 individuals of Native American ancestry. Officials of the University of Colorado Museum also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the nine objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot reasonably be traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for the disposition of culturally unidentifiable human remains. In October 2009, the University of Colorado Museum requested that the Review Committee recommend disposition of 235 culturally unidentifiable individuals and associated funerary objects to the Pueblo of Isleta, New Mexico, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah. The Comanche Nation, Oklahoma; Hopi Tribe of Arizona; Pawnee Nation of Oklahoma; Susanville Indian Rancheria, California; and Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona, wrote letters or signed the disposition agreement in support of the tribes requesting disposition. None of the Indian tribes consulted objected to the determination of the "culturally unidentifiable" status by the University of Colorado Museum and the disposition to the Pueblo of Isleta, New Mexico, and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

The Review Committee considered the proposal at its October 30–31, 2009, meeting and recommended disposition of the 235 culturally unidentifiable individuals and associated funerary objects to the Pueblo of Isleta, New Mexico, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah. The Secretary of the Interior independently reviewed the recommendation. A May 11, 2010, letter from the Designated Federal Officer, writing on behalf of the Secretary of the Interior, transmitted the authorization for the University of Colorado Museum to effect disposition of the physical remains of 157 of the 235 culturally unidentifiable individuals to the Pueblo of Isleta, New Mexico, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement. In the same letter the Secretary also recommended the transfer of the associated funerary objects to the Pueblo of Isleta, New Mexico, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, to the extent allowed by Federal, state, or local law.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Steve Lekson, Curator of Anthropology, University of Colorado Museum, in care of Jan Bernstein, NAGPRA Consultant, Bernstein & Associates, 1041 Lafayette St., Denver, CO 80218, telephone (303) 894–0648, before October 20, 2010. Disposition of the human remains and associated funerary objects to the Pueblo of Isleta, New Mexico, and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, may proceed after that date if no additional claimants come forward.

The University of Colorado Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Bridgeport Indian Colony of California; Cheyenne and Arapaho Tribes, Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Crow Tribe of Montana; Death

Valley Timbi-Sha Shoshone Band of California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Ely Shoshone Tribe of Nevada; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Fort McDowell Yavapai Nation, Arizona; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kiowa Indian Tribe of Oklahoma; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Northwestern Band of the Shoshoni Nation of Utah (Washakie); Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Ohkay Owingeh, New Mexico; Paiute Indian Tribe of Utah; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pawnee Nation of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Salt River Pima-Maricopa Indian Community of the Salt River Indian Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Skull Valley Band of Goshute Indians of Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Walker River Paiute Tribe of the Walker River Reservation, Nevada; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Winnemucca Indian Colony of Nevada; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; Yomba Shoshone Tribe of the Yomba Reservation, Nevada; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: September 10, 2010

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. 2010–23414 Filed 9–17–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–EA–2010–N183]

Wildlife and Hunting Heritage Conservation Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a public meeting of the Wildlife and Hunting Heritage Conservation Council (Council).

DATES: *Meeting:* Monday and Tuesday, October 4 and 5, 2010, from 8 a.m. to 4 p.m. (Eastern time). *Meeting Participation:* Notify Joshua Winchell (*See* **FOR FURTHER INFORMATION CONTACT**) by close of business on September 24, 2010, if requesting to make an oral presentation (limited to 2 minutes per speaker). The meeting will accommodate no more than a total of 30 minutes for all public speakers. Written statements must be received by September 27 so that the information may be made available to the Council for their consideration prior to this meeting.

ADDRESSES: The meeting will be held in the Secretary's Conference Room at the Department of the Interior, Room 5160, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joshua Winchell, Council Coordinator, 4401 North Fairfax Drive, Mailstop 3103–AEA, Arlington, VA 22203; telephone (703) 358–2639; fax (703) 358–2548; or e-mail *joshua_winchell@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that Wildlife and Hunting Heritage Conservation Council will hold a meeting.

Background

Formed in February 2010, the Council provides advice about wildlife and habitat conservation endeavors that

(a) Benefit recreational hunting;

(b) Benefit wildlife resources; and

(c) Encourage partnership among the public, the sporting conservation community, the shooting and hunting sports industry, wildlife conservation organizations, the States, Native American Tribes, and the Federal Government.

The Council advises the Secretary of the Interior and the Secretary of Agriculture, reporting through the Director, U.S. Fish and Wildlife Service (Service), in consultation with the Director, Bureau of Land Management (BLM); Chief, Forest Service (USFS); Chief, Natural Resources Service (NRCS); and Administrator, Farm Services Agency (FSA). The Council's duties are strictly advisory and consist of, but are not limited to, providing recommendations for:

(a) Implementing the Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation;

(b) Increasing public awareness of and support for the Sport Wildlife Trust Fund;

(c) Fostering wildlife and habitat conservation and ethics in hunting and shooting sports recreation;

(d) Stimulating sportsmen and women's participation in conservation and management of wildlife and habitat resources through outreach and education;

(e) Fostering communication and coordination among State, Tribal, and Federal Government; industry; hunting and shooting sportsmen and women; wildlife and habitat conservation and

management organizations; and the public; and;

(f) Providing appropriate access to Federal lands for recreational shooting and hunting;

(g) Providing recommendation to improve implementation of Federal conservation programs that benefit wildlife, hunting and outdoor recreation on private lands; and

(h) When requested by the agencies' designated ex officio members or the DFO in consultation with the Council Chairman, performing a variety of assessments or reviews of policies, programs, and efforts through the Council's designated subcommittees or workgroups.

Background information on the Council is available at *http://www.fws.gov/whhcc.*

Meeting Agenda

The Council will convene to consider: (1) The Recreational Hunting and Wildlife Resource Conservation Plan—A Ten-Year Plan for Implementation; (2) America's Great Outdoors initiative; (3) programs of the Department of the Interior and Department of Agriculture, and its bureaus, that enhance hunting opportunities and support wildlife conservation; (4) Information on issues for the Council to include in its 2010–2012 work plan; and (5) other Council business. The final agenda will be posted on the Internet at *http://www.fws.gov/whhcc.*

Public Input

Interested members of the public may present, either orally or through written comments, information for the Council to consider during the public meeting. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, are encouraged to submit these comments in written form to the Council after the meeting.

Individuals or groups requesting an oral presentation at the public Council meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact Joshua Winchell, Council Coordinator, in writing (preferably via e-mail), by September 24 (*See* **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting. Written statements must be received by September 27, so that the information may be made available to the Council for their consideration prior to this meeting. Written statements must be supplied to the Council Coordinator in both of the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, Microsoft Word, Microsoft PowerPoint, or RTF (Rich Text File) in IBM–PC/Windows 2007 format).

In order to attend this meeting, you must register by close of business September 27. Because entry to Federal buildings is restricted, all visitors are required to pre-register to be admitted. Please submit your name, time of arrival, e-mail address, and phone number to Joshua Winchell via e-mail at *joshua_winchell@fws.gov,* or by phone at (703) 358–2639.

Summary minutes of the conference will be maintained by the Council Coordinator at 4401 N. Fairfax Drive, MS–3103–AEA, Arlington, VA 22203, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

Dated: September 14, 2010.

Paul R. Schmidt,

Acting Director.

[FR Doc. 2010–23393 Filed 9–17–10; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 1205–9]

Certain Festive Articles: Recommendations for Modifying the Harmonized Tariff Schedule of the United States

AGENCY: United States International Trade Commission.

ACTION: Notice of institution of investigation and opportunity to present written views on proposed recommendations.

SUMMARY: Following receipt of a letter from U.S. Customs and Border Protection (CBP), the Commission instituted investigation No. 1205–9, *Certain Festive Articles: Recommendations for Modifying the Harmonized Tariff Schedule of the United States,* pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3005), for the purpose of making recommendations to the President regarding the addition of a U.S. note and the amendment or replacement of certain classification provisions in subchapter XVII of chapter 98 of the Harmonized Tariff Schedule of the United States (HTS) relating to certain utilitarian articles that incorporate a festive design, decoration, emblem, or motif.

DATES: October 22, 2010: Deadline for filing written views relating to the Commission's proposed recommendations.

November 29, 2010: Transmittal of the Commission's recommendations to the President.

ADDRESSES: All Commission offices are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this collection of proposals may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Fred Schottman, Nomenclature Analyst (202–205–2077, *fred.schottman@usitc.gov*), or Janis L. Summers, Attorney Advisor (202–205–2605, *janis.summers@usitc.gov*), of the Office of Tariff Affairs and Trade Agreements (fax 202–205–2616). The media should contact Margaret O'Laughlin, Office of External Affairs (202–205–1819), *margaret.olaughlin@usitc.gov*). Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet Web site (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: Section 1205(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (19 U.S.C. 3005(a)) provides that the Commission shall keep the HTS under continuous review and periodically recommend to the President such modifications in the HTS as the Commission considers necessary or appropriate to accomplish five general objectives. Among these stated objectives, section 1205(a)(2) of the 1988 Act directs the Commission to consider changes to the HTS to promote the uniform application of the Harmonized System Convention and particularly the Protocol thereto, which contains the Harmonized System nomenclature structure and accompanying legal notes. Subsections (b) through (d) of section 1205 describe the procedures the Commission is to follow in formulating recommendations, including with respect to soliciting and considering views of interested Federal

agencies and the public. Section 1205(b)(1) requires that the Commission give notice of proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing.

In a letter dated July 1, 2010, from Myles B. Harmon, Director, Commercial and Trade Facilitation Division, CBP asked that the Commission conduct an investigation under section 1205 for the purpose of making recommendations to the President regarding the addition of a U.S. note and the amendment or replacement of certain classification provisions in chapter 98 of the HTS relating to certain utilitarian articles that incorporate a festive design, decoration, emblem, or motif. The letter included CBP's proposed language for a U.S. note and proposed changes in two U.S. tariff rate lines at the 8-digit level that take into account (a) Federal court decisions on the classification of particular utilitarian articles, and (b) the amendment of note 1 to chapter 95 of the international Harmonized System by the World Customs Organization (WCO).

CBP's letter requested that the following U.S. note 9 be inserted in subchapter XVII of chapter 98:

9. Heading 9817.95.02 applies only to tableware, kitchenware (except baking pans, cookie cutters, cookie stamps and presses) and toilet articles of chapter 39, 69 or 70; carpets and other textile floor coverings of chapter 57; apparel and accessories of chapter 61 or 62; and made-up textile articles of chapter 63.

The letter further requested that existing HTS subheadings 9817.95.01 and 9817.95.05 and superior text thereto be replaced by:

9817.95.01	Utilitarian articles (including but not limited to Seder plates, blessing cups, menorahs or kinaras) of a kind used in the home in the performance of specific religious or cultural ritual celebrations for religious or cultural holidays, or religious festive occasions (provided for in subheading 3924.10, 3926.90, 6307.90, 6911.10, 6912.00, 7013.22, 7013.28, 7013.41, 7013.49, 9405.20, 9405.40 or 9405.50).	Free	25%.
9817.95.02	Utilitarian articles, each incorporating a symbol and/or motif that is closely associated with a festive occasion (for example, Christmas, Easter, Halloween or Thanksgiving), the foregoing articles used or displayed principally during that festive occasion and not typically at any other time, under the terms of U.S. note 9 to this subchapter.	Free	25%.

CBP's letter provided additional background on the tariff classification of utilitarian articles that incorporate a festive design, decoration, emblem, or motif. The letter summarized relevant court decisions and decisions of CBP that are the basis of CBP's request. A copy of CBP's letter is being posted on the Commission's Web site at *http://www.usitc.gov/tariff_affairs/modifications_hts.htm.*

The Commission believes that a modification of CBP's description for heading 9817.95.02 should be considered in order to clarify the intended scope of the heading and conform to normal HTS language. The Commission proposes that a phrase included in the request letter's description for that heading as "a festive occasion (for example, Christmas, Easter, Halloween, or Thanksgiving)" be replaced by "Christmas, Easter, Halloween, Thanksgiving or similar festive occasion".

The Harmonized System nomenclature, which is maintained by the WCO, provides a uniform structural basis for the customs tariffs and statistical nomenclatures of all major trading countries of the world, including the United States. The Harmonized System comprises the broadest principles of classification and levels of categories in the HTS, comprising the general rules of interpretation, section and chapter titles, section and chapter legal notes, and heading and subheading texts to the 6-digit level of detail. Additional U.S. notes, further subdivisions (8-digit subheadings and 10-digit statistical annotations) and statistical notes, as well as the entirety of chapters 98 and 99 and several appendixes, are national legal and statistical detail added for the administration of the U.S. tariff and statistical programs and are not part of the international HS.

An up-to-date copy of the HTS, which incorporates the international HS in its overall structure, can be found on the Commission's Web site (*http://www.usitc.gov/tata/hts/bychapter/index.htm*). Hard copies and electronic copies on CD can be found at many of the 1,400 Federal Depository Libraries located throughout the United States and its territories; further information about these locations can be found at *http://www.gpoaccess.gov/fdlp.html* or by contacting GPO Access at the Government Printing Office at this telephone number: 866–512–1800.

The Commission will prepare recommendations for the President in the form of a single report. In preparing these recommendations, the Commission will take into account CBP's request, as well as all other appropriate legal and technical considerations relating to HTS chapters 39, 57, 61, 62, 63, 69, 70, 94, and 95. The Commission will consider and include, where appropriate, the input submitted by other agencies and interested parties. Submissions from other agencies and the public must be filed by October 22, 2010, in order to be assured of consideration in the Commission's report and recommendations to the President.

Written submissions should be filed in accordance with the procedures below. Such submissions should take into account the classification of the merchandise concerned under the international Harmonized System as well as domestic judicial decisions and seek to further the goals set out by section 1205 of the 1988 Act and the Harmonized System Convention. No proposals for changes to existing U.S. rates of duty or to 10-digit statistical annotations or notes will be considered by the Commission during its review. However, the Commission will examine information concerning the rates of duty currently utilized by importers in liquidated and undisputed entries of specific festive articles that are the subject of this investigation. The changes in the HTS that may result from this investigation are not intended to alter current tariff rates. The changes instead are intended to ensure that existing tariff treatment continues to be applicable following the implementation of new U.S. tariff provisions, taking into account HTS changes that were proclaimed as of February 3, 2007, and related judicial decisions and CBP classification rulings.

Proposed Recommendations: Section 1205(b)(1) of the 1988 Act requires that the Commission give notice of proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing.

The Commission hereby gives notice that its proposed recommendations in this investigation for purposes of section 1205(b)(1) of the 1988 Act are as follows:

(1) Adopt CBP's proposed language for U.S. note 9, to be inserted in

subchapter XVII of chapter 98 of the HTS; and

(2) Adopt CBP's proposed language for HTS subheadings 9817.95.01 and 9817.95.02 and the deletion of subheading 9817.95.05 with the exception of the one change noted above regarding the parenthetical expression shown in HTS subheading 9817.95.02, as requested, relating to festive occasions. Thus, HTS subheading 9817.95.02 would read as follows:

9817.95.02	Utilitarian articles, each incorporating a symbol and/or motif that is closely associated with Christmas, Easter, Halloween, Thanksgiving or similar festive occasion, the foregoing articles used or displayed principally during that festive occasion and not typically at any other time, under the terms of U.S. note 9 to this subchapter.	Free	25%.

Written Submissions: Interested parties and agencies are invited to file written submissions relating to the Commission's proposed recommendations. All written submissions should be addressed to the Secretary. Written submissions relating to CBP's request should be received no later than October 22, 2010. Submissions should refer to "Investigation No. 1205–9" in a prominent place on the cover page and/or the first page. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). 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 submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties. Confidential business information received in the submissions may be made available to CBP during the examination of the requested HTS modifications. The Commission will not otherwise publish or release any confidential business information received, nor release it to other government agencies or other persons.

By order of the Commission.

Issued: September 13, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–23396 Filed 9–17–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

United States Parole Commission

Record of Vote of Meeting Closure (Pub. L. 94–409) (5 U.S.C. Sec. 552b)

I, Isaac Fulwood, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11:30 a.m., on Thursday, September 9, 2010, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to approve or disapprove the appointment of a hearing examiner. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Isaac Fulwood, Cranston J. Mitchell and Patricia K. Cushwa.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: September 10, 2010.

Isaac Fulwood,

Chairman, U.S. Parole Commission.

[FR Doc. 2010–23295 Filed 9–17–10; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This **Federal Register** Notice (FR Notice) notifies the public that it has investigated and issued a final decision on certain mine operator petitions to modify a safety standard.

ADDRESSES: Copies of the final decisions are posted on MSHA's Web Site at *http://www.msha.gov/indexes/petition.htm*. The public may inspect the petitions and final decisions during normal business hours in MSHA's Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209. All visitors must first stop at the receptionist desk on the 21st Floor to sign-in.

FOR FURTHER INFORMATION CONTACT: Roslyn B. Fontaine, Acting Deputy Director, Office of Standards, Regulations and Variances at 202–693–9475 (Voice), *fontaine.roslyn@dol.gov* (E-mail), or 202–693–9441 (Telefax), or Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101 of the Federal Mine Safety and Health Act of 1977, a mine operator may petition and the Secretary of Labor (Secretary) may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) that the application of the standard

will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision.

II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA has granted or partially granted the following petitions for modification:

• *Docket Number:* M–2009–062–C.
FR Notice: 75 FR 3253 (January 20, 2010).
Petitioner: American Energy Corporation, 43521 Mayhugh Hill Road, Beallsville, Ohio 43716.
Mine: Century Mine, MHSA I.D. No. 33–01070, located in Monroe County, Ohio.
Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable trailing cables and cords).

• *Docket Number:* M–2010–003–C.
FR Notice: 75 FR 12799 (March 17, 2010).
Petitioner: Brooks Run Mining Company, LLC, 208 Business Street, Beckley, West Virginia 25801.
Mine: Wyoming No. 2 Mine, MSHA I.D. No. 46–06263, located in Wyoming County, West Virginia.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

• *Docket Number:* M–2010–006–C.
FR Notice: 75 FR 12794 (March 17, 2010).
Petitioner: Armstrong Coal Company, Inc., 407 Brown Road, Madisonville, Kentucky 42341.
Mine: Parkway Mine, MSHA I.D. No. 15–19358, located in Muhlenberg County, Kentucky.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

• *Docket Number:* M–2010–011–C.
FR Notice: 75 FR 16187 (March 31, 2010).
Petitioner: Alex Energy, Inc., P.O. Box 190, Leivasy, West Virginia 26676.
Mine: Jerry Fork Eagle Mine, MSHA I.D. No. 46–08787, located in Nicholas County, West Virginia.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

• *Docket Number:* M–2010–012–C.
FR Notice: 75 FR 16187 (March 31, 2010).
Petitioner: White Buck Coal Company, P.O. Box 180, Leivasy, West Virginia 26676.
Mine: Grassy Creek No. 1 Mine, MSHA I.D. No. 46–08365 and Hominy Creek Mine, MSHA I.D. No. 46–09266 located in Nicholas County, West Virginia; and Pocahontas Mine, MSHA I.D. No. 46–09154, located in Greenbrier County, West Virginia.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

• *Docket Number:* M–2010–017–C.
FR Notice: 75 FR 22847 (April 30, 2010).
Petitioner: Brooks Run Mining Company, LLC, 208 Business Street, Beckley, West Virginia 25801.
Mine: Horse Creek No. 1 Mine, MSHA I.D. No. 46–09348, located in McDowell County, West Virginia.
Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

• *Docket Number:* M–2009–004–M.
FR Notice: 74 FR 34371 (July 15, 2009).
Petitioner: Arch Materials, LLC, 4438 State route 276, Batavia, Ohio 45103.
Mine: Batavia Mine, MSHA I.D. No. 33–04578, Clermont County, Ohio.
Regulation Affected: 30 CFR 49.2(c) (Availability of mine rescue teams).

Dated: September 14, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2010–23323 Filed 9–17–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Wage and Hour Division

Proposed Extension of the Approval of Information Collection Requirements

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Disclosures to Workers Under the Migrant and Seasonal Agricultural Worker Protection Act. A copy of the proposed information collection request can be obtained by contacting the office listed below in the address section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before November 19, 2010.

ADDRESSES: You may submit comments identified by Control Number 1235–0002, by either one of the following methods:

E-mail: WHDPRAComments@dol.gov.

Mail, Hand Delivery, Courier: Office of Regulatory and Legislative Interpretations, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Michael Hancock, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice must be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

Various sections of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) (29 U.S.C. 1801, *et seq.*) require respondents [*i.e.,* Farm Labor Contractors (FLCs), Agricultural Employers (AGERs), and Agricultural Associations (AGASs)] to disclose employment terms and conditions in writing to their workers. MSPA sections 201(g) and 301(f) requires that the DOL

make forms available to provide such information. The DOL prints and makes Optional-use Form WH–516, Worker Information—Terms and Conditions of Employment, available for these purposes. *See* 29 CFR 500.75(a), 500.76(a).

MSPA sections 201(d) and 301(c)–29 U.S.C. 1821(d), 1831(c) and Regulations 29 CFR 500.80(a), require each FLC, AGER and AGAS that employs any migrant or seasonal worker to make, keep, and preserve records for three years for each such worker concerning the: (1) Basis on which wages are paid; (2) Number of piece work units earned, if paid on a piece work basis; (3) Number of hours worked; (4) Total pay period earnings; (5) Specific sums withheld and the purpose of each sum withheld; and, (6) Net pay.

Respondents are also required to provide an itemized written statement of this information to each migrant and seasonal agricultural worker each pay period. 29 U.S.C. 1821(d), 1831(c); 29 CFR 500.1(i)(3), –.80(d). In addition, MSPA sections 201(e) and 301(d) require that each FLC provide copies of all the records noted above for the migrant or seasonal agricultural workers the contractor has furnished to other farm labor contractors, agricultural employers or agricultural associations who use the workers. Except for the worker, the recipient of such records is to retain them for a period of three years. Respondents must also make and keep certain records, including each worker's Social Security Number. 29 CFR 500.80(a). In addition, the wage statement provided to each worker at the time of wage payment is to include, among other items, the worker's Social Security Number and employer's Tax Identification Number. 29 CFR 500.80(a), (d).

MSPA section 201(c) requires all FLCs, AGERs, and AGASs providing housing to any migrant agricultural worker to post in a conspicuous place at the site of the housing, or present to the migrant worker, a written statement of any housing occupancy terms and conditions. *See* 29 U.S.C. 1821(c); 29 CFR 500.75(f). In addition, MSPA section 201(g) requires these FLCs, AGERs, and AGASs to give such information in English, or as necessary and reasonable, in a language common to the workers. *See* 29 U.S.C. 1821(g); 29 CFR 500.1(i)(2), .75(a), (f)–(g). This provision also requires the DOL to make optional forms available to provide the required disclosures. *See* 29 U.S.C. 1821(g); 29 CFR 500.1(i)(2), .75(a), (g).

II. Review Focus

The DOL is particularly interested in comments which:

- 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;
- 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;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The DOL seeks approval for the extension of this information collection in order to ensure effective administration of various special employment programs.

Type of Review: Revision.

Agency: Wage and Hour Division.

Title: Disclosures to Workers Under the Migrant Seasonal and Agricultural Worker Protection Act.

OMB Numbers: 1235–0002, 1235–0009, and 1235–0010 (All to be merged in 1235–0002).

Affected Public: Private sector, farms.

Respondents: 107,706.

Total Annual Responses: 84,206,505.

Estimated Total Burden Hours: 1,417,426.

Estimated Time per Response: Various.

Frequency: On occasion.

Total Burden Costs (start up/capital/operation/maintenance): $2,716,101.04.

Michael Hancock,

Acting Director, Division of Regulation, Legislation, and Interpretation.

[FR Doc. 2010–23369 Filed 9–17–10; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before October 20, 2010.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov.*
2. *Facsimile:* 1–202–693–9441.
3. *Regular Mail:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee

no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2010–033–C.

Petitioner: Matrix Energy, LLC, Mine No. 1, MSHA I.D. No. 15–18575; Coalburg Enterprises, Inc., Mine No. 8, MSHA I.D. No. 15–19494; and Eagle Coal Company, Inc., Mine No. 22, MSHA I.D. No. 15–16663 and Mine No. 24, MSHA I.D. No. 15–19296, Rt. 292, P.O. Box 190, Lovely, Kentucky 41231. All of these mines are located in Martin County, Kentucky.

Regulation Affected: 30 CFR 75.208 (Warning devices).

Modification Request: The petitioner requests a modification of the existing standard to that portion of the standard requiring the end of permanent roof support to be posted with readily visible warning. The petitioner states that: (1) A greater degree of safety is provided for the miner by hanging the reflector on the second row, rather than on the first row of permanent support outby unsupported roof; and (2) hanging the reflector on the first row would subject a portion of the miner's body inby supported roof, which could result in a serious injury. Therefore, the petitioner requests to hang the reflector on the second row of permanent support outby unsupported roof. The petitioner asserts that the proposed alternative method will at all times comply with the safety standard and guarantee greater protection than the existing standard.

Docket Number: M–2010–034–C.

Petitioner: Four O Mining Corporation, P.O. Box 148, Vansant, Virginia 24656 .

Mine: No. 10 Mine, MSHA I.D. No. 44–07217, located in Dickenson County, Virginia.

Regulation Affected: 30 CFR 75.1101–2 (Installation of deluge-type sprays).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance in lieu of providing a fire suppression system on the belt drive, as it pertains to 50 foot coverage of fire suppression. The petitioner requests this modification because of the Fairchild continuous miner and the rapid haul that travels up and down from near the belt drive to the end. To ensure safety, the petitioner proposes to put one man with a CO Detector with a 1-1/2 inch fire hose with a firefighting nozzle hooked up at all times until the 50 foot distance is established from the belt drive to the rapid haul. The petitioner asserts that the proposed alternative method will provide a measure of protection equal to or greater than that of the existing standard.

Dated: September 14, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2010–23324 Filed 9–17–10; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: University of Notre Dame Site Visit in Physics (1208).

Date and Time: Tuesday, October 19, 2010; 8 a.m.–6 p.m.

Wednesday, October 20, 2010: 8 a.m.–4 p.m.

Place: University of Notre Dame, Indiana 46556.

Type of Meeting: Partially Closed.

Contact Person: Dr. Kathleen McCloud, Program Director for Physics Education and Disciplinary Research, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8236.

Purpose of Meeting: To provide an oversight report on progress of research performed under a Cooperative Agreement with the National Science Foundation.

Agenda

Tuesday. October 19, 2010

Open 8:15–10 JINA science overview talk and discussion.

Closed 10:30–10:45 Executive Session.

Open 10:45–12:15 JINA astrophysics highlights.

Open 2–3 JINA nuclear Physics experiments.

Closed 3:50–4:30 Executive Session.

Open 4:30–6:30 Student Poster Session.

Wednesday, October 20, 2010

Closed 8:30–9:30 Executive Session.

Open 10–11 Administrators and JINA Discussions.

Closed 11–12 Executive Session and writing session.

Open 1:30–2 Administrators and JINA discussions.

Closed 2:30–4 Writing session and Close out.

Reason for Closing: The proposal contains proprietary or confidential material including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) and (6) of the Government in the Sunshine Act.

Dated: September 15, 2010.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2010–23375 Filed 9–17–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 20, 2010. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and

designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant*—Permit Application No. 2011–016, Paul Ponganis, Center for Marine Biotechnology and Biomedicine, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, CA 92093–0204.

Activity for Which Permit Is Requested

Take, Enter Antarctic Specially Protected Areas, and Import into the USA. The applicant plans to study the diving physiology and behavior of emperor penguins at sea. Physiological responses underlie the dive capacity and the ability to successfully forage at depth. Heart rate, in particular, is key to the management of oxygen stores at seas, and the ability of birds to perform repetitive deep dives. The will deploy electro-cardiogram recorders and dive behavior recorders on birds making foraging trips to sea from Cape Washington.

In addition, censusing of birds will be conducted to continue the long term population monitoring of the Ross Sea emperor penguin population (day visits to Cape Crozier, ASPA 124 and Beaufort Island ASPA 105 colonies, aerial censuses of Franklin Island, Cape Colbeck, Coulman Island and Cape Roget, and photo/counting census at Cape Washington, including abandoned egg and chick carcass counts, and assessment of check health.)

Leopard seal research assesses the impact of leopard seals on the emperor colony as well as the hunting strategies of leopard seals. Leopard seals will be sedated for weighing and attachment of a backpack camera and radio transmitter. The camera and radio transmitter will be removed after about a week.

Location

Cape Crozier (ASPA 124), Beaufort Island (ASPA 105), and Cape Washington.

Dates

October 1, 2010 to December 31, 2011.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2010–23329 Filed 9–17–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 20, 2010. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. *Applicant*—Permit Application No. 2011–017. Mahlon C. Kennicutt, II, Department of Oceanography, Rm. 608 Eller Oceanography and Meteorology Building, 3146 TAMU, College Station, TX 778843–3146.

Activity for Which Permit Is Requested

Take, Enter Antarctic Specially Protected Areas, and Import into the USA. The applicant plans to center Cape Royds (ASPA 157), Bratina Island, Arrival Heights (ASPA 122) and Hut Point (ASPA 158) as part of an environmental study. Cape Royds and Bratina Island will be samples as two reference controls sites for their study of the temporal and spatial scales of various types of disturbances in and around McMurdo Station, Antarctica. The sampling locations at Cape Royds will be situated to avoid disturbance to biota in the area. The other sites, Arrival Heights and Hut Point, have been sampled in past field seasons and are slated to be sampled as part of the ongoing environmental monitoring program.

Location

Cape Royds (ASPA 157), Bratina Island, Arrival Heights (ASPA 122) and Hut Point (ASPA 158).

Dates

November 12, 2010 to December 31, 2010.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 2010–23333 Filed 9–17–10; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0298; Docket No. 50–346]

First Energy Nuclear Operating Company; Notice of Receipt and Availability of Application for Renewal of Davis Besse Nuclear Power Station, Unit 1, Facility Operating License No. NPF–003 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or Commission) has received an application, dated August 30, 2010, from FirstEnergy Nuclear Operating Company, filed pursuant to Section 104(b) of the Atomic Energy Act of 1954, as amended, and Title 10 of the Code of Federal Regulations Part 54 (10 CFR part 54), to renew the operating license for the Davis-Besse Nuclear Power Station (DBNPS), Unit 1. Renewal of the license would authorize the applicant to operate the facility for an additional 20-year period beyond the period specified in the current operating license. The current operating license for DBNPS, Unit 1, NPF–003, expires on April 17, 2017. DBNPS, Unit 1, is a Pressurized Water Reactor designed by Babcock & Wilcox that is located near Toledo, Ohio. The acceptability of the tendered application for docketing, and other matters including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.

Copies of the application are available to the public at the Commission's Public Document Room (PDR), located at One

White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 or through the Internet from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room under Accession Number ML102450572. The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html.* In addition, the application is available at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html.* Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff at 1–800–397–4209, extension 4737, or by e-mail to *pdr@nrc.gov.*

A copy of the license renewal application for the DBNPS, Unit 1, is also available to local residents near the site at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, OH 43452 and the Toledo-Lucas County Public Library, 325 North Michigan Street, Toledo, OH 43604.

Dated at Rockville, Maryland this 10th day of September 2010.

For the Nuclear Regulatory Commission.

Louise Lund,

(A) Deputy Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–23381 Filed 9–17–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08502; NRC–2010–0300]

Notice of Application From Uranium One USA, Inc., for Consent to an Indirect Change of Control for Source Material License SUA–1341 to JSC Atomredmetzoloto, Opportunity To Provide Comments and To Request a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of an application for indirect change of control and opportunity to request a hearing and provide written comments.

DATES: Requests for a hearing must be filed by October 12, 2010. Comments must be received by October 20, 2010.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2010–0300 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0300. Address questions about NRC dockets to Carol Gallagher, telephone 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2010–0300.

FOR FURTHER INFORMATION CONTACT: Ron C. Linton, Project Manager, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–7777; fax number: (301) 415–5369; e-mail: *ron.linton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is considering an application dated July 20, 2010, by Uranium One USA, Inc. (the "Applicant"), requesting consent for an indirect change of control with respect to its NRC Materials License SUA–1341. Under this license, the Applicant operates the Irigaray and Christensen Ranch uranium *in situ* recovery milling facilities located in Johnson and Campbell Counties, Wyoming. The Applicant is a wholly owned subsidiary of Uranium One Exploration U.S.A., Inc. (a Delaware corporation), which is a wholly owned subsidiary of Uranium One Americas, Inc. (a Nevada corporation), which is a wholly owned subsidiary of Uranium One Investments, Inc. (a Canadian corporation), which is a wholly owned subsidiary of Uranium One, Inc. (a Canadian corporation). On June 8, 2010, Uranium One, Inc. entered into a Purchase and Subscription Agreement with JSC Atomredmetzoloto (ARMZ) (a Russian corporation) and its wholly owned subsidiaries Effective Energy N.V. (a Dutch limited liability company) and Uranium Mining Company (a Russian corporation), wherein ARMZ will acquire no less than 51 percent of Uranium One, Inc.'s common shares. ARMZ is presently directly and indirectly owned by the State Atomic Energy Corporation Rosatom (Rosatom). Rosatom's activities are regulated by Russian Federal Law No. 317–EZ and by regulatory legal acts of the President of the Russian Federation and the Government of the Russian Federation adopted in accordance with Russian Federal Law. Consummation of the transaction would result in the indirect change of control of the Applicant and license SUA–1341 from Uranium One, Inc. to Rosatom, through ARMZ. The Applicant is requesting that the NRC consent to this change of control.

The application states that there would be no change to the Applicant's operations, its key operating personnel, or its licensed activities as a result of the transaction. After closing of the transaction, and if the indirect change of control is approved by the NRC, the Applicant would continue to be the holder of license SUA–1341. The Applicant would remain technically and financially qualified as the licensee and would continue to fulfill all responsibilities as the licensee. An administrative license amendment would be necessary to reflect a change

in the financial surety mechanism for license SUA–1341.

Pursuant to section 184 of the Atomic Energy Act of 1954, as amended (AEA) and Title 10 of the Code of Federal Regulation (CFR), section 40.46, no Part 40 license shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission, after securing full information, finds that the transfer is in accordance with the provisions of the AEA, and gives its consent in writing. An Environmental Assessment (EA) will not be performed for this proposed action because it is categorically excluded from the requirement to perform an EA under 10 CFR 51.22(c)(21).

Consent to the indirect change of control is contingent upon receipt of the fully executed financial assurance instruments that meet NRC requirements and are accepted by NRC. Upon receipt of such instruments and a satisfactory completion of a safety review, the NRC staff plans to consent to the July 20, 2010, application by issuing the necessary order, along with a supporting safety evaluation report. The Applicant may be required to obtain regulatory approvals by other Federal and State agencies or departments, independent of NRC review and approval.

II. Opportunity To Request a Hearing

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E–Filing rule (72 FR 49139, August 28, 2007). The E–Filing rule requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E–Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.govmailto:,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E–Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E–Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E–Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Standard Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp*, unless excluded pursuant to an order of the Commission, or the presiding

officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law required submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than October 12, 2010. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

III. Opportunity To Provide Written Comments

In accordance with 10 CFR 2.1305(a), as an alternative to requests for hearings and petitions to intervene, persons may submit written comments regarding this action. Written comments must be submitted no later than October 20, 2010. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document. Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

IV. Further Information

Documents related to this action, including the application for the proposed action, are available electronically through the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are: June 21, 2010, letter from Uranium One re: Pending Transaction (ML101810535); and the July 20, 2010, Notice of Change of Control and Ownership Information and License Amendment Application (ADAMS ML102090404). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 8th day of September, 2010.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2010–23383 Filed 9–17–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Public Meeting

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on October 7–9, 2010, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, October 14, 2009, (74 FR 52829–52830).

Thursday, October 7, 2010, Conference Room T2–B1, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Final Safety Evaluation Report Associated with the Economic Simplified Boiling Water Reactor (ESBWR) Design Certification Application (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff, General Electric—Hitachi (GEH), and Entergy Operations, Inc. regarding the final Safety Evaluation Report associated with the ESBWR design certification application. [**Note:** A portion of this session may be closed in order to discuss and protect information designated as proprietary by GEH pursuant to 5 U.S.C. 552b(c)(4)]

10:45 a.m.–12:15 p.m.: Final Safety Evaluation Report Associated with the License Renewal Application for the Cooper Nuclear Station (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nebraska Public Power District regarding the license renewal application and final Safety Evaluation Report for the Cooper Nuclear Station.

1:15 p.m.–2:45 p.m.: Final Safety Evaluation Report Associated with the License Renewal Application and for the Duane Arnold Energy Center (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and FPL Energy Duane Arnold, LLC regarding the license renewal application and final Safety Evaluation Report for the Duane Arnold Energy Center.

3 p.m.–5 p.m.: Draft Final Rule for Risk-Informed Changes to Loss-of-Coolant Accident (LOCA) Technical Requirements (10 CFR 50.46a) (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final rule for risk-informed changes to LOCA technical requirements (10 CFR 50.46a).

5:15 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters discussed during this meeting.

Friday, October 8, 2010, Conference Room T2–B1, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Digital I&C Interim Staff Guidance on Licensing Process (ISG–6) (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Nuclear Energy Institute (NEI) regarding Digital I&C Interim Staff Guidance on Licensing Process (ISG–6).

10:45 a.m.–12:15 p.m.: Staff Efforts to Address Containment Liner Corrosion (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding staff efforts to address containment liner corrosion.

1:15 p.m.–2:45 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee

will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS Meetings, and matters related to the conduct of ACRS business, including anticipated workload and member assignments. [**Note:** A portion of this meeting may be closed pursuant to 5 U.S.C. 552b (c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy]

2:45 p.m.–3 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

3:15 p.m.–4:15 p.m.: Assessment of the Quality of Selected NRC Research Projects (Open)—The Committee will hold discussions with members of the ACRS Panels performing the quality assessment of the NRC research projects on: NUREG/CR–6947, "Human Factors Consideration with Respect to Emerging Technology in Nuclear Power Plants," and NUREG/CR–6997, "Modeling a Digital Feedwater Control System Using Traditional Probabilistic Risk Assessment Methods."

4:15 p.m.–5:45 p.m.: Preparation for Meeting with the Commission on November 5, 2010 (Open)—The Committee will discuss the topics for meeting with the Commission on November 5, 2010.

6 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Saturday, October 9, 2010, Conference Room T2–B1, Two White Flint North, Rockville, Maryland

8:30 a.m.–3 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

3 p.m.–3:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 14, 2009, (74 FR 52829–52830). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Ms. Ilka Berrios, Cognizant ACRS Staff (Telephone: 301–415–3179, E-mail: *Ilka.Berrios@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. 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 the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) Public Law 92–463, and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service.

Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: September 14, 2010.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2010–23380 Filed 9–17–10; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2010–105 through CP2010–115; Order No. 535]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently–filed Postal Service request to add 11 Global Expedited Package Services 3 contracts to the Global Expedited Package Services product. This notice addresses procedural steps associated with this filing.

DATES: Comments are due: September 20, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, *stephen.sharfman@prc.gov* or 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filing
III. Ordering Paragraphs

I. Introduction

On September 10, 2010, the Postal Service filed a notice announcing that it has entered into 11 additional Global Expedited Package Services 3 (GEPS 3) contracts.[1] The Postal Service believes

[1] Notice of United States Postal Service of Filing Eleven Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreements and Application For Non–Public Treatment of Materials Filed Under Seal, September 10, 2010 (Notice).

the instant contracts are functionally equivalent to previously submitted GEPS contracts, and are supported by Governors' Decision No. 08–7, attached to the Notice and originally filed in Docket No. CP2008–4. *Id.* at 1, Attachment 3. The Notice explains that Order No. 86, which established GEPS 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 2. In Order No. 290, the Commission approved the GEPS 2 product.[2] In Order No. 503, the Commission approved the GEPS 3 product. Additionally, the Postal Service requested to have the contract in Docket No. CP2010–71 serve as the baseline contract for future functional equivalence analyses of the GEPS 3 product.

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that each contract is in accordance with Order No. 86. The Postal Service that relates that two of the instant contracts, which expire September 30, 2010, are successor contracts for the same customers as in Docket Nos. CP2009–64 and CP2009–65, respectively. The term of each contract is 1 year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 3–4.

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachments 1A through 1K—redacted copies of the 11 contracts and applicable annexes;
- Attachments 2A through 2K—certified statements required by 39 CFR 3015.5(c)(2) for each contract;
- Attachment 3—a redacted copy of Governors' Decision No. 08–7 which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis of the formulas, and certification of the Governors' vote; and
- Attachment 4—an application for non–public treatment of materials to maintain redacted portions of the contracts and supporting documents under seal.

The Notice advances reasons why the instant GEPS 3 contracts fit within the Mail Classification Schedule language for GEPS. The Postal Service identifies customer–specific information and general contract terms that distinguish the instant contracts from the baseline GEPS 3 agreement. *Id.* at 5. It states that the differences, which include price variations based on updated costing information and volume commitments, do not alter the contracts' functional equivalency. *Id.* at 4–5. The Postal Service asserts that "[b]ecause the agreements incorporate the same cost attributes and methodology, the relevant characteristics of these 11 GEPS contracts are similar, if not the same, as the relevant characteristics of previously filed contracts." *Id.* at 5.

The Postal Service concludes that its filings demonstrate that each of the new GEPS 3 contracts complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GEPS 3 contract. Therefore, it requests that the instant contracts be included within the GEPS 3 product. *Id.* at 6.

II. Notice of Filing

The Commission establishes Docket Nos. CP2010–105 through CP2010–115 for consideration of matters related to the contracts identified in the Postal Service's Notice.

These dockets are addressed on a consolidated basis for purposes of this order. Filings with respect to a particular contract should be filed in that docket.

Interested persons may submit comments on whether the Postal Service's contracts are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642. Comments are due no later than September 20, 2010. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceedings.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. CP2010–105 through CP2010–115 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than September 20, 2010.

3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

4. The Secretary shall arrange for publication of this order in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–23404 Filed 9–17–10; 8:45 am]

BILLING CODE 7710–FW–S

[2] Docket No. CP2009–50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

POSTAL REGULATORY COMMISSION

[Docket No. RM2010–12; Order No. 534]

Periodic Reporting Proposals

AGENCY: Postal Regulatory Commission.

ACTION: Notice

SUMMARY: The Postal Service has requested changes in six analytical methods approved for use in periodic reporting. This document summarizes the proposals and invites public comment.

DATES: Comments are due October 8, 2010.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, *stephen.sharfman@prc.gov* or 202–789–6820.

SUPPLEMENTARY INFORMATION: On September 8, 2010, the Postal Service filed a petition pursuant to 39 CFR 3050.11 to initiate an informal rulemaking proceeding to consider changes in the analytical methods approved for use in periodic reporting.[1] Six separate proposals are included in the Petition labeled as Proposals Three through Eight.

Proposal Three involves City Carrier costs. The Postal Service asserts that the City Carrier Cost System is capturing more detailed information regarding direct bundles. The proposal would incorporate this new information by assigning relevant costs for direct bundles to the products that utilize them.

Proposal Four would change the way certain In–Office Cost System (IOCS) acceptance costs are allocated. The change would apply to mailpieces accepted at a window, which bear non–retail indicia, and host an extra service other than Registered Mail.[2] Currently, acceptance costs are assigned to the extra service. The Postal Service proposes to modify this methodology by assigning acceptance costs to the host mailpiece.

Proposal Five involves utilizing the more detailed information now being captured by the Rural Carrier Cost System regarding collected prepaid

[1] Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Proposed Changes in Analytic Principles (Proposals Three—Eight), September 8, 2010 (Petition).

[2] The extra services include Certified, Insured, Return Receipt, Delivery Confirmation, and COD.

parcels. The new information allows the recognition of a distinction between collected prepaid parcels weighing less than or equal to 2 pounds, and those greater than 2 pounds.

Proposal Six involves the International Cost and Revenue Analysis (ICRA). The Postal Service considers this proposal a change in calculation procedure, not an analytical methodology change. The change would separately incorporate the Inbound Processing and Carrier In–Office costs for Canada, Developing Countries and Industrialized Countries into the ICRA model using IOCS. The Postal Service asserts that this incorporates the Commission's methodology for using IOCS tally analysis into the ICRA model.

Proposal Seven would introduce a mailflow–based model of mail processing costs for Standard Mail Parcels and NFMs (Not–Flat Machinables). The Postal Service previously did not have a cost model for mail processing for this product.

Proposal Eight involves the distribution key for distributing empty equipment transportation costs to products. These costs are included in cost segment 14 (purchased transportation). The proposal is to attribute the empty equipment costs to products using a distribution factor that is based on the aggregate pound miles traveled on modes of transportation sampled by the Transportation Cost System (TRACS).

The attachments to the Postal Service's Petition explain each proposal in more detail, including its objective, background, impact, and an empirical example (comparing the changes in data reporting to the status quo). The Petition, including the attachments, is available for review on the Commission's Web site, *http://www.prc.gov.*

Comments on Proposals Three through Eight are due no later than October 8, 2010.

Pursuant to 39 U.S.C. 505, Cassie D'Souza is appointed as Public Representative to represent the interests of the general public concerning Proposals Three through Six and Eight; and John P. Klingenberg is appointed as Public Representative to represent the interests of the general public concerning Proposal Seven.

It is ordered:

1. The Petition of the United States Postal Service Requesting Initiation of a Proceeding to Consider Proposed Changes in Analytic Principles (Proposals Three—Eight), filed September 8, 2010, is granted.

2. The Commission establishes Docket No. RM2010–12 to consider the matters raised by the Postal Service's Petition.

3. Interested persons may submit comments on Proposals Three through Eight no later than October 8, 2010.

4. The Commission will determine the need for reply comments after review of the initial comments.

5. As noted in the body of this order, Cassie D'Souza and John P. Klingenberg are appointed to serve as the Public Representative to represent the interests of the general public in this proceeding.

6. The Secretary shall arrange for publication of this notice in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2010–23371 Filed 9–17–10; 8:45 am]

BILLING CODE 7710–FW–S

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form N–SAR, SEC File No. 270–292, OMB Control No. 3235–0330.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Form N–SAR (OMB Control No. 3235–0330, 17 CFR 249.330) is the form used by all registered investment companies with the exception of face amount certificate companies, to comply with the periodic filing and disclosure requirements imposed by Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) ("Investment Company Act"), and of rules 30a–1 and 30b1–1 thereunder (17 CFR 270.30a–1 and 17 CFR 270.30b1–1). The information required to be filed with the Commission assures the public availability of the information and permits verification of compliance with Investment Company Act requirements. Registered unit investment trusts are required to provide this information on an annual report filed with the Commission on Form N–SAR pursuant to rule 30a–1 under the Investment Company Act, and registered management investment companies must submit the required information on a semi-annual report on Form N–SAR pursuant to rule 30b1–1 under the Investment Company Act.

The Commission estimates that the total number of respondents is 3,480 and the total annual number of responses is 6,180 ((2,700 management investment company respondents × 2 responses per year) + (780 unit investment trust respondents × 1 response per year)). The Commission estimates that each registrant filing a report on Form N–SAR would spend, on average, approximately 14.31 hours in preparing and filing reports on Form N–SAR and that the total hour burden for all filings on Form N–SAR would be 88,436 hours.

The collection of information under Form N–SAR is mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to Shagufta Ahmed at *Shagufta_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/CIO, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: September 13, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23409 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17f–1(g); SEC File No. 270–30; OMB Control No. 3235–0290.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information provided for in Rule 17f–1(g) (17 CFR 240.17f–1(g)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the "Act").

Rule 17f–1(g) requires that all reporting institutions (*i.e.,* every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System, and bank insured by the FDIC) maintain and preserve a number of documents related to their participation in the Lost and Stolen Securities Program ("Program") under Rule 17f–1. The following documents must be kept in an easily accessible place for three years, according to paragraph (g): (1) Copies or all reports of theft or loss (Form X–17F–1A) filed with the Commission's designee: (2) all agreements between reporting institutions regarding registration in the Program or other aspects of Rule 17f–1; and (3) all confirmations or other information received from the Commission or its designee as a result of inquiry.

Reporting institutions utilize these records and reports (a) To report missing, lost, stolen or counterfeit securities to the database, (b) to confirm inquiry of the database, and (c) to demonstrate compliance with Rule 17f–1. The Commission and the reporting institutions' examining authorities utilize these records to monitor the incidence of thefts and losses incurred by reporting institutions and to determine compliance with Rule 17f–1. If such records were not retained by reporting institutions, compliance with Rule 17f–1 could not be monitored effectively.

The Commission estimates that there are 25,458 reporting institutions (respondents) and, on average, each respondent would need to retain 33 records annually, with each retention requiring approximately 1 minute (33 minutes or .55 hours). The total estimated annual burden is 14,001.9 hours (25,458 × .55 hours = 14,001.9). Assuming an average hourly cost for clerical work of $50.00, the average total yearly record retention cost for each respondent would be $27.50. Based on these estimates, the total annual cost for the estimated 25,458 reporting institutions would be approximately $700,095 (25,458 × $27.50).

Rule 17f–1(g) does not require periodic collection, but does require retention of records generated as a result of compliance with Rule 17f–1. Under Section 17(b) and (f) of the Act, the information required by Rule 17f–1(g) is available to the Commission and Federal bank regulators for examinations or collection purposes. Rule 0–4 of the Act deems such information to be confidential. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: September 14, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23411 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 17a–1; SEC File No. 270–244; OMB Control No. 3235–0208.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of extension of the previously approved collection of information provided for in Rule 17a–1 (17 CFR 240.17a–1) under the Securities Exchange Act of 1934, as amended (the "Act") (15 U.S.C. 78a *et seq.*).

Rule 17a–1 requires that every national securities exchange, national securities association, registered clearing agency, and the Municipal Securities Rulemaking Board keep on file for a period of not less than five years, the first two years in an easily accessible place, at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records made or received by it in the course of its business as such and in the conduct of its self-regulatory activity, and that such documents be available for examination by the Commission.

There are 22 entities required to comply with the rule: 14 national securities exchanges, 1 national securities association, 6 registered clearing agencies, and the Municipal Securities Rulemaking Board. The Commission staff estimates that the average number of hours necessary for compliance with the requirements of Rule 17a–1 is 50 hours per year. In addition, 4 national securities exchanges notice-registered pursuant to Section 6(g) of the Act (15 U.S.C. 78f(g)) are required to preserve records of determinations made under Rule 3a55–1 under the Act (17 CFR 240.3a55–1), which the Commission staff estimates will take 1 hour per exchange, for a total of 4 hours. Accordingly, the Commission staff estimates that the total number of hours necessary to comply with the requirements of Rule 17a–1 is 1,104 hours. The average cost per hour is $59. Therefore, the total cost of compliance for the respondents is $65,136.

Compliance with Rule 17a–1 is mandatory. Rule 17a–1 does not assure confidentiality for the records maintained pursuant to the rule. The records required by Rule 17a–1 are available only for examination by the Commission staff, state securities authorities and the self-regulatory organizations. Subject to the provisions of the Freedom of Information Act, 5 U.S.C. 522, and the Commission's rules thereunder (17 CFR 200.80(b)(4)(iii)), the Commission does not generally publish or make available information contained in any reports, summaries, analyses, letters, or memoranda arising out of, in anticipation of, or in connection with an examination or inspection of the books and records of any person or any other investigation.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid control number.

Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

September 14, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23410 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62906; File No. SR–CTA–2010–01]

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Fourteenth Charges Amendment to the Second Restatement of the Consolidated Tape Association Plan

September 14, 2010.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 608 thereunder,[2] notice is hereby given that on July 6, 2010, the Consolidated Tape Association ("CTA") Plan participants ("Participants") [3] filed with the Securities and Exchange Commission ("Commission") a proposal to amend the Second Restatement of the CTA Plan (the "CTA Plan").[4] The proposal represents the fourteenth charges amendment to the CTA Plan ("Fourteenth Charges Amendment"), and reflects changes unanimously adopted by the Participants. The Fourteenth Charges Amendment proposes: (1) Permanent approval of fees that apply to a vendor's dissemination of a real-time Network B last sale price information ticker over broadcast, cable or satellite television; and, (2) an update of the automatic annual increase to the amount of the broker-dealer enterprise maximum monthly charge. Pursuant to Rule 608(b)(3) under Regulation NMS, the Participants designate the amendment as establishing or changing a fee or other charge collected on their behalf in connection with access to, or use of, the facilities contemplated by the Plans. As a result, the amendment becomes effective upon filing with the Commission. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendment.

I. Rule 608(a)

A. Description and Purpose of the Amendments

1. Network B Television Ticker Fees

The amendment seeks to establish as a permanent part of the Network B rate schedule a tiered fee structure applicable to vendors that disseminate a real-time Network B ticker over broadcast, cable or satellite television ("Television Vendors").

The proposed tiered fee structure is identical to the fee structure that the Network B Participants have imposed on Television Vendors for several years as part of an extended pilot program. Currently, Network B had two Television Vendors. The amendment would merely codify the fees as a permanent part of the Network B fee schedule.

The proposed tiered fee structure is as follows:

Number of customer households penetrated	Monthly price per 1,000 customer households penetrated
1 through 5,000,000 ..	$1.50
5,000,001 through 10,000,000.	$1.25
10,000,001 through 20,000,000.	$1.00
20,000,001 through 40,000,000.	$0.80
40,000,001 through 60,000,000.	$0.60
More than 60,000,001	$0.50

The fee may be prorated where a vendor broadcasts the Network B ticker for only a portion of the trading day. The proration is determined by dividing the number of minutes that the vendor broadcasts the Network B ticker during the primary market's trading day into the total number of minutes in the primary market's trading day (excluding after hours' sessions). Currently, the primary market trades from 9:30 a.m. to 4 p.m. Eastern Standard Time (or for 390 minutes) on each trading day. Accordingly, if a vendor only broadcasts the Network B ticker for two hours during the trading day, it would calculate the Network B fee by (A) multiplying the number of households reached by (the applicable monthly price divided by 1,000 households reached) and (B) multiplying that product by (120 minutes divided by 390 minutes).

Where a vendor owns more than one network and broadcasts the Network B ticker simultaneously over more than one of its networks to a household, the vendor only needs to count that household once in the calculation of the number of households reached.

The Network B Participants propose to quantify the number of households reached for billing purposes through the use of the monthly *Nielsen Cable National Audience Demographic Report* (the "Nielsen Report"). For January through June of each year, the Network B Participants will base the bills upon the number of households reached as at the end of the preceding September, as published in the Nielsen Report. For July through December of each year, the Network B Participants will base the bills upon the number of households reached as at the end of the preceding March, as published in the Nielsen Report.

Where the Nielsen Report does not provide the number of households reached for a vendor as at the end of March or September, the Network B Participants will use the most recent figure that the Nielsen Report has published as at the end of any of the six months preceding that March or September. If the Nielsen Report does not provide the number of households reached during that period, then the Network B Participants will ask the vendor to report the number of households that its broadcasts reach as at the end of each September and March. The Network B Participants reserve the right to verify the accuracy of the vendor's report.

The new Network B ticker fee applies to any television broadcasts of the Network B ticker, whether through broadcast, cable or satellite television. The vendor's television ticker service may not enable the vendor's subscribers to customize or interrogate the ticker stream or to electronically capture and

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] Each participant executed the proposed amendment. The Participants are: BATS Exchange, Inc.; Chicago Board Options Exchange, Inc.; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; International Securities Exchange, LLC; NASDAQ OMX BX, Inc.; NASDAQ OMX PHLX, Inc.; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex LLC; and NYSE Arca, Inc.

[4] *See* Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799 (declaring the CTA Plan effective). The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a "transaction reporting plan" under Rule 601 under the Act, 17 CFR 242.601, and a "national market system plan" under Rule 608 under the Act, 17 CFR 242.608.

store the last sale price information included in the stream. The vendor must provide the same ticker to each of its subscribers.

The Network B real-time television ticker charges and related measuring metric and guidelines apply in a manner that is substantially similar to those in effect for Network A Television Vendors. (Network A charges $2.00 per 1000 households reached. The Network A Participants impose a monthly cap on the fees. The monthly cap is currently $164,000, but the Network B Participants anticipate that the Network A Participants will soon propose an amendment that would reduce the Network A monthly cap to $125,000.)

The Exchange has discussed the real-time Network B television ticker product with both of the two current Television Vendors. They have provided positive feedback to the Exchange, noting that the product is appealing to them.

The Network B Participants believe that Television Vendors contribute to the widespread distribution of real-time market data around the world, making it possible for individuals to view real-time Network B prices throughout the trading day through television. They believe that the proposed charges would continue to impose fair and reasonable amounts on Television Vendors for that service.

2. Elimination of Broker-Dealer Enterprise Monthly Maximum Charge

In addition to adding the Network B Television Ticker Charges to Schedule A–3 to the CTA Plan, the Network B Participants have also determined to revise Schedule A–3 by amending Footnote 11, the CTA Plan's annual adjustment of the Network B broker-dealer enterprise maximum monthly fee.

Footnote 11 provides that an entity that is registered as a broker/dealer under the Securities Exchange Act of 1934 is not required to pay more than $500,000 for any month (the "Maximum Monthly Amount") for the aggregate amount of: (a) Network B display-device charges for devices that its officers, partners and employees use; plus (b) Network B display-device and per-quote packet charges payable in respect of services that it provides to nonprofessional subscribers that are brokerage account customers of the broker/dealer.

The footnote then provides that the Maximum Monthly Amount will increase each calendar year by an amount equal to the percentage increase in the annual composite share volume for the preceding calendar year, subject to a maximum annual increase of five percent (the "Annual Adjustment"). The footnote provides that the annual increases will commence with calendar year 2001.

The Network B Participants have had no reason to apply the Annual Adjustment for the past several years because no broker/dealers are currently subject to the Network B Maximum Monthly Amount. However, they anticipate that at least one broker/dealer will become subject to the Network B Maximum Monthly Amount during 2010. They believe that the stated pre-Annual Adjustment Monthly Maximum Amount (*i.e.,* $500,000) is the appropriate amount to charge such broker/dealers during calendar months falling in 2010.

For that reason, the Network B Participants propose to amend the Annual Adjustment in Footnote 11 to provide that Network B shall apply the Annual Adjustment commencing with calendar year 2011, rather than 2001. Because Network B will not apply Annual Adjustments for calendar years 2001 through 2010, this amounts to a decrease in the Maximum Monthly Amount.

The text of the proposed Amendment is available on the CTA's Web site (*http://www.nysedata.com/cta*), at the principal office of the CTA, and at the Commission's Public Reference Room.

B. Additional Information Required by Rule 608(a)

1. Governing or Constituent Documents

Not applicable.

2. Implementation of the Amendment

Over several years, the Network B Participants have conducted a pilot program that permits vendors to disseminate a Network B last sale price information ticker by means of broadcast, cable and/or satellite television. The Network B Participants now propose to convert the real-time Network B ticker initiative from a pilot program to a permanent part of the Network B rate schedule. The proposed permanent tiered fee structure is identical to the fee structure that has applied during the pilot program.

In addition, by eliminating the Annual Adjustment, the Network B Participants propose to amend the Maximum Monthly Amount payable by a broker/dealer in the form of (i) Network B display-device charges and (ii) Network B display charges and per-quote packet charges provided to nonprofessional subscribers that are brokerage account customers of the broker/dealer.

Because the amendment establishes or amends fees collected on the Network B Participants' behalf in connection with access to, or use of, the facilities contemplated by the CTA Plan, the amendment becomes effective upon filing with the Commission.

As a result, the amendment will "be implemented" immediately. The new Network B permanent fees will supersede and replace the pilot program. As additional vendors undertake to transmit the Network B ticker over television, they will be subject to the new fee in accordance with the guidelines set forth in this proposed amendment to the CTA Plan.

The elimination of the Annual Adjustment will have no current impact, as no broker/dealer currently qualifies for the Maximum Monthly Amount.

3. Development and Implementation Phases

See Item I(B)(2) above.

4. Analysis of Impact on Competition

The amendment will impose no burden on competition.

5. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

The Participants have no written understandings or agreements relating to interpretation of the CTA Plan as a result of the amendment.

6. Approval by Sponsors in Accordance with Plan

Under Section IV(b) of the CTA Plan, each CTA Plan Participant must execute a written amendment to the CTA Plan before the amendment can become effective. The amendment is so executed.

7. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

8. Terms and Conditions of Access

Not applicable.

9. Method of Determination and Imposition, and Amount of, Fees and Charges

In determining the amount of the real-time Network B television tiered fee structure, the Network B Participants have carried over the same fee that has applied during the real-time Network B television ticker pilot program.

The Network B Participants established the pilot program fees through a process of discussion and negotiation with the first participants in

the pilot program. Currently, two Television Vendors participate in the program. In the view of the Network B Participants, using the number of households reached as the billing metric for the dissemination of last sale price information through television is a reasonable counterpart to metrics used in other contexts, such as counting devices, subscriber entitlements or quote packets. The billing metric is the same as television advertisers use, a fact that serves to discipline accuracy of the households-reached count (since the television networks have incentives to maximize the number of households reached while the advertisers have incentives to minimize the number).

The Network B Participants believe that the level of the fee is fair and reasonable and allows the television vendors to contribute an appropriate amount for the market data services that they provide. It constitutes a reasonable allocation of the costs of running the securities markets that the Network B Participants operate to the purveyors of the Television Vendors.

10. Method of Frequency of Processor Evaluation

Not applicable.

11. Dispute Resolution

Not applicable.

II. Rule 601(a)

A. Reporting Requirements

Not applicable.

B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

The new fee will permit vendors to disseminate a ticker stream of Network B last sale price information to viewers of broadcast, cable or satellite television.

C. Manner of Consolidation

Not applicable.

D. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

F. Terms of Access to Transaction Reports

The Network B Participants will require vendors of Network B ticker television services to enter into the standard form of vendor agreement. It is the same form into which the CTA Plan Participants require all vendors to enter.

G. Identification of Marketplace of Execution

Not applicable.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Fourteenth Charges Amendment to the CTA Plan 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–CTA–2010–01 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–CTA–2010–01. 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 Amendment that is filed with the Commission, and all written communications relating to the Amendment 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 Amendments also will be available for inspection and copying at the principal office of the CTA. All comment received will be posted without change; the Commission does not edit personal identifying information from ubmissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CTA–2010–01 and should be submitted on or before October 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23359 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62912; File No. SR–CTA/CQ–2010–03]

Consolidated Tape Association; Notice of Filing and Immediate Effectiveness of the Sixteenth Substantive Amendment to the Second Restatement of the Consolidated Tape Association Plan and Twelfth Substantive Amendment to the Restated Consolidated Quotation Plan

September 14, 2010.

Pursuant to Section 11A of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 608 thereunder,[2] notice is hereby given that on August 27, 2010, the Consolidated Tape Association ("CTA") Plan and Consolidated Quotation ("CQ") Plan participants ("Participants")[3] filed with the Securities and Exchange Commission ("Commission") a proposal to amend the Second Restatement of the CTA Plan and Restated CQ Plan (collectively, the "Plans").[4] The proposal represents the sixteenth substantive amendment to the CTA Plan ("Sixteenth Amendment to the CTA Plan") and the twelfth substantive amendment to the CQ Plan ("Twelfth Amendment to the

[5] 17 CFR 200.30–3(a)(27).

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] Each participant executed the proposed amendment. The Participants are: BATS Exchange, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; International Securities Exchange LLC; NASDAQ OMX BX, Inc.; NASDAQ OMX PHLX, Inc.; The NASDAQ Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE Amex, Inc.; and NYSE Arca, Inc.

[4] *See* Securities Exchange Act Release Nos. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective); 15009 (July 28, 1978), 43 FR 34851 (August 7, 1978) (temporarily authorizing the CQ Plan); and 16518 (January 22, 1980), 45 FR 6521 (January 28, 1980) (permanently authorizing the CQ Plan). The most recent restatement of both Plans was in 1995. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a "transaction reporting plan" under Rule 601 under the Act, 17 CFR 242.601, and a "national market system plan" under Rule 608 under the Act, 17 CFR 242.608. The CQ Plan, pursuant to which markets collect and disseminate bid/ask quotation information for listed securities, is also a "national market system plan" under Rule 608 under the Act, 17 CFR 242.608.

CQ Plan"), and reflects changes unanimously adopted by the Participants. The Sixteenth Amendment to the CTA Plan and the Twelfth Amendment to the CQ Plan ("Amendments") propose to add EDGA Exchange, Inc. and EDGX Exchange, Inc. to the Plans. The Commission is publishing this notice to solicit comments from interested persons on the proposed Amendments.

I. Rule 608(a)

A. Purpose of the Amendments

The amendment proposes to add EDGA Exchange, Inc. and EDGX Exchange, Inc. as new Participants to each Plan.

B. Governing or Constituent Documents

Not applicable.

C. Implementation of the Amendments

Because the Amendments constitute "Ministerial Amendments" under both clause (1) of Section IV(b) of the CTA Plan and clause (1) of Section IV(c) of the CQ Plan, the Chairman of the CTA Plan and the CQ Plan's Operating Committee may submit these amendments to the Commission on behalf of the Participants in the CTA Plan and the CQ Plan. Because the Participants designate the amendments as concerned solely with the administration of the Plans, the amendments become effective upon filing with the Commission.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The proposed amendment does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Participants do not believe that the proposed plan amendment introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Exchange Act.

F. Written Understanding or Agreements relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Sponsors in Accordance with Plan

See Item I(C) above.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

See Item I(A) above.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

See Item I(A) above.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Not applicable.

II. Rule 601(a) (Solely in its Application to the Amendments to the CTA Plan)

A. Reporting Requirements

Not applicable.

B. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

Not applicable.

C. Manner of Consolidation

Not applicable.

D. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

Not applicable.

E. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

Not applicable.

F. Terms of Access to Transaction Reports

Not applicable.

G. Identification of Marketplace of Execution

Not Applicable.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed Amendments are 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–CTA/CQ–2010–03 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–CTA/CQ–2010–03. 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 Amendments that are filed with the Commission, and all written communications relating to the Amendments 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 website 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 Amendments also will be available for inspection and copying at the principal office of the CTA. 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–CTA/CQ–2010–03 and should be submitted on or before October 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23360 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29416; File No. 812–13714]

American Capital, Ltd.; Notice of Application

September 14, 2010.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of an application for an order under section 61(a)(3)(B) of the Investment Company Act of 1940 (the "Act").

SUMMARY: *Summary of Application:* Applicant, American Capital, Ltd. requests an order approving a proposal to grant certain stock options to

directors who are not also employees or officers of the applicant (the "Non-employee Directors") under its 2009 Stock Option Plan (the "Plan").

DATES: *Filing Dates:* The application was filed on November 5, 2009, and amended on January 25, 2010, and September 7, 2010. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 7, 2010, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Commission, 100 F Street, NE., Washington, DC 20549–1090; Applicant, 2 Bethesda Metro Center, 14th Floor, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876, or Michael W. Mundt, Assistant Director, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicant's Representations

1. Applicant, a Delaware corporation, is a business development company ("BDC") within the meaning of section 2(a)(48) of the Act.[1] Applicant's primary business objectives are to increase its net operating income and net asset value by investing its assets in senior debt, subordinated debt, with and without detachable warrants, and equity of small to medium sized businesses with attractive current yields and potential for equity appreciation. Applicant's investment decisions are made either by its board of directors (the "Board"), based on recommendations of the executive officers of applicant, or, for investments that meet certain objective criteria established by the Board, by the executive officers of applicant, under authority delegated by the Board. Applicant does not have an external investment adviser within the meaning of section 2(a)(20) of the Act.

2. Applicant requests an order under section 61(a)(3)(B) of the Act approving its proposal to grant certain stock options under the Plan to its Non-employee Directors.[2] Applicant has a nine member Board with one current vacancy. Seven of the eight current members of the Board are not "interested persons" (as defined in section 2(a)(19) of the Act) of the applicant ("Disinterested Directors"). All of the current Non-employee Directors are Disinterested Directors. The Board approved the Plan at a meeting of the Board held on April 6, 2009 and applicant's stockholders approved the Plan at the annual meeting of stockholders held on June 11, 2009.[3]

3. Applicant's officers, employees, and Non-employee Directors are eligible to receive options under the Plan. Under the Plan, a maximum of 750,000 shares of applicant's common stock, in the aggregate, may be issued to Non-employee Directors and options to purchase 93,750 shares of applicant's common stock may be issued to any one Non-employee Director. On the date that the Commission issues an order on the application ("Order Date"), each of the seven Non-employee Directors serving on the Board as of June 11, 2009 will be granted options to purchase 93,750 shares of applicant's common stock (the "Initial Grants"), provided that the Non-employee Director is a member of the Board on the Order Date. The options issued under the Initial Grants will vest in three equal parts on each of the first three anniversaries of June 11, 2009. Any person who becomes a Non-employee Director after June 11, 2009 will be entitled to receive options to purchase 93,750 shares of applicant's common stock (the "Other Grants"), if and to the extent that there are options available for grant to Non-employee Directors under the Plan. Each Other Grant will be effective on the later of the date such person becomes a Non-employee Director and the Order Date. The options issued under the Other Grants will vest in three equal parts on each of the first three anniversaries of the date such person becomes a Non-employee Director.

4. Under the terms of the Plan, the exercise price of an option will not be less than 100% of the current market value, or if no such market value exists, the current net asset value ("NAV") per share of applicant's common stock on the date of the issuance of the option ("Fair Market Value").[4] The Initial Grants will expire on June 11, 2019, and the Other Grants will expire on the tenth anniversary of the date the person becomes a Non-employee Director. Options granted under the Plan may not be assigned or transferred other than by will or the laws of descent and distribution. In the event of the death or disability (as defined in the Plan) of a Non-employee Director during such director's service, all such director's unexercised options will immediately become exercisable and may be exercised for a period of three years following the date of death (by such director's personal representative) or one year following the date of disability, but in no event after the respective expiration dates of such options. In the event of the termination of a Non-employee Director for cause, any unexercised options will terminate immediately. If a Non-employee Director's service is terminated for any reason other than by death, disability, or

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] The Non-employee Directors receive a $100,000 per year retainer payment and $3,000 for each Board or committee meeting or other designated Board-related meeting attended, and reimbursement for related expenses. Non-employee Directors who chair a committee of the Board receive an additional $10,000 retainer per year. Non-employee Directors who serve as directors on the boards of portfolio companies also receive an annual retainer from applicant set at $30,000 per board, in lieu of any payment from the portfolio company.

[3] At a Board meeting held on January 14, 2010, the Board approved an amendment to the Plan. At such meeting, the Board determined that the amendment did not require stockholder approval under Section 10 of the Plan or applicable law or NASDAQ listing requirements. The Company acknowledges that the Commission is not taking a position as to whether the Company is required to seek stockholder approval for the amendment.

[4] Under the Plan, "Fair Market Value" is defined as follows: (a) if applicant's common stock is listed on any established exchange or traded on the NASDAQ Global Select Market, the closing sales price of the common stock as quoted on such exchange or market (or if the common stock is traded on multiple exchanges or markets, the exchange or market with the greatest volume of trading in the common stock) on the date on which an option is granted under the Plan, as reported in *The Wall Street Journal* or such other source as the Board deems reliable; or (b) in the absence of closing sales prices on such exchanges or markets for the common stock, the Fair Market Value will be determined in good faith by the Board, but in no event shall be less than the current NAV per share of common stock.

for cause, the options may be exercised within one year immediately following the date of termination, but in no event later than the expiration date of such options.

5. Applicant's officers and employees are eligible or have been eligible to receive options under stock option plans that exclude Non-employee Directors as participants (the "Employee Plans"), applicant's 2006 stock option plan (the "2006 Option Plan"), applicant's 2007 stock option plan (the "2007 Option Plan"), and applicant's 2008 stock option plan (the "2008 Option Plan"). Non-employee Directors have been eligible to receive options under applicant's two Disinterested Director stock option plans (the "Disinterested Director Plans"), the 2006 Option Plan, the 2007 Option Plan and the 2008 Option Plan (collectively, the 2008 Option Plan, the 2007 Option Plan, the 2006 Option Plan, the Disinterested Director Plans and the Employee Plans are the "Other Plans"). As of August 18, 2010, applicant had 350,309,123 shares of common stock outstanding.[5] The 750,000 shares of applicant's common stock that may be issued to Non-employee Directors under the Plan represent 0.2% of applicant's outstanding voting securities as of August 18, 2010. As of August 18, 2010, the amount of voting securities that would result from the exercise of all outstanding options issued to applicant's directors, officers, and employees under the Other Plans and the Plan would be 33,553,256 shares of applicant's common stock, or 9.5% of applicant's outstanding voting securities. As of August 18, 2010, applicant had no outstanding warrants, options, or rights to purchase its voting securities other than the outstanding options issued to applicant's directors, officers, and employees under the Other Plans and the Plan.

Applicant's Legal Analysis

1. Section 63(3) of the Act permits a BDC to sell its common stock at a price below current NAV upon the exercise of any option issued in accordance with section 61(a)(3). Section 61(a)(3)(B) provides, in pertinent part, that a BDC may issue to its non-employee directors options to purchase its voting securities pursuant to an executive compensation plan, provided that: (a) The options expire by their terms within ten years; (b) the exercise price of the options is not less than the current market value of the underlying voting securities at the date of the issuance of the options, or if no market value exists, the current NAV of the underlying voting securities; (c) the proposal to issue the options is authorized by the BDC's shareholders, and is approved by order of the Commission upon application; (d) the options are not transferable except for disposition by gift, will or intestacy; (e) no investment adviser of the BDC receives any compensation described in section 205(a)(1) of the Investment Advisers Act of 1940, except to the extent permitted by clause (b)(1) or (b)(2) of that section; and (f) the BDC does not have a profit-sharing plan as described in section 57(n) of the Act.

2. In addition, section 61(a)(3) provides that the amount of the BDC's voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance may not exceed 25% of the BDC's outstanding voting securities, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to the BDC's directors, officers, and employees pursuant to any executive compensation plan would exceed 15% of the BDC's outstanding voting securities, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance will not exceed 20% of the outstanding voting securities of the BDC.

3. Applicant represents that its proposal to grant certain stock options to Non-employee Directors under the Plan meets all the requirements of section 61(a)(3)(B). Applicant states that the Board is actively involved in the oversight of applicant's affairs and that it relies extensively on the judgment and experience of its Board. In addition to their duties as Board members generally, applicant states that the Non-employee Directors provide guidance and advice on operational issues, underwriting policies, credit policies, asset valuation and strategic direction, as well as serving on committees. Applicant believes that the availability of options under the Plan will provide significant at-risk incentives to Non-employee Directors to remain on the Board and devote their best efforts to ensure applicant's success. Applicant states that the options will provide a means for the Non-employee Directors to increase their ownership interests in applicant, thereby ensuring close identification of their interests with those of applicant and its stockholders. Applicant asserts that by providing incentives such as options, applicant will be better able to maintain continuity in the Board's membership and to attract and retain the highly experienced, successful and dedicated business and professional people who are critical to applicant's success as a BDC.

4. As noted above, applicant states that the amount of voting securities that would result from the exercise of all outstanding options issued to applicant's directors, officers, and employees under the Other Plans and the Plan would be 33,553,256 shares of applicant's common stock, or 9.5% of applicant's outstanding voting securities, as of August 18, 2010. However, applicant represents that the maximum number of voting securities that would result from the exercise of all outstanding options issued and all options issuable to applicant's directors, officers, and employees under the Plan and the Other Plans would be 70,981,813 shares of applicant's common stock, or 20.2% of applicant's outstanding voting securities, as of August 18, 2010. Applicant states that to the extent the number of shares of common stock that would be issued upon the exercise of options issued under the Other Plans and the Plan exceeds 15% of applicant's outstanding voting securities, applicant will comply with the 20% limit in section 61(a)(3) of the Act.

5. Applicant asserts that, given the relatively small amount of common stock issuable to Non-employee Directors upon their exercise of options under the Plan, the exercise of such options would not, absent extraordinary circumstances, have a substantial dilutive effect on the NAV of applicant's common stock.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23408 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

[5] Applicant's common stock constitutes the only voting security of applicant currently outstanding.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, September 23, 2010 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain

staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Aguilar, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, September 23, 2010 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

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: September 16, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–23523 Filed 9–16–10; 4:15 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62902; File No. SR–CBOE–2010–081]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Waiver of Transaction Fee for Public Customer Orders in SPDR Options Executed in Open Outcry or in the Automated Improvement Mechanism

September 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 3, 2010, Chicago Board Options Exchange, Incorporated ("CBOE" or the "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 CBOE. 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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule to waive the transaction fee for public customer orders in options on Standard & Poor's Depositary Receipts that are executed in open outcry or in the Automated Improvement Mechanism. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Public customer ("C" origin code) orders in options on Standard & Poor's Depositary Receipts ("SPDR options") are charged a transaction fee of $.18 per contract, except for orders of 99 contracts or less.[1] The Exchange proposes to amend its Fees Schedule to waive the transaction fee for public customer orders in SPDR options that are executed in open outcry or in the Automated Improvement Mechanism ("AIM")[2], effective September 7, 2010 through November 30, 2010. The proposed fee waiver is intended to attract more customer volume on the Exchange in this product.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")[3], in general, and furthers the objectives of Section 6(b)(4)[4] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes the proposed fee waiver is reasonable because it would result in cost savings during the waiver period for public customers trading SPDR options and is consistent with other fees assessed by the Exchange. The Exchange assesses manually executed broker-dealer orders a different rate ($.25 per contract) as compared to electronically executed broker-dealer orders ($.45 per contract), and a different rate ($.20 per contract) for broker-dealer orders executed on AIM as compared to other electronic executions and manual executions of broker-dealer orders.[5] Other exchange fee schedules also distinguish between electronically and non-electronically executed orders.[6] The Exchange believes the proposed fee waiver is equitable because it would apply uniformly to all public customers trading SPDR options.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[1] Transaction fees are currently waived for customer orders of 99 contracts or less in ETF, ETN and HOLDRs options. *See* CBOE Fees Schedule, footnote 9.

[2] AIM is an electronic auction system that exposes certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price. AIM is governed by CBOE Rule 6.74A.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] *See* CBOE Fees Schedule, Section 1.

[6] NASDAQ OMX PHLX, Inc. categorizes its equity options transaction fees for Specialists, ROTs, SQTs, RSQTs and Broker-Dealers as either electronic or non-electronic. See NASDAQ OMX PHLX Fees Schedule, Equity Options Fees. NYSE Amex, Inc. categorizes its options transaction fees for Non-NYSE Amex Options Market Makers, Broker-Dealers, Professional Customers, Non BD Customers and Firms as either electronic or manual. See NYSE Amex Fees Schedule, Trade Related Charges. NYSE Arca, Inc. categorizes its options transaction fees for Customers, Firms and Broker-Dealers as either electronic or manual. See NYSE Arca Fees Schedule, Trade Related Charges.

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) of the Act [7] and subparagraph (f)(2) of Rule 19b–4 [8] thereunder. At any time within 60 days of the filing of the 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–CBOE–2010–081 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2010–081. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2010–081 and should be submitted on or before October 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23384 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62907; File No. SR–NASDAQ–2010–110]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Rule 7019

September 14, 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 September 7, 2010, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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

NASDAQ proposes to modify Rule 7019 to harmonize distributor and direct access fees for depth-of-book proprietary data products. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.[3]

* * * * *

7019. Market Data Distributor Fees

(a) No change.

(b) The charge to be paid by Distributors of the following NASDAQ Market Center real time data feeds shall be:

	Monthly direct access fee	Monthly internal distributor fee	Monthly external distributor fee
Issue Specific Data			
Dynamic Intraday			
NASDAQ-listed security depth entitlements [TotalView]	$2,000	$1,000	$2,500
Non NASDAQ-listed security depth entitlements [OpenView]	1,000	500	1,250

(c)–(d) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below, and is set forth in Sections A, B, and C below.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 C.F.R. 240.19b–4(f)(2) [sic].

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Changes are marked to the rule text that appears in the electronic manual of NASDAQ found at *http://nasdaqomx.cchwallstreet.com.*

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to modify Rule 7019, which governs market data distribution fees, to harmonize the distributor fees for depth products by including Level 2, also known as NQDS, under the current TotalView fee for NASDAQ-listed securities. Currently, distributors receiving the data feed that contains the NASDAQ Level 2 entitlement and OpenView entitlement pay distributor fees for non-NASDAQ listed securities (under the OpenView entitlement) but do not pay distributor fees for NASDAQ-listed securities. By contrast, distributors receiving NASDAQ-listed data through TotalView do pay the fee. Harmonization of the depth distributor fee entitlement for NASDAQ-listed securities on the Level 2 data product, consistent with other NASDAQ depth products such as TotalView, ensures product and policy consistency. As mentioned above, the NASDAQ Level 2 data feed contains two different entitlements (the OpenView entitlement and Level 2 entitlement). The data feed is the physical stream of data, whereas the entitlement is the subscription for which customers sign-up.

The NASDAQ Level 2 entitlement was created in 1983 at a time when all real-time products fell under the auspices of the UTP Plan. Subsequently, NASDAQ created a separate security information processor for UTP data in 2002 and petitioned the SEC to remove the Level 2 entitlement from the UTP Plan. When NASDAQ received exchange status in 2006, Level 2 data was removed from the UTP plan. Currently, the Level 2 data feed carries top-of-file exchange participant quotations for both NASDAQ and Consolidated Quotation System issues. This information is also carried in TotalView along with the full participant quotes. As such, Level 2 is a subset of TotalView data. Like TotalView and NASDAQ's other data products, the Level 2 data feed is offered in a full range of network protocols.

In addition to the new distributor fees, NASDAQ is expanding the direct access fee to customers who subscribe to the Level 2 entitlement. As with the disparity in the TotalView distributor fee, customers who access only the Level 2 information through the Level 2 entitlement directly from the Exchange are not charged a direct access fee (as "Direct Access" is defined in NASDAQ Rule 7019). NASDAQ is seeking to remedy this so that these customers are charged the same direct access fee as are customers of TotalView and OpenView. It is important to note that customers will only be charged one direct access fee for NASDAQ-listed securities and one direct access fee for non-NASDAQ listed securities, paralleling the TotalView and OpenView direct access entitlements.

The Exchange believes that the harmonization of the distributor fee and direct access fee makes NASDAQ's depth distributor fees and direct access fees consistent across products and allows NASDAQ to assess a fair price for the value delivered through all of NASDAQ's depth products. Firms would pay only one distributor fee and one direct access fee for a non-NASDAQ listed securities entitlement, regardless of the number of feeds consumed. Additionally, firms would only pay one distributor fee and one direct access fee for a NASDAQ-listed securities entitlement, regardless of the number of feeds consumed. This proposed rule change also has no affect on professional and non-professional user fees, as this change is aimed solely at the harmonization of distributor and direct access fees.

NASDAQ will implement the changes made by this proposed rule change on September 1, 2010.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(4) of the Act,[5] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of NASDAQ data. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[6]

By removing "unnecessary regulatory restrictions" on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

On July 21, 2010, President Barack Obama signed into law H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"), which amended Section 19 of the Act. Among other things, Section 916 of the Dodd-Frank Act amended paragraph (A) of Section 19(b)(3) of the Act by inserting the phrase "on any person, whether or not the person is a member of the self-regulatory organization" after "due, fee or other charge imposed by the self-regulatory organization." As a result, all SRO rule proposals establishing or changing dues, fees, or other charges are immediately effective upon filing regardless of whether such dues, fees, or other charges are imposed on members of the SRO, non-members, or both. Section 916 further amended paragraph (C) of Section 19(b)(3) of the Exchange Act to read, in pertinent part, "At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) [of Section 19(b)], the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, 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 this title. If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) [of Section 19(b)] to determine whether the proposed rule should be approved or disapproved."

NASDAQ believes that these amendments to Section 19 of the Act reflect Congress's intent to allow the Commission to rely upon the forces of competition to ensure that fees for market data are reasonable and equitably allocated. Although Section 19(b) had formerly authorized immediate effectiveness for a "due, fee or other charge imposed by the self-regulatory organization," the

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

Commission adopted a policy and subsequently a rule stipulating that fees for data and other products available to persons that are not members of the self-regulatory organization must be approved by the Commission after first being published for comment. At the time, the Commission supported the adoption of the policy and the rule by pointing out that unlike members, whose representation in self-regulatory organization governance was mandated by the Act, non-members should be given the opportunity to comment on fees before being required to pay them, and that the Commission should specifically approve all such fees. NASDAQ believes that the amendment to Section 19 reflects Congress's conclusion that the evolution of self-regulatory organization governance and competitive market structure have rendered the Commission's prior policy on non-member fees obsolete. Specifically, many exchanges have evolved from member-owned not-for-profit corporations into for-profit investor-owned corporations (or subsidiaries of investor-owned corporations). Accordingly, exchanges no longer have narrow incentives to manage their affairs for the exclusive benefit of their members, but rather have incentives to maximize the appeal of their products to all customers, whether members or non-members, so as to broaden distribution and grow revenues. Moreover, we believe that the change also reflects an endorsement of the Commission's determinations that reliance on competitive markets is an appropriate means to ensure equitable and reasonable prices. Simply put, the change reflects a presumption that all fee changes should be permitted to take effect immediately, since the level of all fees are constrained by competitive forces.

The recent decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoaliton* v. *SEC,* No. 09–1042 (DC Cir. 2010), although reviewing a Commission decision made prior to the effective date of the Dodd-Frank Act, upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. "In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' *NetCoaltion,* at 15 (quoting H.R. Rep. No. 94–229, at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 321, 323). The court's conclusions about Congressional intent are therefore reinforced by the Dodd-Frank Act amendments, which create a presumption that exchange fees, including market data fees, may take effect immediately, without prior Commission approval, and that the Commission should take action to suspend a fee change and institute a proceeding to determine whether the fee change should be approved or disapproved only where the Commission has concerns that the change may not be consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Notwithstanding its determination that the Commission may rely upon competition to establish fair and equitably allocated fees for market data, the *NetCoaltion* court found that the Commission had not, in that case, compiled a record that adequately supported its conclusion that the market for the data at issue in the case was competitive. For the reasons discussed above, NASDAQ believes that the Dodd-Frank Act amendments to Section 19 materially alter the scope of the Commission's review of future market data filings, by creating a presumption that all fees may take effect immediately, without prior analysis by the Commission of the competitive environment. Even in the absence of this important statutory change, however, NASDAQ believes that a record may readily be established to demonstrate the competitive nature of the market in question.

There is intense competition between trading platforms that provide transaction execution and routing services and proprietary data products. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price and distribution of its data products. Without the prospect of a taking order seeing and reacting to a posted order on a particular platform, the posting of the order would accomplish little. Without trade executions, exchange data products cannot exist. Data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will direct orders to a particular exchange only if the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decreases, for two reasons. First, the product will contain less information, because executions of the broker-dealer's orders will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing orders will become correspondingly more valuable.

Thus, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. "No one disputes that competition for order flow is 'fierce'." *NetCoalition* at 24. However, the existence of fierce competition for order flow implies a high degree of price sensitivity on the part of broker-dealers with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A broker-dealer that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the

value of that platform's market data and reduce its own need to consume data from the disfavored platform. Similarly, if a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected broker-dealers will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platform may choose to pay rebates to attract orders, charge relatively low prices for market information (or provide information free of charge) and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market information, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. This would be akin to strictly regulating the price that an automobile manufacturer can charge for car sound systems despite the existence of a highly competitive market for cars and the availability of after-market alternatives to the manufacturer-supplied system.

The market for market data products is competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Broker-dealers currently have numerous alternative venues for their order flow, including ten self-regulatory organization ("SRO") markets, as well as internalizing broker-dealers ("BDs") and various forms of alternative trading systems ("ATSs"), including dark pools and electronic communication networks ("ECNs"). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities ("TRFs") compete to attract internalized transaction reports. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including NASDAQ, NYSE, NYSE Amex, NYSEArca, and BATS.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple broker-dealers' production of proprietary data products. The potential sources of proprietary products are virtually limitless.

The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and Arca did before registering as exchanges by publishing proprietary book data on the Internet. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace.

Market data vendors provide another form of price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract "eyeballs" that contribute to their advertising revenue. Retail broker-dealers, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. NASDAQ and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While broker-dealers have previously published their proprietary data individually, Regulation NMS encourages market data vendors and broker-dealers to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg, and Thomson-Reuters.

The court in *NetCoalition* concluded that the Commission had failed to demonstrate that the market for market data was competitive based on the reasoning of the Commission's *NetCoalition* order because, in the court's view, the Commission had not adequately demonstrated that the depth-of-book data at issue in the case is used

to attract order flow. NASDAQ believes, however, that evidence not before the court clearly demonstrates that availability of data attracts order flow. For example, as of July 2010, 92 of the top 100 broker-dealers by shares executed on NASDAQ consumed NQDS and 80 of the top 100 broker-dealers consumed TotalView. During that month, the NQDS-users were responsible for 94.44% of the orders entered into NASDAQ and TotalView users were responsible for 92.98%.

Competition among platforms has driven NASDAQ continually to improve its platform data offerings and to cater to customers' data needs. For example, NASDAQ has developed and maintained multiple delivery mechanisms (IP, multi-cast, and compression) that enable customers to receive data in the form and manner they prefer and at the lowest cost to them. NASDAQ offers front end applications such as its "Bookviewer" to help customers utilize data. NASDAQ has created new products like TotalView Aggregate to complement TotalView ITCH and Level 2, because offering data in multiple formatting allows NASDAQ to better fit customer needs. NASDAQ offers data via multiple extranet providers, thereby helping to reduce network and total cost for its data products. NASDAQ has developed an online administrative system to provide customers transparency into their data feed requests and streamline data usage reporting. NASDAQ has also expanded its Enterprise License options that reduce the administrative burden and costs to firms that purchase market data.

Despite these enhancements and a dramatic increase in message traffic, NASDAQ's fees for market data have remained flat. In fact, as a percent of total customer costs, NASDAQ data fees have fallen relative to other data usage costs—including bandwidth, programming, and infrastructure—that have risen. The same holds true for execution services; despite numerous enhancements to NASDAQ's trading platform, absolute and relative trading costs have declined. Platform competition has intensified as new entrants have emerged, constraining prices for both executions and for data.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] At any time within 60 days of the filing of the 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2010–110 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2010–110. 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2010–110 and should be submitted on or before October 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23385 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(a)(ii).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62882; File No. SR–NSCC–2010–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Regarding the Creation of a Universal Trade Capture Application and Automated Special Representative Facility

September 10, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 30, 2010, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on September 9, 2010, amended the proposed rule change described in Items I and II below, which Items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify NSCC's rules and procedures regarding the creation of a Universal Trade Capture application and an automated Special Representative facility.

[1] 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Universal Trade Capture ("UTC")

i. Background

Since the 1970s, NSCC has provided a framework for the clearance and settlement of transactions executed on national securities exchanges and in the over-the-counter ("OTC") market through its "Comparison and Trade Recording Operation." [2] A Regional Interface Operation (the "Interregional Interface Service" or "RIO") was established in 1974 through National Clearing Corporation (one of NSCC's predecessor organizations) that permitted participating registered clearing corporations to provide for settlement of transactions in listed securities in the OTC market.[3] Due to efforts to promote straight-through processing, markets have assumed responsibility for trade comparison (*i.e.,* matching the buy and sell side of a securities transaction) at the point of trade and submit the compared transaction to NSCC for trade recording purposes (*i.e.,* the transaction details have already been compared and the transaction is submitted to NSCC on a "locked-in" basis).

ii. Trade Comparison and Recording Operation

Transaction data is for the compared trades submitted to NSCC on a locked-in basis by self-regulatory organizations ("SROs") and Qualified Special Representatives ("QSRs") on behalf of their members for the purpose of trade recording with purchaser and seller trade details compared by the SRO or QSR prior to submitting the information to NSCC. NSCC validates and records the transaction and reports the details back to the SRO, QSR, and member, as appropriate. NSCC also provides a Comparison Operation for its members whereby the purchasering and selling members may submit transactions that NSCC validates, compares, and reports back to the members. Compared and recorded trades are subsequently routed to the Continuous Net Settlement ("CNS") Accounting Operation, the Balance Order Accounting Operation, or the Foreign Security Accounting Operation, as applicable. NSCC makes transaction details available to members, SROs, and QSRs on either a real-time, intra-day, or end-of-day basis.

As NSCC's systems for receipt of input and generation of output have developed, depending upon the transaction and the originating entity, different reporting formats for both input and output may be utilized. There is currently no standard common record that is utilized by all market places or members.

iii. Regional Interface Operation

Originally, each participating clearing corporation had the opportunity to provide its own system for comparison. Inter-clearing corporation ("RIO") trades had to be compared by one of the two clearing corporations involved in the RIO transaction, and an inter-clearing corporation had to be one side to each RIO trade. Over time, as organizations discontinued providing clearance and settlement services for their members and as those members ultimately became direct NSCC members or entered into clearing arrangements with other NSCC members, the reporting and settlement of trades submitted to NSCC changed.

With the discontinuance of the RIO service, NSCC nevertheless continued to accept trade input from regional exchanges and other marketplaces using the RIO formats. The formats used by regional exchanges for the submission of transaction data to NSCC are generally the same as the formats that had been used for information processed through the interface operation and continue to commonly be referred to as "RIO." Consequently, references today to "RIO" are not in reference to services previously provided under the interface service but rather to information received by NSCC in connection with NSCC's trade recording and trade reporting.

iv. Proposed Changes

The proposed rule change will amend NSCC's rules to accommodate the UTC application, which will standardize, streamline, consolidate, and modernize NSCC's existing legacy trade capture applications (specifically, with respect to trade recording applications within NSCC's Trade Comparison and Recording Operation) to create a more efficient and centralized process. The UTC application will accept and process a common input record from all marketplaces and will provide for receipt and reporting of data in both real-time and intraday-batch submissions to and from members and SROs.

UTC will replace all current locked-in OTC and listed trade capture applications with one central real-time validation and reporting process. UTC will have the capability to accept or reject, validate, process, and send contract output to members in real-time. Members will only have to support one standardized input and output format.

As further described below, trade data will be received from markets in real-time and in batch. NSCC will convert the existing input format to the new UTC input record format, which will enable the UTC to provide members and SROs with their trade output in the format of their choice (new or old).[4]

As part of this effort, NSCC will also provide for enhancements to its Correspondent Clearing Service and QSR processing as further described below.

2. Automated Special Representative Facility for Special Representatives and Qualified Special Representatives

i. Background

NSCC's Correspondent Clearing Service is designed to provide an automated method by which a member acting as a Special Representative may move an obligation (a position) that is in the process of clearance at NSCC to the account of another member (its correspondent) on whose behalf the original trade was executed.[5]

ii. Proposed Changes

(a) Expanding Permitted Use of Service

Currently, NSCC's rules provide the Correspondent Clearing Service may only be used in the following situations: (a) To accommodate a member with

[2] On separate platforms, NSCC also provides services supporting mutual funds, alternative investments, and insurance products in addition to providing various other services.

[3] In 1983, the service was further expanded to facilitate the settlement of transactions that had been confirmed and affirmed through the facilities of a registered securities depository.

[4] *See* below, Section II.A.4. "Implementation Timeframe."

[5] The term "original trade" is used within Correspondent Clearing solely to distinguish between trades executed in the marketplace by the Special Representative and transactions booked for accounting purposes to accommodate the movement of positions between members as provided for in NSCC Procedure IV. Correspondent Clearing is not a mechanism for original trade submission.

multiple affiliate accounts that wishes to move a position resulting from an "original trade" in the process of clearance from one affiliate account to another and (b) to accommodate a member that relies on its Special Representative to execute a trade in a market that the member is precluded due to membership requirements (*e.g.,* membership requirement for access to markets) or applicable regulation in order to enable the resulting position to be moved from the Special Representative to that member.

Since it is not uncommon that members utilize the services of other broker-dealers to execute trades in markets where they are members in order to facilitate their trading strategies, NSCC proposes to modify its rules to provide that the Correspondent Clearing Service may be utilized by members to accommodate a member that relies on its Special Representative to execute a trade in any market regardless of whether that member maintains direct access to that market to enable the resulting position to be moved from the Special Representative to that member.

(b) Creation of an Automated Special Representative Facility

Historically, members participating in the Correspondent Clearing Service and those utilizing the services of a QSR for the submission of original, locked-in trade data have been required to complete and remit to NSCC specific agreements for each relationship established. For example, in Correspondent Clearing, one member completes documentation (commonly referred to as Form 9a—Application for Status as a Special Representative) by which it applies to NSCC for status as a Special Representative to submit transactions on behalf of a specified member, *i.e.,* the Correspondent. The Correspondent must also complete and submit to NSCC documentation (commonly referred to as a Form 9b—Special Representative Consent) by which it consents to the establishment of that relationship. For QSR relationships, members submit Forms 9a and Form 9b along with an additional form that is specific to the QSR system being utilized (commonly referred to as an "Attachment 1"). NSCC then establishes these relationships on its internal masterfile. NSCC subsequently terminates these relationships at the direction of either party.

To assist members in controlling and monitoring their Special Representative and Qualified Special Representative relationships, NSCC proposes to create an automated, online, and secure facility by which members themselves may establish, monitor, and maintain these relationships. Both the Special Representative Member and the Correspondent Member would have to submit matching instructions within the facility in order for the relationship to be established. Either party could submit a single entry to retire the relationship.

Members will be reminded, through formatting within the facility, of their existing and unchanged obligations under NSCC's rules with respect to utilizing these services—namely, that by establishing the relationship within the facility both members continue to be bound by NSCC's rules, the Correspondent is bound by the details of all transactions submitted on their behalf by the Qualified Special Representative (or Special Representative as the case may be), and any errors or omissions or disputes relating to such relationships and related transactions must be resolved directly between the parties.

The establishment of relationships through the automated facility shall meet the written notice requirements for such services as otherwise set forth within NSCC's rules and procedures. Members will no longer be required to submit signed forms to NSCC for these processes.

3. Rule Modifications

As the UTC functionality will provide for processing of a common input or output record from or to all marketplaces (validating the transaction and providing for real-time message output to members and SROs), NSCC proposes to modify its rules to make conforming changes to reflect a single procedure or process for the submission and reporting of transaction data to and from SROs and members. References and provisions within the rules that pertained to the now obsolete RIO Service will be eliminated. In addition, NSCC will modify its rules to provide for an automated online functionality for the establishment and retirement of Special Representative and Qualified Special Representative relationships.

Accordingly, NSCC proposes to amend the following rules and procedures as set forth in Exhibit 5 to its filing: Rule 7 (Comparison and Trade Recording Operation); Rule 40 (Interregional Interface Service); Procedure II (Trade Comparison and Recording Service); Procedure III (Trade Recording Service—Interface Clearing Procedures); and Procedure IV (Special Representative Service).[6]

4. Implementation Time Frame

Subject to Commission approval, NSCC will implement the above changes by January 31, 2011.

With respect to UTC changes and to support the migration period, NSCC will provide a conversation process to support those markets that are not yet ready to submit transaction data in the new common input format (*i.e.,* NSCC will accept data in the old format and convert data into the new UTC format). The conversion process will enable NSCC to offer members and SROs the new output format regardless of whether the market has converted to the new standard. UTC will continue to support all existing interfaces with markets, members, and SROs with respect to trade input and output.

To support maximum flexibility in allowing firms to migrate to the new input and output formats according to their own schedules, NSCC will continue to support all existing interfaces with markets, Member's, SRO's and regulatory agencies for a period of time after UTC is implemented.

NSCC will establish a plan for the retirement of all legacy input and output formats and by the end of the first quarter of 2012 will reassess the status of those firms utilizing legacy formats. At that time, NSCC will work with any members, SROs, and regulatory agencies that have not yet converted from legacy reporting, thereby affording such firms sufficient lead time for migration.

NSCC states that the proposed rule change will provide for additional efficiencies to NSCC and its participants while maintaining safe and secure operation and that the proposed rule change facilitates the prompt and

[6] In addition, the following Rules and Procedures will be generally modified to make conforming changes: Procedure VII (CNS Accounting Operation)—modified to conform an existing rule cross reference to a renamed Procedure; Procedure X (Execution of Buy-Ins) modified to eliminate references to regional accounts; Procedure XIII (Definitions), modified to remove a defined and now obsolete term "Qualified Non-Participant;" Procedure V (Balance Order Accounting Operation); Procedure VI (Foreign Security Accounting Operation); Addendum A (Fee Schedule)—modified to delete obsolete regional/inter-clearing corporation references; Addendum J (Statement of Policy—Locked-In Data from Service Bureaus)—modified to correct a preexisting erroneous reference to Section 5 of Rule 7 where it should have referenced Section 6 of that Rule; Addendum K (Interpretation of the Board of Directors—Application of Clearing Fund)- modified to reflect specific reference to T Contracts, and Addendum N (Interpretation of the Board of Directors—Locked-In Data from Qualified Special Representatives)—modified to conform an existing rule cross reference to renumbered procedure subsection.

accurate clearance and settlement of securities. NSCC further states that the proposal is consistent with the CPSS/IOSCO Recommendations for Central Counterparties (specifically Recommendation 12) in that in addition to the additional efficiencies noted above, the UTC will also provide for cost-effectively meeting the requirements of NSCC's members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC believes that the proposed rule change will not 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

NSCC has not solicited or received written comments relating to the proposed rule change. NSCC will notify the Commission of any written comments it receives.

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 may be submitted by using the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or send an e-mail to *rule-comment@sec.gov*. Please include File No. SR–NSCC–2010–09 on the subject line.
- Paper comments should be sent 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 No. SR–NSCC–2010–09. 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 NSCC's principal office and NSCC's Web site (*http://www.dtcc.com/legal/rule_filings/nscc/2010.php*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NSCC–2010–09 and should be submitted October 12, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23372 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62908; File No. SR–NASDAQ–2010–111]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish an Optional Depth Data Enterprise License Fee

September 14, 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 September 7, 2010, The NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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

NASDAQ proposes to establish an optional Depth Data Enterprise License Fee for external distribution of depth-of-book data to non-professional users. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.[3]

* * * * *

7023. NASDAQ TotalView

(a) TotalView Entitlement

The TotalView entitlement allows a subscriber to see all individual NASDAQ Market Center participant orders and quotes displayed in the system as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the NASDAQ Market Center, including the NQDS feed.

(1)

(A) Except as provided in (a)(1)(B) and (C), for the TotalView entitlement there shall be a $70 monthly charge for each controlled device.

(B) Except as provided in (a)(1)(C), a non-professional subscriber, as defined in Rule 7011(b), shall pay $14 per month for each controlled device.

(C) As an alternative to (a)(1)(A) and (B), a broker-dealer distributor may purchase an enterprise license at a rate of $25,000 for non-professional subscribers or $100,000 per month for both professional and non-professional subscribers. The enterprise license entitles a distributor to provide TotalView and OpenView to an unlimited number of internal users, whether such users receive the data directly or through third-party vendors, and external users with whom the firm has a brokerage relationship. The enterprise license shall not apply to relevant Level 1 and NQDS fees.

(D) As an alternative to (a)(1)(A), (B) and (C), a market participant may purchase an enterprise license at a rate

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at *http://nasdaqomx.cchwallstreet.com.*

of $30,000 per month for internal use of non-display data. The enterprise license entitles a distributor to provide TotalView and OpenView to an unlimited number of non-display devices within its firm. The enterprise license shall not apply to relevant Level 1 fees.

(E) *As an alternative to (a)(1)(A), (B), and (C), a broker-dealer distributor may purchase an enterprise license at a rate of $300,000 for non-professional subscribers. The enterprise license entitles a distributor to provide NQDS (as set forth in Rule 7017), TotalView and OpenView to an unlimited number of internal users, whether such users receive the data directly or through third-party vendors, and external users with whom the firm has a brokerage relationship. The enterprise license shall not apply to relevant Level 1 fees.*

(2) 30-Day Free-Trial Offer. NASDAQ shall offer all new individual subscribers and potential new individual subscribers a 30-day waiver of the user fees for TotalView. This waiver shall not include the incremental fees assessed for the NQDS-only service, which are $30 for professional users and $9 for non-professional users per month. This fee waiver period shall be applied on a rolling basis, determined by the date on which a new individual subscriber or potential individual subscriber is first entitled by a distributor to receive access to TotalView. A distributor may only provide this waiver to a specific individual subscriber once.

For the period of the offer, the TotalView fee of $40 per professional user and $5 per non-professional user per month shall be waived.

(b) No change.

(c) No change.

(d) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below, and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ disseminates market data feeds in two capacities. First, NASDAQ disseminates consolidated or "core" data in its capacity as Securities Information Processor ("SIP") for the national market system plan governing securities listed on NASDAQ as a national securities exchange ("NASDAQ UTP Plan").[4] Second, NASDAQ separately disseminates proprietary or "non-core" data in its capacity as a registered national securities exchange. Non-core data is any data generated by the NASDAQ Market Center Execution System that is voluntarily disseminated by NASDAQ separate and apart from the consolidated data.[5] NASDAQ has numerous proprietary data products, such as NASDAQ TotalView, NASDAQ Last Sale, and NASDAQ Basic.

NASDAQ continues to seek broader distribution of non-core data and to reduce the cost of providing non-core data to larger numbers of investors. In the past, NASDAQ has accomplished this goal in part by offering similar enterprise licenses for professional and non-professional usage of TotalView which contains the full depth of book data for the NASDAQ Market Center Execution System. NASDAQ believes that the adoption of enterprise licenses has led to greater distribution of market data, particularly among non-professional users.

Based on input from market participants, NASDAQ believes that this increase in distribution is attributable in part to the relief it provides distributors from the NASDAQ requirement that distributors count and report each non-professional user of NASDAQ proprietary data. In addition to increased administrative flexibility, enterprise licenses also encourage broader distribution by firms that are currently over the fee cap as well as those that are approaching the cap and wish to take advantage of the benefits of the program. Further, NASDAQ believes that capping fees in this manner creates goodwill with broker-dealers and increases transparency for retail investors.

Accordingly, NASDAQ is seeking to establish the Depth Data Enterprise License Fee, an optional $300,000 per month non-professional enterprise license for external distributors of any NASDQ depth-of-book data product including the National Quotation Dissemination Service or NQDS (Rule 7017) and TotalView and OpenView, (Rule 7023) (collectively, "NASDAQ Depth Data"). This Depth Data Enterprise License Fee will include non-professional usage, but will not include distributor fees.[6] This program will be available only to broker-dealers registered under the Securities Exchange Act of 1934, and would cover all usage fees with respect to both internal usage and re-distribution to customers with whom the firm has a brokerage relationship. Non-broker-dealer vendors and application service providers would not be eligible for the enterprise license; such firms typically pass through the cost of market data user fees to their customers.

The Depth Data Enterprise License Fee will cover usage fees for NASDAQ Depth Data received directly from NASDAQ as well as data received from third-party vendors (*e.g.,* Bloomberg, Reuters, etc.). Upon joining the program, firms may inform third-party market data vendors they utilize (through a NASDAQ-provided form) that, going forward, non-professional depth data usage by the broker-dealer may be reported to NASDAQ on a non-billable basis. Such a structure attempts to address a long-standing concern that broker-dealers are over-billed for market data consumed by one person through multiple market-data display devices. At the same time, the proposed billing structure will continue to provide NASDAQ with accurate reporting information for purposes of usage monitoring and auditing.

The proposed Depth Data Enterprise License Fee is completely optional and does not replace existing enterprise license fee alternatives set forth in Rule 7023. Additionally, the proposal does not impact individual usage fees for any product or in any way raise the costs of any user of any NASDAQ data product. To the contrary, it provides broker-dealers with an additional approach to providing more NASDAQ data at a lower cost.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] in particular, in that it provides an equitable allocation of reasonable fees

[4] *See* Securities Exchange Act Release No. 59039 (Dec. 2, 2008) at p. 41.

[5] *Id.*

[6] Distributors who utilize the enterprise license would still be liable for the applicable distributor fees.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

among users and recipients of NASDAQ data. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[9]

By removing "unnecessary regulatory restrictions" on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well. NQDS, TotalView and OpenView are precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS.

On July 21, 2010, President Barak Obama signed into law H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"), which amended Section 19 of the Act. Among other things, Section 916 of the Dodd-Frank Act amended paragraph (A) of Section 19(b)(3) of the Act by inserting the phrase "on any person, whether or not the person is a member of the self-regulatory organization" after "due, fee or other charge imposed by the self-regulatory organization." As a result, all SRO rule proposals establishing or changing dues, fees, or other charges are immediately effective upon filing regardless of whether such dues, fees, or other charges are imposed on members of the SRO, non-members, or both. Section 916 further amended paragraph (C) of Section 19(b)(3) of the Exchange Act to read, in pertinent part, "At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) [of Section 19(b)], the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, 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 this title. If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) [of Section 19(b)] to determine whether the proposed rule should be approved or disapproved."

NASDAQ believes that these amendments to Section 19 of the Act reflect Congress's intent to allow the Commission to rely upon the forces of competition to ensure that fees for market data are reasonable and equitably allocated. Although Section 19(b) had formerly authorized immediate effectiveness for a "due, fee or other charge imposed by the self-regulatory organization," the Commission adopted a policy and subsequently a rule stipulating that fees for data and other products available to persons that are not members of the self-regulatory organization must be approved by the Commission after first being published for comment. At the time, the Commission supported the adoption of the policy and the rule by pointing out that unlike members, whose representation in self-regulatory organization governance was mandated by the Act, non-members should be given the opportunity to comment on fees before being required to pay them, and that the Commission should specifically approve all such fees. NASDAQ believes that the amendment to Section 19 reflects Congress's conclusion that the evolution of self-regulatory organization governance and competitive market structure have rendered the Commission's prior policy on non-member fees obsolete. Specifically, many exchanges have evolved from member-owned not-for-profit corporations into for-profit investor-owned corporations (or subsidiaries of investor-owned corporations). Accordingly, exchanges no longer have narrow incentives to manage their affairs for the exclusive benefit of their members, but rather have incentives to maximize the appeal of their products to all customers, whether members or non-members, so as to broaden distribution and grow revenues. Moreover, we believe that the change also reflects an endorsement of the Commission's determinations that reliance on competitive markets is an appropriate means to ensure equitable and reasonable prices. Simply put, the change reflects a presumption that all fee changes should be permitted to take effect immediately, since the level of all fees are constrained by competitive forces.

The recent decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoaliton* v. *SEC,* No. 09–1042 (DC Cir. 2010), although reviewing a Commission decision made prior to the effective date of the Dodd-Frank Act, upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. "In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' " *NetCoaltion,* at 15 (quoting H.R. Rep. No. 94–229, at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 321, 323). The court's conclusions about Congressional intent are therefore reinforced by the Dodd-Frank Act amendments, which create a presumption that exchange fees, including market data fees, may take effect immediately, without prior Commission approval, and that the Commission should take action to suspend a fee change and institute a proceeding to determine whether the fee change should be approved or disapproved only where the Commission has concerns that the change may not be consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Notwithstanding its determination that the Commission may rely upon competition to establish fair and equitably allocated fees for market data, the *NetCoaltion* court found that the Commission had not, in that case, compiled a record that adequately supported its conclusion that the market for the data at issue in the case was competitive. For the reasons discussed above, NASDAQ believes that the Dodd-Frank Act amendments to Section 19 materially alter the scope of the Commission's review of future market data filings, by creating a presumption

[9] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

that all fees may take effect immediately, without prior analysis by the Commission of the competitive environment. Even in the absence of this important statutory change, however, NASDAQ believes that a record may readily be established to demonstrate the competitive nature of the market in question.

There is intense competition between trading platforms that provide transaction execution and routing services and proprietary data products. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price and distribution of its data products. Without the prospect of a taking order seeing and reacting to a posted order on a particular platform, the posting of the order would accomplish little. Without trade executions, exchange data products cannot exist. Data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will direct orders to a particular exchange only if the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decreases, for two reasons. First, the product will contain less information, because executions of the broker-dealer's orders will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing orders will become correspondingly more valuable.

Thus, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. "No one disputes that competition for order flow is 'fierce'." *NetCoalition* at 24. However, the existence of fierce competition for order flow implies a high degree of price sensitivity on the part of broker-dealers with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A broker-dealer that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. Similarly, if a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected broker-dealers will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platform may choose to pay rebates to attract orders, charge relatively low prices for market information (or provide information free of charge) and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market information, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. This would be akin to strictly regulating the price that an automobile manufacturer can charge for car sound systems despite the existence of a highly competitive market for cars and the availability of after-market alternatives to the manufacturer-supplied system.

The market for market data products is competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Broker-dealers currently have numerous alternative venues for their order flow, including ten self-regulatory organization ("SRO") markets, as well as internalizing broker-dealers ("BDs") and various forms of alternative trading systems ("ATSs"), including dark pools and electronic communication networks ("ECNs"). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities ("TRFs") compete to attract internalized transaction reports. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including NASDAQ, NYSE, NYSE Amex, NYSEArca, and BATS.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple broker-dealers' production of proprietary data products. The potential sources of proprietary products are virtually limitless.

The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and Arca did before registering as exchanges by publishing proprietary book data on the Internet. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace.

Market data vendors provide another form of price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals, such as Yahoo, impose a discipline by providing only data that will enable them to attract "eyeballs" that contribute to their advertising revenue. Retail broker-dealers, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. NASDAQ and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While broker-dealers have previously published their proprietary data individually, Regulation NMS encourages market data vendors and broker-dealers to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg, and Thomson-Reuters.

The court in *NetCoalition* concluded that the Commission had failed to demonstrate that the market for market data was competitive based on the reasoning of the Commission's *NetCoalition* order because, in the court's view, the Commission had not adequately demonstrated that the depth-of-book data at issue in the case is used to attract order flow. NASDAQ believes, however, that evidence not before the court clearly demonstrates that availability of depth data attracts order flow. For example, NASDAQ submits that in and of itself, NASDAQ's decision voluntarily to cap fees on existing products, as is the effect of an enterprise license, is evidence of market forces at work. In fact, the instant proposal creates a second enterprise license for non-professional usage of depth data to complement the existing enterprise license set forth at NASDAQ Rule 7023(a)(1)(C).

Competition among platforms has driven NASDAQ continually to improve its platform data offerings and to cater to customers' data needs. For example, NASDAQ has developed and maintained multiple delivery mechanisms (IP, multi-cast, and compression) that enable customers to receive data in the form and manner they prefer and at the lowest cost to them. NASDAQ offers front end applications such as its "Bookviewer" to help customers utilize data. NASDAQ has created new products like TotalView Aggregate to complement TotalView ITCH and Level 2, because offering data in multiple formatting allows NASDAQ to better fit customer needs. NASDAQ offers data via multiple extranet providers, thereby helping to reduce network and total cost for its data products. NASDAQ has developed an online administrative system to provide customers transparency into their data feed requests and streamline data usage reporting. NASDAQ has also expanded its Enterprise License options that reduce the administrative burden and costs to firms that purchase market data.

Despite these enhancements and a dramatic increase in message traffic, NASDAQ's fees for depth-of-book data have remained flat. In fact, as a percent of total customer costs, NASDAQ data fees have fallen relative to other data usage costs—including bandwidth, programming, and infrastructure—that have risen. The same holds true for execution services; despite numerous enhancements to NASDAQ's trading platform, absolute and relative trading costs have declined. Platform competition has intensified as new entrants have emerged, constraining prices for both executions and for data.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10] At any time within 60 days of the filing of the 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2010–111 on the subject line.

[10] 15 U.S.C. 78s(b)(3)(a)(ii).

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2010–111. 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, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2010–111 and should be submitted on or before October 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23386 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 7160]

Request for Comments and Suggestions for Environmental Cooperation Pursuant to the United States-Oman Memorandum of Understanding on Environmental Cooperation

ACTION: Notice of preparation of the 2011–2014 U.S.-Oman Environmental Cooperation Plan of Action and request for comments.

SUMMARY: The Department of State invites the public, including NGOs, educational institutions, private sector enterprises and other interested persons, to submit written comments or suggestions regarding items for inclusion in a new Plan of Action for implementing the United States-Oman Memorandum of Understanding on Environmental Cooperation (MOU) signed on February 20, 2006. We encourage submitters to refer to: (1) The U.S.-Oman MOU, (2) the U.S.-Oman 2006–2008 Environmental Cooperation Work Program, (3) the Environment Chapter (17) of the U.S.-Oman Free Trade Agreement, and (4) the Environmental Review of the U.S.-Oman Free Trade Agreement.

(Documents are available at: http://www.state.gov/g/oes/env/trade/oman/index.htm).

DATES: To be assured of timely consideration, all written comments or suggestions are requested no later than October 20, 2010.

ADDRESSES: Written comments or suggestions should be e-mailed *(LindsayA@state.gov)* or faxed to Abby Lindsay at (202) 647–5947, Office of Environmental Policy, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State, with the subject line "U.S.-Oman Environmental Cooperation 2011–2014 Plan of Action." If you have access to the Internet and wish to view and make comment on this Public Notice, you may do so by going to:) *http://www.regulations.gov/search/Regs/home.html#home.*

FOR FURTHER INFORMATION, CONTACT: Abby Lindsay, telephone (202) 647–8772. Office of Environmental Policy, Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State.

SUPPLEMENTARY INFORMATION: In the U.S.-Oman Memorandum of Understanding on Environmental Cooperation, the Governments (1) recognize "the importance of strengthening capacity to protect the environment while promoting sustainable development in concert with the expanded bilateral trade relationship that will accompany the United States-Oman Free Trade Agreement (FTA)" and (2) indicate their intent "to cooperate in the field of environmental and natural resource protection and sustainable development." In the Environment Chapter of the U.S.-Oman Free Trade Agreement (Chapter 17), the Governments likewise "recognize the importance of strengthening their capacity to protect the environment and to promote sustainable development in concert with strengthening bilateral trade and investment relations." The Governments commit to "undertaking cooperative environmental activities pursuant to" the MOU.

In Section 2 of the MOU, the Governments set forth plans to establish the Joint Forum on Environmental Cooperation (JFEC) to coordinate and review environmental cooperation activities. As envisioned in the MOU, the JFEC will "develop a Plan of Action; review and assess cooperative environmental activities undertaken pursuant to the Plan of Action; recommend ways to improve cooperation; and undertake such other activities as the Governments may deem to be appropriate." The Plan of Action is a tool to identify and establish goals, objectives and areas for cooperation, including short-, medium- and long-term bilateral and/or regional projects and activities. Through this notice, the United States seeks to "solicit, and take into account as appropriate, the views of its public with respect to the Plan of Action."

In March 2007, the Governments agreed to the 2006–2008 U.S.-Oman Work Program on environmental cooperation. The main areas of cooperation under the 2006–2008 Work Program were: (1) Environmental Laws and Regulations; (2) Environmental Impact Assessments; (3) Environmental Incentives; (4) Public Participation in Environmental Protection; (5) Integrated Water Resources Management and Protection; (6) Coastal Protection and Preservation of Marine Resources; (7) Protected Area Management and Conservation of Flora and Fauna; (8) Improved Environmental Performance in the Productive Sector; and (9) Chemical and Hazardous Waste Management and Disposal.

The United States anticipates building upon the cooperative work initiated in the 2006–2008 Work Program. We are requesting ideas and suggestions that may be considered for inclusion in the next Plan of Action.

For additional information: http://www.state.gov/g/oes/env/trade/oman/index.htm.

Disclaimer: This Public Notice is a request for comments and suggestions and is not a request for applications. No granting or money is directly associated with this request for suggestions for the Plan of Action. There is no expectation of resources or funding associated with any comments or suggestions provided for the 2011–2014 Plan of Action.

Dated: September 14, 2010.

Willem H. Brakel,

Director, Office of Environmental Policy, Department of State.

[FR Doc. 2010–23425 Filed 9–17–10; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35407]

GNP Rly, Inc.—Acquisition and Operation Exemption—Redmond Spur and Woodinville Subdivision

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption, request for comments.

SUMMARY: On August 24, 2010, GNP Rly, Inc. (GNP), a Class III rail carrier, filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10902 to acquire and resume rail service over 2 segments of railbanked railroad right-of-way (ROW) totaling 9.1 miles, consisting of: (1) A ROW extending from milepost 0.0, at Woodinville, Wash., to approximately milepost 7.30 at Redmond, Wash. (Redmond Spur); and (2) a ROW extending from milepost 23.8 to milepost 22.0, at or near Woodinville (Woodinville Subdivision).[1] The petition for exemption was filed concurrently with GNP's petition to vacate in part the NITUs issued for the Redmond Spur and a longer segment of the Woodinville Subdivision (extending from milepost 23.8 to milepost 11.25). Those NITUs permitted railbanking/interim trail use negotiations under the Trails Act, 16 U.S.C. 1247(d). The Board seeks comments from interested persons on GNP's request to resume rail service and partially vacate the NITUs.

DATES: Written comments must be filed with the Board by October 20, 2010. Replies must be filed by November 19, 2010.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. FD 35407, 395 E Street, SW., Washington, DC 20423–0001.

In addition, send one copy of any comments to: (1) John Heffner, 1750 K Street, NW., Suite 200, Washington, DC 20006; (2) Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1001 Connecticut Avenue, NW., Suite 800, Washington, DC 20036; (3) Craig Watson, Port of Seattle, Pier 69, P.O. Box 1209, Seattle, WA 98111; and (4) Kristy Clark, BNSF Railway Company, 2500 Lou Menk Drive, AOB–3, Fort Worth, TX 76131.

FOR FURTHER INFORMATION CONTACT: Julia Farr at 202–245–0359. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On August 24, 2010, GNP filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10902 to acquire the "residual common carrier rights and obligations," including the right to reinstate rail service over the Redmond Spur and a portion of the Woodinville Subdivision. These segments are currently subject to an interim trail use agreement between BNSF Railway Company (BNSF) and King County, a political subdivision of the State of Washington. The Port of Seattle (Port) owns the real estate associated with the lines, which it acquired from BNSF.[2] In *King County, Wash.—Acquisition Exemption—BNSF Railway Company,* FD 35148 (STB served Sept. 18, 2009), the Board granted the request by King County for exemption from 49 U.S.C. 10901 to acquire BNSF's rights and obligations, including the right to reinstate rail service in the future.

GNP's petition presents this issue: Under what circumstances will the Board grant a carrier's request to vacate a NITU to permit reactivation of rail service, when the petitioning carrier does not own or have any other interest in the ROW? An interim trail use arrangement is subject to being cut off at any time by the reinstitution of service. Here, the abandoning railroad (BNSF) has transferred its rights and obligations, including the right to reinstate rail service, to King County (the trail sponsor), and a different carrier, GNP, seeks to reinstitute service.

GNP states that 2 customers have requested service: Drywall Distributors, a supplier of drywall products, which anticipates receiving 40 carloads per year; and Building Specialties, a distributor of building products, located in the industrial park formerly served by BNSF, which also anticipates receiving 40 carloads per year. GNP includes a statement in support of its petition from Wallace/Knutsen L.L.C., owner of the industrial park located on the Redmond Spur. In anticipation of reactivation of rail service on the Redmond Spur, Wallace/Knutsen L.L.C. has leased to GNP an unused rail spur that crosses the industrial park and connects to the Redmond Spur.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 15, 2011.

Decided: September 14, 2010.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–23370 Filed 9–17–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Pinal County, AZ

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental impact Statement will be prepared for a proposed transportation project in Pinal County, Arizona.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Davis, Senior Engineering Manager for Operations, Federal Highway Administration, 4000 N. Central Avenue, Suite 1500, Phoenix, Arizona 85012–1906, Telephone (602) 382–8970, Fax (602) 382–8998, *e-mail: Ken.davis@dot.gov;* or Mary Frye, Environmental Coordinator, Federal Highway Administration, Arizona Division, 4000 N. Central Avenue, Suite 1500, Phoenix, Arizona 85012–1906, Telephone (602) 382–8979, Fax (602) 382–8998, *e-mail: Mary.Frye@dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Arizona Department of Transportation (ADOT), will prepare an environmental impact statement (EIS) on a proposed 40-mile-long project along a new route located between US 60 on the north and Interstate 10 (I–10) on the south. The

[1] These segments were the subjects of abandonment proceedings and notices of interim trail use (NITUs) in *BNSF Railway Company—Abandonment Exemption—in King County, Wash.,* AB 6 (Sub-No. 463X) and *BNSF Railway Company—Abandonment Exemption—in King County, Wash.,* AB 6 (Sub-No. 465X).

[2] *The Port of Seattle—Acquis. Exemption—Certain Assets of BNSF Ry.,* FD 35128 (STB served June 20, 2008).

project is considered necessary to achieve a transportation objective identified in Pinal County's 2008 Regionally Significant Routes for Safety and Mobility. The project would address current and future transportation needs in an area that currently exceeds existing road capacity and is expected to continue to worsen with the projected increase in traffic demand associated with regional growth.

The proposed project evaluation will include, but not be limited to, potential impacts to adopted local and regional land use plans, Tribal lands, the existing and proposed Maricopa, Pinal, and Pima County regional transportation network, Central Arizona Project canals, railroads, residential and commercial development, cultural resources, Threatened and Endangered species, jurisdictional waters of the United States, air and noise quality, hazardous materials, and secondary and cumulative impacts. A full range of reasonable alternatives will be evaluated, including taking no action, using alternative transportation modes, making transportation system management improvements, a combination of arterial and freeway improvements, a new freeway, and combinations of these alternatives.

The EIS will conform to the environmental review process established in Section 6002 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The Section 6002 environmental review process requires the following activities: the identification and invitation of cooperating and participating agencies; the development of a coordination plan and management plan; and provision of opportunities for additional agency and public comment on the project's purpose and need, alternatives and methodologies for assessing alternatives. Additionally, the public hearing following the release of the draft EIS will also be provided. Public notice advertisements and direct mailings will notify interested parties of the time and place of public meetings and public hearing. A formal agency scoping meeting is planned between federal, state, city, county, and Tribal stakeholders.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, including the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, U.S. Department of the Interior Bureau of Reclamation, Federal Emergency Management Agency, U.S. Department of the Interior Bureau of Land Management, U.S. Department of Agriculture Natural Resources Conservation Service, Federal Aviation Administration, Federal Transit Administration, U.S. Department of Energy Western Area Power Administration, Arizona Game and Fish Department, Arizona State Land Department, Arizona Department of Environmental Quality, Arizona State Parks, Arizona Department of Emergency and Military Affairs, Arizona Department of Public Safety, Arizona Department of Corrections, Arizona Attorney General's Office, Gila River Indian Community, Salt River Pima-Maricopa Indian Community, Ak-Chin Indian Community, Tohono O'odham Nation, Hopi Tribe, Pascua Yaqui Tribe, San Carlos Apache Nation, White Mountain Apache Tribe, Yavapai-Prescott Indian Tribe, Yavapai-Apache Nation, Salt River Project, Phoenix-Mesa Gateway Airport Authority, Town of Florence, City of Coolidge, City of Eloy, City of Queen Creek, Town of Gilbert, City of Mesa, City of Apache Junction, City of Casa Grande, Town of Marana, Pima County, Maricopa Association of Governments, Pima Association of Governments, Pinal County, Central Arizona Project, and Central Arizona Association of Governments. Letters will also be sent to interested parties, including the Union Pacific Railroad, San Carlos Irrigation District and Resolution Copper Mining.

To insure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments, suggestions, or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 10, 2010.

Kenneth H. Davis,

Senior Engineering Manager for Operations, Federal Highway Administration, Arizona Division Office, Phoenix, Arizona.

[FR Doc. 2010–23296 Filed 9–17–10; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2010–41]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions 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 any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 12, 2010.

ADDRESSES: You may send comments identified by Docket Number FAA–2010–0287 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.

For more information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

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: Jan Thor, (425–227–2127), Standardization Branch, ANM–113, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, WA 98057–3356, or Katherine L. Haley, (202) 493–5708, Office of Rulemaking, ARM–203, 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 September 15, 2010.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2010–0287.

Petitioner: Bombardier Aerospace.

Section of 14 CFR Affected: 25.981(a)(3).

Description of Relief Sought: Bombardier requests relief from the fault tolerance fuel tank ignition prevention requirements of § 25.981(a)(3) for its Model CL–600–2E25 (CRJ1000) series airplanes allowing them to (1) demonstrate that the structural design provides two independent, effective and reliable means of lightning strike protection, and (2) demonstrate compliance with this requirement by 24 months after type certification of the airplane.

[FR Doc. 2010–23390 Filed 9–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2010–0188]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt twenty-one individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective *September 20, 2010.* The exemptions expire on September 20, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Background

On July 21, 2010, FMCSA published a notice of receipt of Federal diabetes exemption applications from twenty-one individuals and requested comments from the public (75 FR 42477). The public comment period closed on August 20, 2010 and one comment was received.

FMCSA has evaluated the eligibility of the twenty-one applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441) **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These twenty-one applicants have had ITDM over a range of 1 to 34 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the July 21, 2010, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comment

FMCSA received one comment in this proceeding. The comment was considered and discussed below.

The Pennsylvania Department of Transportation stated that it had reviewed the driving record for Roy L. McKinney and was in favor of granting a Federal diabetes exemption to this individual.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the twenty-one exemption applications, and the comment from the Pennsylvania Department of Transportation, FMCSA exempts, Tommy S. Boden, Travis D. Bjerk, Scott L. Colson, Dustin G. Cook, Nathan J. Enloe, Stephen J. Faxon, Joseph B. Hall, Mark H. Horne, Michael J. Hurst, Chad W. Lawyer, John R. Little, Roy L. McKinney, Thomas A. Mentley, David W. Rogers, Joseph J. Schwartz, Justin P. Sibigtroth, Duane A. Wages, Roosevelt Whitehead, Michael J. Williams, Edward L. Winget, Sr. and Leonard M. Ziegler from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under "Conditions and Requirements" above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 14, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–23423 Filed 9–17–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Community Reinvestment Act

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

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 comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before November 19, 2010.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Ms. Bobbie K. Kennedy at (202) 906–6050, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

Title of Proposal: Community Reinvestment Act.

OMB Number: 1550–0012.

Form Number: N/A.

Description: The Community Reinvestment Act regulation requires the OTS, as well as the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the Agencies), to evaluate and assign ratings

to the efforts of institutions to help meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound banking practices. OTS uses the information in the examination process and in evaluating applications for mergers, branches, and certain other corporate activities. Further, the CRA statute requires the Agencies to issue regulations to carry out its purposes.

OTS uses the data collected under the CRA regulations to fulfill its obligations under the statute, including the assessment of each institution's record of helping to meet the credit needs of its entire community. OTS uses the data to support its conclusions regarding an institution's record of performance, in assigning a rating, and in preparing the written public evaluations that the statute requires when an institution is examined. Additionally, judgments based on these data are used in evaluating an institution's applications for mergers, branches, and other corporate activities. The public uses this information to assess independently the institution's CRA performance and to participate meaningfully in the application process.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 753.

Estimated Frequency of Response: Annually; On occasion.

Estimated Total Burden: 67,210 hours.

Dated: September 14, 2010.

Ira L. Mills,

Paperwork Clearance Officer, Office of Chief Counsel, Office of Thrift Supervision.

[FR Doc. 2010–23421 Filed 9–17–10; 8:45 am]

BILLING CODE 6720–01–P

Federal Register

Monday,
September 20, 2010

Part II

Nuclear Regulatory Commission

Privacy Act of 1974; Republication of Systems of Records Notices; Notice

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0299]

Privacy Act of 1974; Republication of Systems of Records Notices

AGENCY: Nuclear Regulatory Commission.

ACTION: Republication of Systems of Records Notices.

SUMMARY: The Nuclear Regulatory Commission (NRC) has conducted a comprehensive review of all its Privacy Act systems of records notices. The NRC is revising and republishing all its systems of records notices as a result of this review. The revisions are minor corrective and administrative changes that do not meet the threshold criteria established by the Office of Management and Budget (OMB) for either a new or altered system of records.

DATES: *Effective Date:* All revisions included in this republication are complete and accurate as of September 9, 2010.

FOR FURTHER INFORMATION CONTACT: Sandra Northern, Privacy Act Program Analyst, FOIA/Privacy Act Section, Information Services Branch, Information and Records Services Division, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6879; e-mail: *Sandra.Northern@nrc.gov.*

SUPPLEMENTARY INFORMATION:

These notices were last published in the **Federal Register** on January 6, 2009 (74 FR 574). One system of records, NRC–7, Call Detail Records, is being revoked with this publication. This group of records does not meet the criteria for a system of records, as information in these records pertain to telephone lines rather than to individuals, and is neither filed, maintained, nor retrieved by individual identifiers. NRC's investigative records of the Office of the Inspector General (OIG), personnel records reflecting administrative or disciplinary actions, finance and accounting records relating to cost attribution and recoveries, and the like, that may include call detail records are currently filed in appropriate *existing* NRC systems of records and are subjected to their particular disclosure/safeguarding provisions (*e.g.* NRC–36, Employee Locator Records; NRC–18, OIG Investigative Records; NRC–32, Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records.)

Nuclear Regulatory Commission Privacy Act Systems of Records

NRC Systems of Records

1. Parking Permit Records—NRC.
2. Biographical Information Records—NRC.
3. Enforcement Actions Against Individuals—NRC.
4. Conflict of Interest Records—NRC.
5. Contracts Records—NRC.
6. Department of Labor (DOL) Discrimination Cases—NRC.
7. (Revoked.)
8. Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records—NRC.
9. Office of Small Business and Civil Rights Discrimination Complaint Records—NRC.
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Request Records—NRC.
11. General Personnel Records (Official Personnel Folder and Related Records)—NRC.
12. Child Care Subsidy Program Records—NRC.
13. (Revoked.)
14. Employee Assistance Program Records—NRC.
15. (Revoked.)
16. Facility Operator Licensees Records (10 CFR Part 55)—NRC.
17. Occupational Injury and Illness Records—NRC.
18. Office of the Inspector General (OIG) Investigative Records—NRC.
19. Official Personnel Training Records—NRC.
20. Official Travel Records—NRC.
21. Payroll Accounting Records—NRC.
22. Personnel Performance Appraisals—NRC.
23. Office of Investigations Indices, Files, and Associated Records—NRC.
24. Property and Supply Records—NRC.
25. Oral History Program—NRC.
26. Transit Subsidy Benefits Program Records—NRC.
27. Radiation Exposure Information and Reporting System (REIRS) Records—NRC.
28. Merit Selection Records—NRC.
29. (Revoked.)
30. (Revoked.)
31. (Revoked.)
32. Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC.
33. Special Inquiry Records—NRC.
34. (Revoked.)
35. Drug Testing Program Records—NRC.
36. Employee Locator Records—NRC.
37. Information Security Files and Associated Records—NRC.
38. Mailing Lists—NRC.
39. Personnel Security Files and Associated Records—NRC.
40. Facility Security Access Control Records—NRC.
41. Tort Claims and Personal Property Claims Records—NRC.
42. Strategic Workforce Planning Records—NRC.
43. Employee Health Center Records—NRC.
44. Employee Fitness Center Records—NRC.
45. Digital Certificates for Personal Identity Verification Records—NRC.

These systems of records are those systems maintained by the NRC that contain personal information about individuals from which information is retrieved by an individual's name or identifier.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals that it covers, the types of records that it contains, the sources of information in those records, and the routine uses of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and request amendment of records pertaining to them.

The Privacy Act provides certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to protect records contained in an agency system of records from unauthorized disclosure, ensure that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information.

Prefatory Statement of General Routine Uses

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement of General Routine Uses:

1. A record from this system of records which indicates a violation of civil or criminal law, regulation or order may be referred as a routine use to a Federal, State, local or foreign agency that has authority to investigate, enforce, implement or prosecute such laws. Further, a record from this system of records may be disclosed for civil or criminal law or regulatory enforcement purposes to another agency in response to a written request from that agency's head or an official who has been delegated such authority.

2. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency to obtain information relevant to an NRC decision concerning hiring or retaining an employee, letting a contract or issuing a security clearance, license, grant or other benefit.

3. A record from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency requesting a record that is relevant and necessary to its decision on a matter of hiring or retaining an employee, issuing a security clearance, reporting an investigation of an employee, letting a contract, or issuing a license, grant, or other benefit.

4. A record from this system of records may be disclosed as a routine use in the course of discovery; in presenting evidence to a court, magistrate, administrative tribunal, or grand jury or pursuant to a qualifying order from any of those; in alternative dispute resolution proceedings, such as arbitration or mediation; or in the course of settlement negotiations.

5. A record from this system of records may be disclosed as a routine use to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. A record from this system of records may be disclosed as a routine use to NRC-paid experts or consultants, and those under contract with the NRC on a "need-to-know" basis for a purpose within the scope of the pertinent NRC task. This access will be granted to an NRC contractor or employee of such contractor by a system manager only after satisfactory justification has been provided to the system manager.

7. A record from this system of records may be disclosed as a routine use to appropriate agencies, entities, and persons when: (1) The NRC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the NRC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the NRC or another agency or entity) that rely upon the compromised information; and (3) the disclosure to be made to such agencies, entities, and persons is reasonably necessary to assist in connection with the NRC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

NRC–1

SYSTEM NAME:

Parking Permit Records—NRC.

SYSTEM LOCATION:

Administrative Services Center, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, and current contractor facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and contractors who apply for parking permits for NRC-controlled parking spaces.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of the applications and the revenue collected for the Headquarters' parking facilities. The applications include, but are not limited to, the applicant's name, address, telephone number, length of service, vehicle, rideshare, and handicap information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511; 41 CFR 102–74.265 *et seq.,* Parking Facilities.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To record amount paid and revenue collected for parking;

b. To contact permit holder;

c. To determine priority for issuance of permits;

d. To provide statistical reports to city, county, State, and Federal Government agencies; and

e. For the routine uses specified in paragraph numbers 1, 4, 5, 6, and 7 in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on electronic media.

RETRIEVABILITY:

Accessed by name, tag number, and/or permit number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets under visual control of the Administrative Services Center staff. Computer files are maintained on a hard drive, access to which is password protected. Access to and use of these records is limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Center, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Applications submitted by NRC employees and contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–2

SYSTEM NAME:

Biographical Information Records—NRC.

SYSTEM LOCATION:

Office of Public Affairs, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Commissioners and senior NRC staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, and other general biographical data about the Commissioners and senior NRC staff members, including photographs of Commissioners.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841, 5843(a), 5844(a), 5845(a), and 5849.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide information to the press;

b. To provide information to other persons and agencies requesting this information; and

c. For the routine uses specified in paragraph numbers 5, 6, and 7 of the Prefatory Statement of General Routine Uses. Biographies of current Commissioners are available on the NRC's Web site.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on electronic media.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Records are maintained in locked file cabinets. Access to and use of this information is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Advisor, Office of Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by each individual and approved for use by the individual involved.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–3

SYSTEM NAME:

Enforcement Actions Against Individuals—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, at the NRC Regional Offices at the locations listed in Addendum I, Part 2, and in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in NRC-licensed activities who have been subject to NRC enforcement actions or who have been the subject of correspondence indicating that they are being, or have been, considered for enforcement action.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes, but is not limited to, individual enforcement actions, including Orders, Notices of Violations with and without Civil Penalties, Orders Imposing Civil Penalties, Letters of Reprimand, Demands for Information, and letters to individuals who are being or have been considered for enforcement action. Also included are responses to these actions and letters. In addition, the files may contain other relevant documents directly related to those actions and letters that have been issued. Files are arranged numerically by Individual Action (IA) numbers, which are assigned when individual enforcement actions are considered. In instances where only letters are issued, these letters also receive IA numbers. The system includes a computerized database from which information is retrieved by names of the individuals subject to the action and IA numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073(e), 2113, 2114, 2167, 2168, 2201(i), 2231, 2282; 10 CFR 30.10, 40.10, 50.5, 50.110, 50.111, 50.120, 60.11, 61.9b, 70.10, 72.12, 110.7b, 110.50, and 110.53 (2008); 10 CFR Part 2, subpart B; Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*); 10 CFR 19.16(a), 30.7, 40.7, 50.7, 60.9, 70.7, and 72.10; Energy Reorganization Act of 1974, as amended, Section 211 (42 U.S.C. 5801 *et seq.*); 5 U.S.C. 2302(a)(2)(A).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To respond to general information requests from the Congress;

b. To deter future violations, certain information in this system of records may be routinely disseminated to the public by means such as: Publishing in the **Federal Register** certain enforcement actions issued to individuals and making the information available in the Public Electronic Reading Room accessible through the NRC Web site, *http://www.nrc.gov;*

c. When considered appropriate for disciplinary purposes, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a bar

association, or other professional organization performing similar functions, including certification of individuals licensed by NRC or Agreement States to perform specified licensing activities;

d. Where appropriate to ensure the public health and safety, information in this system of records, such as enforcement actions and hearing proceedings, may be disclosed to a Federal or State agency with licensing jurisdiction;

e. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906; and

f. For all of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

RETRIEVABILITY:

Records are accessed by individual action file number or by the name of the individual.

SAFEGUARDS:

Paper records are maintained in lockable file cabinets and are under visual control during duty hours. Access to computer records requires use of proper password and user identification codes. Access to and use of these records is limited to those NRC employees whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in the records is primarily obtained from NRC inspectors and investigators and other NRC employees, individuals to whom a record pertains, authorized representatives for these individuals, and NRC licensees, vendors, other individuals regulated by the NRC, and persons making allegations to the NRC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–4

SYSTEM NAME:

Conflict of Interest Records—NRC.

SYSTEM LOCATION:

Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC current and former employees, consultants, Special Government employees, and advisory committee members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to:

a. General biographical data (*i.e.,* name, birth date, home address, position title, home and business telephone numbers, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (*i.e.,* nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, and pension or other retirement interests);

c. Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Advice and determinations (*i.e.,* no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (*i.e.,* proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for proposed pay, description of expenses to be reimbursed and dollar limitation, and description of Government-owned property to be in possession of appointee).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR 2634–2641, 5801; 5 U.S.C. 7351, 7353; Ethics in Government Act of 1978, as amended (5 U.S.C. App., Section 101 *et seq.*); 18 U.S.C. 201–209; 31 U.S.C. 1353; Executive Order (E.O.) 12674 (as modified by E.O. 12731).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide the Department of Justice, Office of Personnel Management, Office of Government Ethics, Office of Special Counsel, and/or Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department, Office, or Board concerning potential violations of Federal law; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and electronic media.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Paper records are maintained in locked file cabinets and computer

records are password protected. Access to these records is limited to individuals with a need-to-know. The electronic management information system is operated within the NRC's security LAN/WAN system.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel for Legal Counsel, Legislation, and Special Projects, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies, or is derived from information he or she supplied, or comes from the office to which the individual is to be assigned, other NRC offices, or other persons such as attorneys.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–5

SYSTEM NAME:

Contracts Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Contracts, Office of Administration, NRC, 12300 Twinbrook Parkway, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, at the locations listed in Addendum I, Parts 1 and 2, in working files maintained by the assigned office project manager and in the NRC's Agencywide Documents Access and Management System (ADAMS).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employed as NRC contractors. NRC employees substantially involved.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information (such as technical qualifications, education, rates of pay, employment history) of contractors and their employees, and other contracting records. They also contain evaluations, recommendations, and reports of NRC acquisition officials, assessment of contractor performance, invoice payment records, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 631, 644; 31 U.S.C. 3511; 13 CFR 124.501–520; 44 U.S.C. 3301; 48 CFR Subpart 4.8; 48 CFR Part 19.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide information to the Federal Procurement Data Center, Department of Health and Human Services, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on electronic media.

RETRIEVABILITY:

Paper records are accessed by contract number or purchase order number; and are cross-referenced to the automated system that contains the name of the contractor, vendor, project officer, procurement official, and taxpayer identification number (TIN).

SAFEGUARDS:

File folders are maintained in unlocked conserver files in a key code locked room. Access to and use of these records is limited to those persons whose official duties require such access. Access to automated systems is protected by password and roles and responsibilities.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the contractor or potential contractor or NRC employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–6

SYSTEM NAME:

Department of Labor (DOL) Discrimination Cases—NRC.

SYSTEM LOCATION:

Primary system—Office of Enforcement, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, and in enforcement or allegation coordinators' offices at NRC Regional Offices at the addresses listed on Addendum I, Part 2. The duplicate systems in the Regional Offices would ordinarily be limited to the cases filed in each Region.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed complaints with DOL concerning alleged acts of discrimination in violation of section 211 of the Energy Reorganization Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of files arranged alphabetically by name to track complaints filed by individuals with DOL under section 211 of the Energy Reorganization Act. These files include documents related to, and provided by, the DOL including copies of complaints, correspondence between the parties, and decisions by the Regional Administrators of DOL's Occupational, Safety, and Health Administration, Administrative Law Judges, and the Administrative Review Board.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201, as amended; 42 U.S.C. 2282, as amended; 42 U.S.C. 5851, as amended; 10 CFR 30.7, 40.7, 50.7, 60.9, 61.9, 70.7, and 72.10.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

Any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and an index on electronic media.

RETRIEVABILITY:

Records are accessed by the name of the individual who has filed a complaint with DOL.

SAFEGUARDS:

Paper records are maintained in locking file cabinets. Access to and use of these records is limited to those NRC employees whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Information received from the DOL is treated by DOL as public information and subject to disclosure under applicable laws.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The sources of the records include the individuals to whom a record pertains, attorneys for these individuals, defendants, attorneys for the defendants, and DOL.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–7 (Revoked.)
NRC–8

SYSTEM NAME:

Employee Disciplinary Actions, Appeals, Grievances, and Complaints Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Human Resources, NRC, Gateway Building, 7201 Wisconsin Avenue, Bethesda, Maryland.

The Office of the Inspector General (OIG) employee files are located within the OIG, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system may be maintained, in whole or in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, and at NRC's Regional Offices at locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed written complaints brought to the Office of Human Resource's attention or initiated grievances or appeal proceedings as a result of a determination made by the NRC, Office of Personnel Management, and/or Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to: Disciplinary actions; adverse actions; appeals; complaints; grievances; arbitrations; and negative determinations regarding within-grade salary increases. It contains information relating to determinations affecting individuals made by the NRC, Office of Personnel Management, Merit Systems Protection Board, arbitrators or courts of law. The records may include the initial appeal or complaint, letters or notices to the individual, records of hearings when conducted, materials placed into the record to support the decision or

determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3132(a); 5 U.S.C. 3521–3525; 5 U.S.C. 4303, as amended; 5 U.S.C. 7503; 29 U.S.C. 633a; 29 U.S.C. 791; 42 U.S.C. 2000e–16; 42 U.S.C. 2201(d), as amended.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To furnish information to the Office of Personnel Management and/or Merit Systems Protection Board under applicable requirements related to grievances and appeals;

b. To provide appropriate data to union representatives and third parties (that may include the Federal Services Impasses Panel and Federal Labor Relations Authority) in connection with grievances, arbitration actions, and appeals; and

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media.

RETRIEVABILITY:

Records are retrieved by individual's name.

SAFEGUARDS:

Records are maintained in locked file cabinets and in a password-protected automated system. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Employee/Labor Relations and Work Life Services Branch, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For OIG employee records: Director, Resource Management and Operations Support, Office of the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, NRC, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; official documents relating to the appeal, grievance, or complaint; Official Personnel Folder; and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–9

SYSTEM NAME:

Office of Small Business and Civil Rights Discrimination Complaint Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Small Business and Civil Rights, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—A duplicate system exists, in part, in the Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment and current and former NRC employees who have initiated EEO counseling and/or filed a formal complaint of employment discrimination under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Equal Pay Act, and the Rehabilitation Act. Individuals in the United States in education programs or activities receiving Federal financial assistance from the NRC who initiated an informal complaint and/or filed a formal complaint of sex discrimination under Title IX of the Education Amendments Act. Individuals in the United States in programs or activities receiving Federal financial assistance from the NRC who initiated an informal complaint and/or filed a formal complaint of discrimination under Title VI of the Civil Rights Act, the Age Discrimination in Employment Act of 1975, Section 504 of the Rehabilitation Act of 1973, and Title IV of the Energy Reorganization Act of 1974, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records may contain copies of written reports by counselors; investigative files; administrative files, including documentation of withdrawn and/or dismissed complaints; complainant's name, title, and grade; types and theories of discrimination alleged; description of action and conditions giving rise to complaints, settlement agreements, and compliance documents; description of corrective and/or remedial actions; description of disciplinary actions, if any; request for hearings, procedural information, and hearing transcripts; procedural information and forms regarding Alternative Dispute Resolution (ADR); Equal Employment Opportunity Commission (EEOC), Merit System Protection Board (MSPB), Department of Education (ED), and Department of Justice (DOJ) findings, analyses, decisions and orders; final agency decisions and final actions; and notices of intent to file in Federal district court, notices of cases filed in Federal district court, and Federal court decisions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 2301, 2302; 29 U.S.C. 206(d), as amended; 29 U.S.C. 633a, as amended; 29 U.S.C. 791 *et seq.;* 42 U.S.C. 1981; 42 U.S.C. 2000e–16, as amended; 42 U.S.C. 5891; Executive Order (E.O.) 11246; E.O. 11375, as amended by E.O. 11478; E.O. 12086, as amended by E.O. 12608; E.O. 12106; E.O. 13166; 10 CFR parts 4 and 5; 29 CFR Part 1614.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To furnish information related to discrimination complaints to the EEOC, Office of Personnel Management (OPM), MSPB, DOJ, ED, Health and Human Services, Office of Management and Budget, and Congress, under applicable requirements; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Automated system is password protected. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Senior Level Assistant for Policy and Programs, Office of Small Business and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, mediators, investigators, NRC staff, Office of Human Resources, the EEOC, OPM, MSPB, DOJ and/or ED officials, affidavits or statements from complainants, testimony of witnesses, and official documents relating to the complaints.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552(c)(3), (d), (e)(4)(G), (H), and (I), and (f).

NRC–10

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Request Records—NRC.

SYSTEM LOCATION:

Primary system—FOIA/Privacy Section, Information Services Branch, Information and Records Services Division, Office of Information Services, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made a FOIA or PA request for NRC records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains copies of the written requests from individuals or organizations made under the FOIA or PA, the NRC response letters, and related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a; 42 U.S.C. 2201, as amended; 10 CFR part 9.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. If an appeal or court suit is filed with respect to any records denied;

b. For preparation of reports required by 5 U.S.C. 552 and 5 U.S.C. 552a;

c. To another Federal agency when consultation or referral is required to process a request; and

d. For any of the routine uses specified in the Prefatory Statement of General Routine Uses. Some of the FOIA records are made publicly available in the Public Electronic Reading Room accessible through the NRC Web site, *http://www.nrc.gov.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper, audio and video tapes, and electronic media.

RETRIEVABILITY:

Records are accessed by unique assigned number for each request and by requester's name.

SAFEGUARDS:

Records are maintained in locked file cabinets that are kept in locked rooms. Electronic records are password protected. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules

which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

FOIA/PA Officer, FOIA/Privacy Section, Information Services Branch, Information and Records Services Division, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the FOIA/PA Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Requests are made by individuals. The response to the request is based upon information contained in NRC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records)—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters and all Senior Executive Service (SES) personnel, Office of Human Resources, NRC, White Flint North Complex, 11555 and 11545 Rockville Pike, Rockville, Maryland, and Gateway Building, 7201 Wisconsin Avenue, Bethesda, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2. NRC has an interagency agreement with the U.S. Department of the Interior (DOI), National Business Center (NBC), Denver, Colorado, to maintain employee personnel and payroll information.

Duplicate system—Duplicate systems exist, in part, within the organization where an employee actually works for administrative purposes, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains personnel records that document an individual's Federal career and includes notification of personnel action (SF–50) and documents supporting the action taken; life insurance, thrift savings plan, health benefits and related beneficiary forms; letters of disciplinary action; notices of reductions-in-force; and other records retained in accordance with the Office of Personnel Management's Guide to Personnel Recordkeeping. These records include employment information such as personal qualification statements, resumes, and related documents including information about an individual's birth date, social security number, veterans preference status, tenure, minority group designator, physical handicaps, past and present salaries, grades, position titles; employee locator information identifying home and work address, phone numbers and emergency contacts; and certain medical records related to initial appointment and employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Title 5, Part III; 5 U.S.C. 4103; 42 U.S.C. 290dd; 42 U.S.C. 2201(d); and Executive Order (E.O.) 9397, as amended by E.O. 13478.

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

In accordance with an interagency agreement the NRC may disclose records to the DOI/NBC in order to affect the maintenance of electronic personnel records on behalf of the NRC related to its employees.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses; or, where determined to be appropriate and necessary, the NRC may authorize DOI/NBC to make the disclosure:

a. To the Office of Personnel Management (OPM) and/or Merit Systems Protection Board (MSPB) for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information is transferred to such agency;

c. To store all personnel actions and related documentation, OPM investigations, Office of the Inspector General investigations, security investigations, determine eligibility for Federal benefits, employment verification, and to update monthly Enterprise Human Resources Integration data repository;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the OPM and/or MSPB for review, audit, or reporting purposes;

f. To provide members of the public with the names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. For medical records, to provide information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsible for Federal benefit programs administered by the Department of Labor (Office of Workers' Compensation Programs) and the OPM; and

h. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on electronic media. Effective November 2009, the Official Personnel Folders (OPFs) are maintained electronically in OPM's Enterprise Human Resources Interface.

RETRIEVABILITY:

Records are retrieved by name and/or social security number.

SAFEGUARDS:

The OPFs are stored electronically in a secure OPM central repository, with role-based security for access to the records and audit trail for all user activity. Paper documents are maintained in lockable file cabinets. Automated systems are password protected. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

For Headquarters and all NRC SES employees—Associate Director for Human Resources Operations and Policy, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For Region I–IV non-SES employees—The appropriate Human Resources Team Leader at the locations listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies; is derived from information supplied by that individual; or is provided by agency officials, other Federal agencies, universities, other academic institutions, or persons, including references, private and Federal physicians, and medical institutions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5) and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–12

SYSTEM NAME:

Child Care Subsidy Program Records—NRC.

SYSTEM LOCATION:

Federal Employee Education and Assistance Fund (FEEA), 3333 S. Wadsworth Boulevard, Suite 300, Lakewood, Colorado (or current contractor facility).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who voluntarily apply for child care subsidy.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include application forms for child care subsidy containing personal information about the employee (parent), their spouse (if applicable), their child/children, and their child care provider, including name, social security number, employer, grade, home and work telephone numbers, home and work addresses, total family income, name of child on whose behalf the parent is applying for subsidy, child's date of birth; information on child care providers used, including name, address, provider license number and State where issued, child care cost, and provider tax identification number; and copies of IRS Form 1040 or 1040A for verification purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 590(g); 5 CFR 792.200–231; Executive Order (E.O.) 9397, as amended by E.O. 13478.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the Office of Personnel Management to provide statistical reports; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media at the current contractor site.

RETRIEVABILITY:

Information may be retrieved by employee name or social security number.

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in lockable file cabinets and computer records are protected by the use of passwords.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Human Resources Operations and Policy, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is obtained from NRC employees who apply for child care subsidy and their child care provider.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–13 (Revoked.)
NRC–14

SYSTEM NAME:

Employee Assistance Program Records—NRC.

SYSTEM LOCATION:

Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, and current contractor facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees or family members who have been counseled by or referred to the Employee Assistance Program (EAP) for problems relating to alcoholism, drug abuse, job stress, chronic illness, family or relationship concerns, and emotional and other similar issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees or their families who have participated in the EAP and the results of any counseling or referrals which may have taken place. The records may contain information as to the nature of each individual's problem, subsequent treatment, and progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; 21 U.S.C. 1101 *et seq.;* 42 U.S.C. 290dd–1 and 290ee–1; 44 U.S.C. 3101; 44 U.S.C. 3301; 5 CFR 792.101–105.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For statistical reporting purposes; and

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR Part 2, as authorized by 42 U.S.C. 290dd–2, as amended.

c. For the routine use specified in paragraph number 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on electronic media.

RETRIEVABILITY:

Information accessed by the EAP identification number and name of the individual.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Employee Assistance and Wellness Services Manager and the current EAP contractor. Case files are maintained in accordance with the confidentiality requirements of Public Law 93–282, any NRC-specific confidentiality regulations, and the Privacy Act of 1974.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance and Wellness Services, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information compiled by the Manager, Employee Assistance and Wellness Services, and the Employee Assistance Program contractor during the course of counseling with an NRC employee or members of the employee's family.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–15 (Revoked.)
NRC–16

SYSTEM NAME:

Facility Operator Licensees Records (10 CFR Part 55)—NRC.

SYSTEM LOCATION:

For power reactors, at the appropriate Regional Office at the address listed in Addendum I, Part 2; for non-power (test and research) reactor facilities, at the Operator Licensing Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The Operator Licensing Tracking System (OLTS) is located at NRC Headquarters and is accessible by the four Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed under 10 CFR part 55, new applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information pertaining to 10 CFR part 55 applicants for a license, licensed operators, and individuals who previously held licenses. This includes applications for a license, license and denial letters, and related correspondence; correspondence relating to actions taken against a licensee; 10 CFR 50.74 notifications; certification of medical examination and related medical information; fitness for duty information; examination results and other docket information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2131–2141; 10 CFR part 55.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To determine if the individual meets the requirements of 10 CFR part 55 to take an examination or to be issued an operator's license;

b. To provide researchers with information for reports and statistical evaluations related to selection, training, and examination of facility operators;

c. To provide examination, testing material, and results to facility management; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, 6, and 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and logs, and on electronic media.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Maintained in locked file cabinets or an area that is locked. Computer files are password protected. Access to and use of these records is limited to those persons whose official duties require such access based on roles and responsibilities.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operator Licensing Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the Part 50 licensee, a licensed physician, and NRC and contractor staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–17

SYSTEM NAME:

Occupational Injury and Illness Records—NRC.

SYSTEM LOCATION:

Primary system—For Headquarters personnel: Part 1 (Workers' Compensation Program)—Office of Human Resources, NRC, Gateway Building, 7201 Wisconsin Avenue, Bethesda, Maryland. Part 2 (Occupational Safety and Health Program)—Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees with a reported occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain completed Occupational Safety and Health Administration and Office of Workers' Compensation forms and information regarding the location and description of the injury or illness, treatment, and disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902, as amended; 29 U.S.C. 657(c), as amended; Executive Order (E.O.) 12196 as amended; E.O. 12692; 29 CFR 1960; 29 CFR 1904.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To prepare periodic statistical reports on employees' health and injury status for transmission to and review by the Department of Labor;

b. For transmittal to the Secretary of Labor or an authorized representative under duly promulgated regulations;

c. For transmittal to the Office of Personnel Management, Merit Systems Protection Board, and/or Equal Employment Opportunity Commission as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media.

RETRIEVABILITY:

Records retrieved by employee name or assigned claim/case number.

SAFEGUARDS:

Paper records are locked file cabinets under the visual control of the responsible staff. Electronic records are password protected. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

For Headquarters—Part 1—Associate Director for Human Resources Operations and Policy, Office of Human Resources, and Part 2—Safety and Occupational Health Manager, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For Region I–IV—The appropriate Human Resources Team Leader at the locations listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC Health Unit; NRC Headquarters and Regional Office reports; and forms with original information largely supplied by the employees or their representative, supervisors, witnesses, medical personnel, *etc.*

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–18

SYSTEM NAME:

Office of the Inspector General (OIG) Investigative Records—NRC.

SYSTEM LOCATION:

Office of the Inspector General, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in complaints or actual investigative cases, reports, accompanying documents, and correspondence prepared by, compiled by, or referred to the OIG.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system comprises five parts: (1) An automated Investigative Database Program containing reports of investigations, inquiries, and other reports closed since 1989; (2) paper files of all OIG and predecessor Office of Inspector and Auditor (OIA) reports, correspondence, cases, matters, memoranda, materials, legal papers, evidence, exhibits, data, and work papers pertaining to all closed and pending investigations, inquiries, and other reports; (3) paper index card files of OIG and OIA cases closed from 1970 through 1989; (4) an automated Allegations Tracking System that includes allegations referred to the OIG between 1985 and 2005, whether or not the allegation progressed to an investigation, inquiry, or other report, and dates that the investigation, inquiry, or other report, was opened and closed; and (5) an automated Investigative Management System that includes allegations referred to the OIG from 1985 forward, whether or not the allegation progressed to an investigation, inquiry or other report, and dates that an investigation, inquiry or other report was opened and closed and reports, correspondence, cases, matters, memoranda, materials, legal papers, evidence, exhibits, data and work papers pertaining to these cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended, 5 U.S.C. App. 3; 42 U.S.C. 2201(c), and 5841(f).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, OIG may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To any Federal, State, local, Tribal, or foreign agency, or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity when records from this system of records, either by themselves or in combination with any other information, indicate a violation or potential violation of law, whether administrative, civil, criminal, or regulatory in nature.

b. To public or private sources to the extent necessary to obtain information from those sources relevant to an OIG investigation, audit, inspection, or other inquiry.

c. To a court, adjudicative body before which NRC is authorized to appear, Federal agency, individual or entity designated by NRC or otherwise empowered to resolve disputes, counsel or other representative, or witness or potential witness when it is relevant and necessary to the litigation if any of the parties listed below is involved in the litigation or has an interest in the litigation:

1. NRC, or any component of NRC;

2. Any employee of NRC where the NRC or the Department of Justice has agreed to represent the employee; or

3. The United States, where NRC determines that the litigation is likely to affect the NRC or any of its components.

d. To a private firm or other entity with which OIG or NRC contemplates it will contract or has contracted for the purpose of performing any functions or analyses that facilitate or are relevant to an investigation, audit, inspection, inquiry, or other activity related to this system of records, to include to contractors or entities who have a need for such information or records to resolve or support payment to the agency. The contractor, private firm, or entity needing access to the records to perform the activity shall maintain Privacy Act safeguards with respect to information. A contractor, private firm, or entity operating a system of records under 5 U.S.C. 552a(m) shall comply with the Privacy Act.

e. To another agency to the extent necessary for obtaining its advice on any matter relevant to an OIG investigation, audit, inspection, or other inquiry related to the responsibilities of the OIG.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained on index cards, in paper files, and on electronic media.

RETRIEVABILITY:

Information is retrieved from the Investigative Database Program by the name of an individual, by case number, or by subject matter. Information in the paper files backing up the Investigative Database Program and older cases closed by 1989 is retrieved by subject matter and/or case number, not by individual identifier. Information is retrieved from index card files for cases closed before 1989 by the name or numerical identifier of the individual or

entity under investigation or by subject matter. Information in both the Allegations Tracking System and the Investigative Management System is retrieved by allegation number, case number, or name.

SAFEGUARDS:

Access to the automated Investigative Database Program is password protected. Index card files for older cases (1970–1989) are maintained in secure office facilities. Both the Allegations Tracking System and the Investigative Management System are accessible from terminals that are double-password-protected. Paper files backing up the automated systems and older case reports and work papers are maintained in approved security containers and locked filing cabinets in a locked room; associated indices, records, diskettes, tapes, *etc.,* are stored in locked metal filing cabinets, safes, storage rooms, or similar secure facilities. All records in this system are available only to authorized personnel who have a need to know and whose duties require access to the information.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will be maintained under the Inspector General Act, 5 U.S.C. App. 3, and the Commission's Policy Statement on Confidentiality, Management Directive 8.8, "Management of Allegations."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information is obtained from sources including, but not limited to, the individual record subject; NRC officials and employees; employees of Federal, State, local, and foreign agencies; and other persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Under 5 U.S.C. 552a(j)(2), the Commission has exempted this system of records from subsections (c)(3) and (4), (d)(1)–(4), (e)(1)–(3), (5), and (8), and (g) of the Act. This exemption applies to information in the system that relates to criminal law enforcement and meets the criteria of the (j)(2) exemption. Under 5 U.S.C. 552a(k)(1), (k)(2), (k)(5), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–19
SYSTEM NAME:

Official Personnel Training Records—NRC.

SYSTEM LOCATION:

Primary system located at the NRC's current contractor facility on behalf of the Office of Human Resources, NRC, Gateway Building, 7201 Wisconsin Avenue, Bethesda, Maryland.

The Office of the Inspector General (OIG) employee files are located with the OIG at NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, at the Technical Training Center, Regional Offices, and within the organization where the NRC employee works, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who applied or were selected for NRC, other Government, or non-Government training courses or programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's educational background and training courses including training requests and authorizations, evaluations, supporting documentation, and other related personnel information, including but not limited to, an individual's name, address, social security number, telephone number, position title, organization, and grade.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396; 5 U.S.C. 4103; Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 11348, as amended by E.O. 12107; 5 CFR Parts 410 and 412.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. Extracted from the records and made available to the Office of Personnel Management; other Federal, State, and local government agencies; educational institutions and training facilities for purposes of enrollment and verification of employee attendance and performance; and

b. Disclosed for the routine uses specified in paragraph numbers 5, 6, and 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on electronic media.

RETRIEVABILITY:

Information is accessed by name, user identification number, course number, or course session number.

SAFEGUARDS:

Electronic records are maintained in a password protected computer system. Paper is maintained in lockable file cabinets and file rooms. Access to and use of these records is limited to those persons whose official duties require such access, with the level of access controlled by roles and responsibilities.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC

Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Training and Development, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For OIG employee records: Director, Resource Management and Operations Support, Office of the Inspector General, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the subject individual, the employee's supervisor, and training groups, agencies, or educational institutions and learning activities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–20

SYSTEM NAME:

Official Travel Records—NRC.

SYSTEM LOCATION:

Primary system—Division of the Controller, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. NRC has an interagency agreement with the Department of the Interior's National Business Center (DOI/NBC) in Denver, Colorado, to cross-service the processing of authorizations and vouchers as of January 2, 2008. The Office of International Programs, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, maintains the passport and visa records.

Duplicate system—Duplicate systems may exist, in part, within the organization where an employee actually works for administrative purposes, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective, current, and former NRC employees; consultants; and invitational travelers.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain requests and authorizations for official travel, travel vouchers, passports, visas, and related documentation; charge card applications, terms and conditions for use of charge cards, charge card training documentation, monthly reports regarding accounts, credit data, and related documentation; all of which may include, but are not limited to, an individual's name, address, social security number, and telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Part III, Subpart D, Chapter 57; 31 U.S.C. 716; 41 U.S.C. Subtitle II, Chapter 11; 41 CFR 102–118; Executive Order (E.O.) 9397, as amended by E.O. 13478.

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

In accordance with the interagency agreement, NRC may disclose records to DOI/NBC to cross-service travel voucher reimbursements on behalf of the NRC. Specifically, DOI/NBC will examine and pay travel vouchers and maintain the official agency record.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses; or, where determined to be appropriate and necessary, the NRC may authorize DOI/NBC to make the disclosure:

a. To the U.S. Treasury for payment;

b. To the Department of State or an embassy for passports or visas;

c. To the General Services Administration and the Office of Management and Budget for required periodic reporting;

d. To the charge card issuing bank;

e. To the Department of Interior, National Business Center, for collecting severe travel card delinquencies by employee salary offset;

f. To a consumer reporting agency to obtain credit reports; and

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency, other than to obtain credit reports, are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders, on electronic media, and on magnetic tape.

RETRIEVABILITY:

Records are accessed by name, social security number, authorization number, and voucher payment schedule number.

SAFEGUARDS:

Maintained in key locked file cabinets and in conserver files in a passcode locked room. Passports and visas are maintained in a locked file cabinet. For electronic records, an identification number, a password, and assigned access to specific programs are required in order to retrieve information.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Services Branch, Division of the Controller, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For passport and visa records: Chief, International Operations Branch, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual, NRC staff, NRC contractors, charge card issuing bank, the consumer reporting agency, outside transportation agents, Department of State, and embassies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–21

SYSTEM NAME:

Payroll Accounting Records—NRC.

SYSTEM LOCATION:

Primary system—Division of the Controller, Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. NRC has an interagency agreement with the Department of the Interior's National Business Center (DOI/NBC), Federal Personnel/Payroll System (FPPS), in Denver, Colorado, to maintain electronic personnel information and perform payroll processing activities for its employees as of November 2, 2003.

Duplicate system—Duplicate systems exist, in part, within the organization where the employee actually works for administrative purposes, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, including special Government employees (*i.e.* consultants).

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, benefit enrollment and voluntary allowance deductions, and labor activities, which includes, but is not limited to, an individual's name and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

26 CFR 31.6011(b)(2), 31.6109–1; 5 U.S.C. 6334; 5 U.S.C. Part III, Subpart D; 31 U.S.C. 716; 31 U.S.C. Chapters 35 and 37; Executive Order (E.O.) 9397, as amended by E.O. 13478.

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

In accordance with an interagency agreement the NRC may disclose records to the DOI/NBC/FPPS in order to effect all financial transactions on behalf of the NRC related to employee pay. Specifically, the DOI/NBC's FPPS may affect employee pay or deposit funds on behalf of NRC employees, and/or it may withhold, collect or offset funds from employee salaries as required by law or as necessary to correct overpayment or amounts due.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses; or, where determined to be appropriate and necessary, the NRC may authorize DOI/NBC to make the disclosure:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and consultants and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes including the withholding and reporting of Thrift Savings Plan deductions to the Department of Agriculture's National Finance Center;

b. For reporting tax withholding to Internal Revenue Service and appropriate State and local taxing authorities;

c. For FICA and Medicare deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholding for health insurance to the insurance carriers by the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W–2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for financial reporting;

I. For withholding and reporting of retirement, tax levies, bankruptcies, garnishments, court orders, re-employed annuitants, and life insurance information to the Office of Personnel Management;

j. For transmittal of information to State agencies for unemployment purposes;

k. For transmittal to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establish and modify orders of support, and for enforcement action;

l. For transmittal to the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

m. For transmittal to the Office of Child Support Enforcement for release to the Department of Treasury for the purpose of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986) and verifying a claim with respect to employment in a tax return;

n. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906;

o. Time and labor data are used by the NRC as a project management tool in various management records and reports (*i.e.* work performed, work load projections, scheduling, project assignments, budget), and for identifying reimbursable and fee billable work performed by the NRC; and

p. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained on electronic media (stored in memory, on disk, and magnetic tape), on microfiche, and in paper copy.

Electronic payroll, time, and labor records prior to November 2, 2003, are maintained in the Human Resources Management System (HRMS), the PAY PERS Historical database reporting system, and on microfiche at NRC. Electronic payroll records from November 2, 2003, forward are maintained in the DOI/NBC's FPPS in Denver, Colorado. Time and labor records are maintained in the HRMS at NRC.

RETRIEVABILITY:

Information is accessed by employee identification number, name and social security number.

SAFEGUARDS:

Records are maintained in buildings where access is controlled by a security guard force. File folders, microfiche, tapes, and disks, including backup data, are maintained in secured locked rooms and file cabinets after working hours. All records are in areas where access is controlled by keycard and is limited to NRC and contractor personnel who need the information to perform their official duties. Access to computerized records requires use of proper passwords and user identification codes.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Services Branch, Division of the Controller, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from sources, including but not limited to, the individual to whom it pertains, the Office of Human Resources and other NRC officials, and other agencies and entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–22

SYSTEM NAME:

Personnel Performance Appraisals—NRC.

SYSTEM LOCATION:

Primary system—Part A: For Headquarters personnel, Office of Human Resources, NRC, White Flint North Complex, 11545 and 11555 Rockville Pike, Rockville, Maryland. For Regional personnel, at Regional Offices I–IV listed in Addendum I, Part 2.

Part B: Office of Human Resources, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC has an interagency agreement with the U.S. Department of the Interior (DOI), National Business Center (NBC), in Denver, Colorado, to maintain electronic personnel and payroll information for its employees as of November 2, 2003.

The Office of the Inspector General (OIG) employee files located with the OIG at NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist in part, within the organization where the employee actually works, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees other than the Commissioners, the Inspector General, and temporary personnel employed for less than 1 year.

Part A: Senior Level System employees, GG–1 through GG–15 employees, hourly wage employees, and administratively determined rate employees.

Part B: Senior Executive Service and equivalent employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains performance appraisals, which includes performance plans, summary ratings, and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4301, *et seq.;* 5 U.S.C. Chapter 43; 42 U.S.C. 2201(d), 5841; and 5 CFR Part 293.

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

In accordance with an interagency agreement the NRC may disclose records to DOI/NBC in order to affect the maintenance of electronic personnel records on behalf of the NRC related to its employees.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For agency personnel functions; and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in folders and on electronic media. Summary ratings from 11/2/2003 forward are stored in the DOI/NBC Federal Personnel/Payroll System (FPPS). Prior to 11/2/2003 they are maintained at the NRC in the Human Resources Management System (HRMS).

RETRIEVABILITY:

Records are accessed by name and/or social security number.

SAFEGUARDS:

Records are maintained in locking cabinets in a locked room and related documents may be maintained in unlocked file cabinets or an electromechanical file organizer. Automated systems are password protected. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Human Resources Operations and Policy, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For OIG employees: Director, Resource Management and Operations Support, Office of the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For Regional personnel: Human Resources Team Leader at the appropriate Regional Office I–IV listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Part A: Subject employee and employee's supervisors.

Part B: Subject employee, employee's supervisors, and any documents and sources used to develop critical elements and performance standards for that Senior Executive Service position.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–23

SYSTEM NAME:

Office of Investigations Indices, Files, and Associated Records—NRC.

SYSTEM LOCATION:

Primary system—Office of Investigations, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Records exist within the NRC Regional Office locations, listed in Addendum I, Part 2, during an active investigation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities referred to in potential or actual investigations and matters of concern to the Office of Investigations and correspondence on matters directed or referred to the Office of Investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Office of Investigations correspondence, cases, memoranda, materials including, but not limited to, investigative reports, confidential source information, correspondence to and from the Office of Investigations, memoranda, fiscal data, legal papers, evidence, exhibits, technical data, investigative data, work papers, and management information data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2035(c); 42 U.S.C. 2201(c); and 42 U.S.C. 5841; 10 CFR 1.36.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the persons or entities mentioned therein if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To a Federal, State, local, or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant.

b. A record relating to an investigation or matter falling within the purview of the Office of Investigations may be disclosed as a routine use to the referring agency, group, organization, or individual.

c. A record relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual.

d. A record in the system of records relating to an investigation or matter may be disclosed as a routine use to a foreign country under an international treaty or agreement.

e. To a Federal, State, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to the agency.

f. A record may be disclosed for any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained on paper, photographs, audio/video tapes, and electronic media.

RETRIEVABILITY:

Information retrieved by document text and/or case number.

SAFEGUARDS:

Hard copy files maintained in approved security containers and locking filing cabinets. All records are under visual control during duty hours and are available only to authorized personnel who have a need to know and whose duties require access to the information. The electronic management information system is operated within the NRC's secure LAN/WAN system. Access rights to the system only available to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with

Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORDS ACCESS PROCEDURES:

Same as "Notification procedure." Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will be maintained under the Commission's Policy Statement on Confidentiality, Management Directive 8.8, "Management of Allegations," and the procedures covering confidentiality in Chapter 7 of the Office of Investigations Procedures Manual and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is obtained from sources including, but not limited to, NRC officials, employees, and licensees; Federal, State, local, and foreign agencies; and other persons.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–24

SYSTEM NAME:

Property and Supply Records—NRC.

SYSTEM LOCATION:

Property and Labor Services Branch, Directorate for Space Planning and Consolidation, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems may exist, in part, with designated property custodians at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and contractors who have custody of Government property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of NRC sensitive and non-sensitive equipment which includes, but is not limited to, acquisition and depreciated costs, date of acquisition, item description, manufacturer, model number, serial number, stock number, tag number, property custodians, name of individual to whom property is assigned, user id, office affiliation, office location. Also included are furniture and supply records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 40 U.S.C. Subtitle I, Chapter 5.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To maintain an inventory and accountability of Government property;

b. To provide information for clearances of employees who separate from the NRC;

c. To report excess agency property to GSA; and

d. For any of the routine uses specified in paragraph numbers 1, 3, 5, 6, and 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in automated system. Data entry paper records in file folders.

RETRIEVABILITY:

Records accessed by NRC tag number, name, user id, organization, office location and stock number.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access based on roles and responsibilities. Electronic records are password protected.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Property and Labor Services Branch, Directorate for Space Planning and Consolidation, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system is provided by property custodians, contract specialists, and purchase card holders and/or other individuals buying equipment or supplies on behalf of the NRC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–25

SYSTEM NAME:

Oral History Program—NRC.

SYSTEM LOCATION:

Office of the Secretary, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who volunteer to be interviewed for the purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of recorded interviews and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161(b) and 44 U.S.C. 3301.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For incorporation in publications on the history of the nuclear regulatory program;

b. To provide information to historians and other researchers; and

c. For the routine use specified in paragraph number 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on tape and paper transcripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file room and/or locked file cabinet. Access to and use of these records is limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his or her staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–26

SYSTEM NAME:

Transit Subsidy Benefits Program Records—NRC.

SYSTEM LOCATION:

Administrative Services Center, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who apply for subsidized mass transit costs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of an individual's application to participate in the program which includes, but is not limited to, the applicant's name, home address, office telephone number, social security number, and information regarding the employee's commuting schedule and mass transit system(s) used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7905; 26 U.S.C. 132, as amended by Public Law 108–311, sec. 207(13); 31 U.S.C. 3511; 41 CFR 102–74.210; 41 CFR Subtitle F; 41 CFR 102–71.20; Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 13150, Federal Workforce Transportation; Qualified Transportation Fringe Benefits.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide statistical reports to the city, county, State, and Federal government agencies;

b. To provide the basis for program approval and issue monthly subsides; and

c. For the routine uses specified in paragraph numbers 1, 4, 5, 6, and 7 in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on electronic media.

RETRIEVABILITY:

Accessed by name and scanned NRC badge. When an individual's photo identification badge is scanned, the imbedded social security number and/or 9-digit badge identifier is used to record receipt of their transit subsidy.

SAFEGUARDS:

Paper records are maintained in locked file cabinets under visual control of the Administrative Services Center. Computer files are maintained on a hard drive and accessible by user login. Access to and use of these records is limited to those persons whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Administrative Services Center, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–27

SYSTEM NAME:

Radiation Exposure Information and Reporting System (REIRS) Records—NRC.

SYSTEM LOCATION:

Primary system—Oak Ridge Associated Universities (ORAU), Oak Ridge, Tennessee (or current contractor facility).

Duplicate system—Duplicate systems exist, in part, regarding employee exposure records, with the NRC's Radiation Safety Officers at Regional office locations listed in Addendum 1, Part 2, in the Office of Nuclear Reactor Regulation (NRR), the Office of Nuclear Material Safety and Safeguards (NMSS), and the Office of Federal and State Materials and Environmental Management Programs (FSME) at NRC Headquarters, Rockville, Maryland. The Office of Administration (ADM), NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, maintains the employee dosimeter tracking system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC-licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported under 10 CFR 20.2201–20.2204 and 20.2206 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials offsite from a facility, plant installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's name, sex, social security number, birth date, place and period date of exposure; name and license number of individual's employer; name and number of licensee reporting the information; radiation doses or estimates of exposure received during this period, type of radiation, part(s) or organ(s) exposed, and radionuclide(s) involved.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902; 29 U.S.C. 668; 42 U.S.C. 2051, 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o); 10 CFR parts 20 and 34; Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 12196, as amended; E.O. 12399; E.O. 12534; E.O. 12610.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide data to other Federal and State agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph "Categories of individuals covered by the system";

b. To return data provided by licensee upon request; and

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media. The electronic records maintained in Oak Ridge, TN, are in a centralized database management system that is password protected. Backup tapes of the database are generated and maintained at a secure, off site location for disaster recovery purposes. During the processing and data entry, paper records are temporarily stored in designated business offices that are locked when not in use and are accessible only to authorized personnel. Upon completion of data entry and processing, the paper records are stored in an offsite security storage facility accessible only to authorized personnel.

RETRIEVABILITY:

Records are accessed by individual name, social security number, date of birth, and/or by licensee name or number.

SAFEGUARDS:

Information maintained at ORAU is accessible by the Office of Nuclear Regulatory Research (RES) and individuals that have been authorized access by NRC, including all NRC Radiation Safety Officers and ORAU employees that are directly involved in the REIRS project. Reports received and reviewed by the NRC's RES, NRR, NMSS, FSME, and Regional offices are in lockable file cabinets and bookcases in secured buildings. A log is maintained of both telephone and written requests for information.

The data maintained in the REIRS database are protected from unauthorized access by several means. The database server resides in a protected environment with physical security barriers under key-card access control. Accounts authorizing access to the server and databases are maintained by the ORAU REIRS system administrator. In addition, ORAU maintains a computer security "firewall" that further restricts access to the ORAU computer network. Authorization for access must be approved by NRC, ORAU project management, and ORAU computer security. Transmittal of data via the Internet is protected by data encryption.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

REIRS Project Manager, Health Effects Branch, Division of Systems Analysis, Office of Nuclear Regulatory Research,

U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from licensees; the subject individual; the individual's employer; the person in charge of the facility where the individual has been assigned; NRC Form 5, "Occupational Exposure Record for a Monitoring Period," or equivalent, contractor reports, and Radiation Safety Officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–28

SYSTEM NAME:

Merit Selection Records—NRC.

SYSTEM LOCATION:

Primary system—Electronic records: NRC has an interagency agreement with the U.S. Department of the Interior (DOI), National Business Center (NBC), in Denver, Colorado, to host the NRC's job application system. Paper records: Headquarters personnel *, Office of Human Resources, NRC, White Flint North Complex, 11555 and 11545 Rockville Pike, Rockville, Maryland. Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2. * The Office of the Inspector General (OIG) maintains the paper files for OIG personnel.

Duplicate system—Duplicate systems exist, in part, within the organization with the position vacancy, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include those who have submitted resumes to the NRC, registered in the NRC application system, or applied for Federal employment with the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains application information of persons applying to NRC for Federal employment or merit promotion within the NRC, including application for Federal employment (resumes or similar documents); vacancy announcements; job descriptions; examination results; supervisory evaluation or performance appraisal forms; reference forms; and related correspondence. These records include, but are not limited to, applicant information relating to education, training, employment history, earnings, past performance, awards and commendations, citizenship, veteran's preference, birth date, social security number, and home address and telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301, 5101, 7201; 42 U.S.C. 2000e; 42 U.S.C. 2201(d); Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 11478, as amended by E.O. 11590 and E.O. 12106; E.O. 12106, as amended by E.O. 12379 and E.O. 12450.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To prepare reports for a variety of internal and external sources including the Office of Personnel Management, Merit Systems Protection Board; EEOC and EEO Investigators; Union representatives and EEO Committee representatives, and

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic and paper form.

RETRIEVABILITY:

Records are retrieved by vacancy announcement number, applicant name, or social security number.

SAFEGUARDS:

Maintained in a password protected automated system and in lockable file cabinets. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Human Resources Operations and Policy, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For Regional personnel: Human Resources Team Leader at the appropriate Regional Office I–IV listed in Addendum I, Part 2. For applicants to the Honor Law Graduate Program—Honor Law Graduate Program Coordinator, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For OIG personnel: Personnel Officer, Office of the Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The source of this information is the subject individual, or is derived from

information supplied by that individual; individual's current and previous supervisors within and outside NRC; pre-employment evaluation data furnished by references and educational institutions whose names were supplied by applicant; and information from other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–29 (Revoked.)
NRC–30 (Revoked.)
NRC–31 (Revoked.)
NRC–32

SYSTEM NAME:

Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC.

SYSTEM LOCATION:

Office of the Chief Financial Officer, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland. NRC has an interagency agreement with the Department of the Interior (DOI), National Business Center (NBC), in Denver, Colorado, as the service provider for the NRC core financial system since May 2002.

Other NRC systems of records contain information that may duplicate some of the records in this system. These other systems include, but are not limited to:

NRC–5, Contracts Records—NRC;

NRC–10, Freedom of Information Act (FOIA) and Privacy Act (PA) Request Records—NRC;

NRC–18, Office of the Inspector General (OIG) Investigative Records—NRC;

NRC–19, Official Personnel Training Records—NRC;

NRC–20, Official Travel Records—NRC;

NRC–21, Payroll Accounting Records—NRC;

NRC–24, Property and Supply Records—NRC; and

NRC–41, Tort Claims and Personal Property Claims Records—NRC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered are those to whom the NRC owes/owed money, those who receive/received a payment from NRC, and those who owe/owed money to the United States. Individuals receiving payments include, but are not limited to, current and former employees, contractors, consultants, vendors, and others who travel or perform certain services for NRC. Individuals owing money include, but are not limited to, those who have received goods or services from NRC for which there is a charge or fee (NRC licensees, applicants for NRC licenses, Freedom of Information Act requesters, *etc.*) and those who have been overpaid and owe NRC a refund (current and former employees, contractors, consultants, vendors, *etc.*).

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in the system includes, but is not limited to, names, addresses, telephone numbers, Social Security Numbers (SSN), employee identification number (EIN), Taxpayer Identification Numbers (TIN), Individual Taxpayer Identification Numbers (ITIN), Data Universal Numbering System (DUNS) number, fee categories, application and license numbers, contract numbers, vendor numbers, amounts owed, background and supporting documentation, correspondence concerning claims and debts, credit reports, and billing and payment histories. The overall agency accounting system contains data and information integrating accounting functions such as general ledger, funds control, travel, accounts receivable, accounts payable, property, and appropriation of funds. Although this system of records contains information on corporations and other business entities, only those records that contain information about individuals that is retrieved by the individual's name or other personal identifier are subject to the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a; 5 U.S.C. 5514; 15 U.S.C. 1681; 26 U.S.C. 6103; 31 U.S.C. Chapter 37; 31 U.S.C. 6501–6508; 42 U.S.C. 2201; 42 U.S.C. 5841; 31 CFR 900–904; 10 CFR Parts 15, 16, 170, 171; Executive Order (E.O.) 9397, as amended by E.O. 13478; and E.O. 12731.

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

In accordance with an interagency agreement, the NRC may disclose records to the DOI/NBC as the service provider for the NRC core financial system. In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses or, where determined to be appropriate and necessary, the NRC may authorize DOI/NBC to make the disclosure:

a. To debt collection contractors (31 U.S.C. 3718) or to other Federal agencies such as the Department of the Treasury (Treasury) and DOI for the purpose of collecting and reporting on delinquent debts as authorized by the Debt Collection Act of 1982 or the Debt Collection Improvement Act (DCIA) of 1996.

b. To Treasury; the Defense Manpower Data Center, Department of Defense; the United States Postal Service; government corporations; or any other Federal, State, or local agency to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to identify and locate individuals, including Federal employees, who are delinquent in their repayment of certain debts owed to the U.S. Government, including those incurred under certain programs or services administered by the NRC, in order to collect debts under common law or under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996 which include by voluntary repayment, administrative or salary offset, and referral to debt collection contractors.

c. To the Department of Justice, United States Attorney, Treasury, DOI, or other Federal agencies for further collection action on any delinquent account when circumstances warrant.

d. To credit reporting agencies/credit bureaus for the purpose of either adding to a credit history file or obtaining a credit history file or comparable credit information for use in the administration of debt collection. As authorized by the DCIA, NRC may report current (not delinquent) as well as delinquent consumer and commercial debt to these entities in order to aid in the collection of debts, typically by providing an incentive to the person to repay the debt timely.

e. To any Federal agency where the debtor is employed or receiving some form of remuneration for the purpose of enabling that agency to collect a debt owed the Federal Government on NRC's behalf by counseling the debtor for voluntary repayment or by initiating administrative or salary offset procedures, or other authorized debt collection methods under the provisions of the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996. Under the DCIA, NRC may garnish non-Federal wages of certain delinquent debtors so long as required due process procedures are followed. In these instances, NRC's notice to the employer will disclose only the information that may be necessary for

the employer to comply with the withholding order.

f. To the Internal Revenue Service (IRS) by computer matching to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by NRC against the taxpayer under 26 U.S.C. 6103(m)(2) and under 31 U.S.C. 3711, 3717, and 3718 or common law. Re-disclosure of a mailing address obtained from the IRS may be made only for debt collection purposes, including to a debt collection agent to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982 or the Debt Collection Improvement Act of 1996, except that re-disclosure of a mailing address to a reporting agency is for the limited purpose of obtaining a credit report on the particular taxpayer. Any mailing address information obtained from the IRS will not be used or shared for any other NRC purpose or disclosed by NRC to another Federal, State, or local agency which seeks to locate the same taxpayer for its own debt collection purposes.

g. To refer legally enforceable debts to the IRS or to Treasury's Debt Management Services to be offset against the debtor's tax refunds under the Federal Tax Refund Offset Program.

h. To prepare W–2, 1099, or other forms or electronic submittals, to forward to the IRS and applicable State and local governments for tax reporting purposes. Under the provisions of the DCIA, NRC is permitted to provide Treasury with Form 1099–C information on discharged debts so that Treasury may file the form on NRC's behalf with the IRS. W–2 and 1099 Forms contain information on items to be considered as income to an individual, including certain travel related payments to employees, payments made to persons not treated as employees (*e.g.,* fees to consultants and experts), and amounts written-off as legally or administratively uncollectible, in whole or in part.

I. To banks enrolled in the Treasury Credit Card Network to collect a payment or debt when the individual has given his or her credit card number for this purpose.

j. To another Federal agency that has asked the NRC to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States. Disclosure under this routine use is limited to name, address, SSN, EIN, TIN, ITIN, and other information necessary to identify the individual; information about the money payable to or held for the individual; and other information concerning the administrative offset.

k. To Treasury or other Federal agencies with whom NRC has entered into an agreement establishing the terms and conditions for debt collection cross servicing operations on behalf of the NRC to satisfy, in whole or in part, debts owed to the U.S. Government. Cross servicing includes the possible use of all debt collection tools such as administrative offset, tax refund offset, referral to debt collection contractors, salary offset, administrative wage garnishment, and referral to the Department of Justice. The DCIA requires agencies to transfer to Treasury or Treasury-designated Debt Collection Centers for cross servicing certain nontax debt over 180 days delinquent. Treasury has the authority to act in the Federal Government's best interest to service, collect, compromise, suspend, or terminate collection action under existing laws under which the debts arise.

l. Information on past due, legally enforceable nontax debts more than 180 days delinquent will be referred to Treasury for the purpose of locating the debtor and/or effecting administrative offset against monies payable by the Government to the debtor, or held by the Government for the debtor under the DCIA's mandatory, Government-wide Treasury Offset Program (TOP). Under TOP, Treasury maintains a database of all qualified delinquent nontax debts, and works with agencies to match by computer their payments against the delinquent debtor database in order to divert payments to pay the delinquent debt. Treasury has the authority to waive the computer matching requirement for NRC and other agencies upon written certification that administrative due process notice requirements have been complied with.

m. For debt collection purposes, NRC may publish or otherwise publicly disseminate information regarding the identity of delinquent nontax debtors and the existence of the nontax debts under the provisions of the Debt Collection Improvement Act of 1996.

n. To the Department of Labor (DOL) and the Department of Health and Human Services (HHS) to conduct an authorized computer matching program in compliance with the Privacy Act of 1974, as amended, to match NRC's debtor records with records of DOL and HHS to obtain names, name controls, names of employers, addresses, dates of birth, and TINs. The DCIA requires all Federal agencies to obtain taxpayer identification numbers from each individual or entity doing business with the agency, including applicants and recipients of licenses, grants, or benefit payments; contractors; and entities and individuals owing fines, fees, or penalties to the agency. NRC will use TINs in collecting and reporting any delinquent amounts resulting from the activity and in making payments.

o. If NRC decides or is required to sell a delinquent nontax debt under 31 U.S.C. 3711(I), information in this system of records may be disclosed to purchasers, potential purchasers, and contractors engaged to assist in the sale or to obtain information necessary for potential purchasers to formulate bids and information necessary for purchasers to pursue collection remedies.

p. If NRC has current and delinquent collateralized nontax debts under 31 U.S.C. 3711(i)(4)(A), certain information in this system of records on its portfolio of loans, notes and guarantees, and other collateralized debts will be reported to Congress based on standards developed by the Office of Management and Budget, in consultation with Treasury.

q. To Treasury in order to request a payment to individuals owed money by the NRC.

r. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

s. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is stored on paper, microfiche, and electronic media.

RETRIEVABILITY:

Automated information can be retrieved by name, SSN, TIN, DUNS number, license or application number, contract or purchase order number, invoice number, voucher number, and/

or vendor code. Paper records are retrieved by invoice number.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force. Records are kept in lockable file rooms or at user's workstations in an area where access is controlled by keycard and is limited to NRC and contractor personnel who need the records to perform their official duties. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by NRC or contractor personnel.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER:

Controller, Division of the Controller, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORDS ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Record source categories include, but are not limited to, individuals covered by the system, their attorneys, or other representatives; NRC; collection agencies or contractors; employing agencies of debtors; and Federal, State and local agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–33

SYSTEM NAME:

Special Inquiry Records—NRC.

SYSTEM LOCATION:

Primary system—Special Inquiry Group, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident at a nuclear power plant or other nuclear facility, or an incident involving nuclear materials or an allegation regarding the public health and safety related to the NRC's mission responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other material relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2051, 2052, 2201(c), (i) and (o).

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To provide information relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual and may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made;

b. To disclose a record as a routine use to a foreign country under an international treaty or convention entered into and ratified by the United States;

c. To provide records relating to the integrity and efficiency of the Commission's operations and management and may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, 6, and 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and electronic media. Documents are maintained in secured vault facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in locking filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Information classified under Executive Order 12958 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; NRC licensees; nuclear reactor vendors and architectural engineering firms; other organizations or persons knowledgeable about the incident or activity under investigation; and relevant NRC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–34 (Revoked.)
NRC–35

SYSTEM NAME:

Drug Testing Program Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist in part at the NRC Regional office locations listed in Addendum I, Part 2 (for a temporary period of time); and at the current contractor testing laboratories, collection/evaluation facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, applicants, consultants, licensees, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the drug testing program; requests for and results of initial, confirmatory and follow-up testing, if appropriate; additional information supplied by NRC employees, employment applicants, consultants, licensees, or contractors in challenge to positive test results; and written statements or medical evaluations of attending physicians and/or information regarding prescription or nonprescription drugs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 7301; 5 U.S.C. 7361–7363; 42 U.S.C. 2165; 42 U.S.C. 290dd; Executive Order 12564; Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 12564.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To identify substance abusers within the agency;

b. To initiate counseling and/or rehabilitation programs;

c. To take personnel actions;

d. To take personnel security actions;

e. For statistical reporting purposes. Statistical reporting will not include personally identifiable information; and

f. For the routine uses specified in paragraphs number 6 and 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media. Specimens are maintained in appropriate environments.

RETRIEVABILITY:

Records are indexed and accessed by name, social security number, testing position number, specimen number, drug testing laboratory accession number, or a combination thereof.

SAFEGUARDS:

Records in use are protected to ensure that access is limited to those persons whose official duties require such access. Unattended records are maintained in NRC-controlled space in locked offices, locked desk drawers, or locked file cabinets. Stand-alone and network processing systems are password protected and removable media is stored in locked offices, locked desk drawers, or locked file cabinets when unattended. Network processing systems have roles and responsibilities protection and system security plans. Records at laboratory, collection, and evaluation facilities are stored with appropriate security measures to control and limit access to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC employees, employment applicants, consultants, licensees, and contractors who have been identified for drug testing who have been tested; physicians making statements regarding medical evaluations and/or authorized prescriptions for drugs; NRC contractors for processing including, but not limited

to, specimen collection, laboratories for analysis, and medical evaluations; and NRC staff administering the drug testing program to ensure the achievement of a drug-free workplace.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–36

SYSTEM NAME:

Employee Locator Records—NRC.

SYSTEM LOCATION:

Primary system—Part 1: For Headquarters personnel: Office of Human Resources, NRC, White Flint North Complex, 11545 and 11555 Rockville Pike, Rockville, Maryland. For Regional personnel: Regional Offices I–IV at the locations listed in Addendum 1, Part 2.

Part 2: Infrastructure and Computer Operations Division, Office of Information Services, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Part 3: Division of Administrative Services, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, for Incident Response Operations within the Office of Nuclear Security and Incident Response, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, and at the NRC's Regional Offices, at the locations listed in Addendum I, Part 2.

Duplicate system—Duplicate systems may exist, in part, within the organization where an individual actually works, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include, but are not limited to, an individual's name, home address, office organization and location (building, room number, mail stop), telephone number (home, business, cell and pager), person to be notified in case of emergency (name, address, telephone number), and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 3301; Executive Order (E.O.) 9397, as amended by E.O. 13478; and E.O. 12656.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To contact the subject individual's designated emergency contact in the case of an emergency;

b. To contact the subject individual regarding matters of official business;

c. To maintain the agency telephone directory (accessible from *http://www.nrc.gov*);

d. For internal agency mail services; and

e. The routine use specified in paragraph number 6 and 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media.

RETRIEVABILITY:

Information is accessed by name.

SAFEGUARDS:

Electronic records are password protected. Paper records are maintained in locked files and/or in controlled access area. Access to and use of these records is limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Part 1: For Headquarters personnel: Associate Director for Human Resources Operations and Policy, Office of Human Resources, U. S. Nuclear Regulatory Commission (NRC), Washington, DC 20555–0001; and for Regional personnel: Human Resources Team Leaders at the Regional Offices listed in Addendum I, Part 2; Part 2: Telecommunications Team Leader, Computer Operations and Telecommunications Branch, Infrastructure and Computer Operations Division, Office of Information Services, NRC, Washington, DC 20555–0001; Part 3: Mail Services Team Leader, Administrative Services Center, Division of Administrative Services, Office of Administration, NRC, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained; Employee Express; NRC Form 15, "Employee Locator Notification;" and other related records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–37

SYSTEM NAME:

Information Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Division of Security Operations, Office of Nuclear Security and Incident Response, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals include present and former NRC employees, contractors, consultants, licensees, and other cleared persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding:

a. Personnel who are authorized access to specified levels, categories and types of information, the approving authority, and related documents; and

b. Names of individuals who classify and/or declassify documents (*e.g.,* for the protection of Classified National Security Information and Restricted Data) as well as information identifying the document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161–2169 and 2201(i); Executive Order 13526; 10 CFR part 95.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To prepare statistical reports for the Information Security Oversight Office.

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper in file folders and on electronic media.

RETRIEVABILITY:

Accessed by name and/or assigned number.

SAFEGUARDS:

Information maintained in locked buildings, containers, or security areas under guard and/or alarm protection, as appropriate. Records are processed only on systems approved for processing classified information or accessible through password protected systems for unclassified information. The classified systems are stand alone systems located within secure facilities or with removable hard drives that are either stored in locked security containers or in alarmed vaults cleared for open storage of TOP SECRET information.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security Operations, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Some information is classified under Executive Order 13526, and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC employees, contractors, consultants, and licensees, as well as information furnished by other Government agencies or their contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1) and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f).

NRC–38

SYSTEM NAME:

Mailing Lists—NRC.

SYSTEM LOCATION:

Primary system—Reproduction Section, Publications Branch, Division of Administrative Services, Office of Administration, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist in whole or in part at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including NRC staff, with an interest in receiving information from the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include an individual's name and address; and title, occupation, and institutional affiliation, when applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101, 3301.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. For distribution of documents to persons and organizations listed on the mailing list; and

b. For the routine use specified in paragraph number 6 and 7 of the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media.

RETRIEVABILITY:

Records are accessed by company name, individual name, or file code identification number.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. Automated records are password protected.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until

disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Reproduction Section, Publications Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC staff, NRC licensees, and individuals expressing an interest in NRC activities and publications.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–39

SYSTEM NAME:

Personnel Security Files and Associated Records—NRC.

SYSTEM LOCATION:

Division of Facilities and Security, Office of Administration, NRC, 12300 Twinbrook Parkway, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, employment applicants, consultants, contractors, and licensees; other Government agency personnel, other persons who have been considered for an access authorization, special nuclear material access authorization, unescorted access to NRC buildings or nuclear power plants, NRC building access, access to Federal automated information systems or data, or participants in the criminal history program; aliens who visit NRC's facilities; and actual or suspected violators of laws administered by NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about individuals, which includes, but is not limited to, their name(s), address, date and place of birth, social security number, identifying information, citizenship, residence history, employment history, military history, financial history, foreign travel, foreign contacts, education, spouse/cohabitant and relatives, personal references, organizational membership, medical, fingerprints, criminal record, and security clearance history. These records also contain copies of personnel security investigative reports from other Federal agencies, summaries of investigative reports, results of Federal agency indices and database checks, records necessary for participation in the criminal history program, reports of personnel security interviews, clearance actions information (*e.g.,* grants and terminations), access approval/disapproval actions related to NRC building access or unescorted access to nuclear plants, or access to Federal automated information systems or data, violations of laws, reports of security infraction, and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2011 *et seq.;* 42 U.S.C. 2165, 2201(i), 2201a, and 2284; 42 U.S.C. 5801 *et seq.;* Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 10450, as amended; E.O. 10865, as amended; E.O. 12958, amended by E.O. 13292; E.O. 13467; E.O. 13526; 10 CFR Parts 10, 11, 14, 25, 50, 73, 95; OMB Circular No. A–130, Revised; 5 CFR 731, 732, and authorities cited therein.

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

Information in these records may be used by the Division of Facilities and Security and on a need-to-know basis by appropriate NRC officials, Hearing Examiners, Personnel Security Review Panel members, Office of Personnel Management, Central Intelligence Agency, and other Federal agencies:

a. To determine clearance or access authorization eligibility;

b. To determine eligibility for access to NRC buildings or access to Federal automated information systems or data;

c. To certify clearance or access authorization;

d. To maintain the NRC personnel security program;

e. To provide licensees information needed for unescorted access or access to safeguard information determinations; and

f. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained on paper, tapes, and electronic media.

RETRIEVABILITY:

Indexed and accessed by name, social security number, docket number, or a combination thereof.

SAFEGUARDS:

Records in use are protected to ensure that access is limited to those persons whose official duties require such access. Unattended records are maintained in NRC-controlled space in locked offices, locked desk drawers, or locked file cabinets. Mass storage of records is protected when unattended by a combination lock and alarm system. Unattended classified records are protected in appropriate security containers in accordance with Management Directive 12.1.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure." Some information is classified under

Executive Order 12958 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent the disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC applicants, employees, contractors, consultants, licensees, visitors and others, as well as information furnished by other Government agencies or their contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

NRC–40

SYSTEM NAME:

Facility Security Access Control Records—NRC.

SYSTEM LOCATION:

Primary system—Division of Facilities and Security, Office of Administration, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist in part at NRC Regional Offices and the NRC Technical Training Center at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, consultants, contractors, other Government agency personnel, and approved visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes information regarding: (1) NRC personal identification badges issued for continued access to NRC-controlled space; and (2) records regarding visitors to NRC. The records include, but are not limited to, an individual's name, social security number, electronic image, badge number, citizenship, employer, purpose of visit, person visited, date and time of visit, and other information contained on Government issued credentials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2165–2169 and 2201; Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 13462, as amended by E.O. 13516.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To control access to NRC classified information and to NRC spaces by human or electronic means.

b. Information (identification badge) may also be used for tracking applications within the NRC for other than security access purposes.

c. The electronic image used for the NRC employee personal identification badge may be used for other than security purposes only with the written consent of the subject individual.

d. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media.

RETRIEVABILITY:

Information is indexed and accessed by individual's name, social security number, identification badge number, employer's name, date of visit, or sponsor's name.

SAFEGUARDS:

All records are maintained in NRC-controlled space that is secured after normal duty hours or a security area under guard presence in a locked security container/vault. There is an approved security plan which identifies the physical protective measures and access controls (*i.e.,* passwords and software design limiting access based on each individual's role and responsibilities relative to the system) specific to each system.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Facilities and Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Sources of information include NRC employees, contractors, consultants, employees of other Government agencies, and visitors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–41

SYSTEM NAME:

Tort Claims and Personal Property Claims Records—NRC.

SYSTEM LOCATION:

Primary system—Office of the General Counsel, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in whole or in part, in the Office of the Chief Financial Officer (OCFO), NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, and at the locations listed in Addendum I, Parts 1 and 2. Other NRC systems of records, including but not limited to, NRC–18, "Office of the Inspector General (OIG) Investigative Records—NRC," and NRC–32, "Office of the Chief Financial Officer Financial Transactions and Debt Collection Management Records—NRC," may contain some of the information in this system of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed claims with NRC under the Federal Tort Claims Act or the Military Personnel and Civilian Employees' Claims Act and individuals who have matters pending before the NRC that may result in a claim being filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information relating to loss or damage to property and/or personal injury or death in which the U.S. Government may be liable. This information includes, but is not limited to, the individual's name, home address and phone number, work address and phone number, claim forms and supporting documentation, police reports, witness statements, medical records, insurance information, investigative reports, repair/replacement receipts and estimates, litigation documents, court decisions, and other information necessary for the evaluation and settlement of claims and pre-claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.;* Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 3721; 44 U.S.C. 3101.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, NRC may disclose information contained in a record in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To third parties, including claimants' attorneys, insurance companies, witnesses, potential witnesses, local police authorities where an accident occurs, and others who may have knowledge of the matter to the extent necessary to obtain information that will be used to evaluate, settle, refer, pay, and/or adjudicate claims.

b. To the Department of Justice (DOJ) when the matter comes within their jurisdiction, such as to coordinate litigation or when NRC's authority is limited and DOJ advice or approval is required before NRC can award, adjust, compromise, or settle certain claims.

c. To the appropriate Federal agency or agencies when a claim has been incorrectly filed with NRC or when more than one agency is involved and NRC makes agreements with the other agencies as to which one will investigate the claim.

d. The Department of the Treasury to request payment of an award, compromise, or settlement of a claim.

e. Information contained in litigation records is public to the extent that the documents have been filed in a court or public administrative proceeding, unless the court or other adjudicative body has ordered otherwise. This public information, including information concerning the nature, status, and disposition of the proceeding, may be disclosed to any person, unless it is determined that release of specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURE PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosure of information to a consumer reporting agency is not considered a routine use of records. Disclosures may be made from this system of records to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media.

RETRIEVABILITY:

Information is indexed and accessed by the claimant's name and/or claim number.

SAFEGUARDS:

The paper records and log books are stored in locked file cabinets or locked file rooms and access is restricted to those agency personnel whose official duties and responsibilities require access. Automated records are protected by password.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER:

Assistant General Counsel for Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is obtained from a number of sources, including but not limited to, claimants, NRC employees involved in the incident, witnesses or others having knowledge of the matter, police reports, medical reports, investigative reports, insurance companies, and attorneys.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–42

SYSTEM NAME:

Strategic Workforce Planning Records—NRC.

SYSTEM LOCATION:

Primary system—Technical Training Center, NRC, 5746 Marlin Road, Suite 200, Chattanooga, Tennessee.

Duplicate system—Duplicate systems may exist, in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED:

Current, prospective, and former NRC employees, experts, consultants, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specific information maintained on individuals includes individual skills assessments that identify the knowledge and skills possessed by the individual and the levels of skill possessed, and may include a skills profile containing, but not limited to, their name; service computation date; series and grade; education; work and skills experience; special qualifications; licenses and certificates held; and availability for geographic relocation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396; 5 U.S.C. 4103; 42 U.S.C. 2201; 44 U.S.C. 3506; Executive Order (E.O.) 9397, as amended by E.O. 13478; E.O. 11348, as amended by E.O. 12107.

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

The primary use of the records will be to assess the knowledge and skills needed to perform the functions assigned to individuals and their organizations.

Information in the system may be used by the NRC to assess the skills of the staff to develop an organizational training plan/program; to prepare individual training plans; to develop recruitment plans; and to assign personnel. Other offices may maintain similar kinds of records relative to their specific duties, functions, and responsibilities.

In addition to the disclosures permitted under subsection (b) of the Privacy Act, which includes disclosure to other NRC employees who have a need for the information in the performance of their duties, NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the information was collected under the following routine uses:

a. To employees and contractors of other Federal, State, local, and foreign agencies or to private entities in connection with joint projects, working groups, or other cooperative efforts in which the NRC is participating.

b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic media.

RETRIEVABILITY:

Information may be retrieved by, but not limited to, the individual's name; office; skill level; various skills; education; or work experience.

SAFEGUARDS:

Records are maintained in areas where access is controlled by keycard and is limited to NRC and contractor personnel. Access to computerized records requires use of password and user identification codes. Level of access is determined by roles and responsibilities.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html.* Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER AND ADDRESS:

Chief, Program Management, Policy Development and Analysis Staff, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is obtained from a number of sources, including but not limited to, the individual to whom it pertains, system of records NRC–11, supervisors and other NRC officials, contractors, and other agencies or entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–43

SYSTEM NAME:

Employee Health Center Records—NRC.

SYSTEM LOCATION:

Primary system—Employee Health Center, NRC, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

Duplicate system—Duplicate systems exist, in part, at health care facilities operating under a contract or agreement with NRC for health-related services in the vicinity of each of NRC's Regional offices listed in Addendum I, Part 2. NRC's Regional offices may also maintain copies of occupational health records for their employees.

This system may contain some of the information maintained in other systems of records, including NRC–11, "General Personnel Records (Official Personnel Folder and Related Records)—NRC," NRC–17, "Occupational Injury and Illness Records—NRC," and NRC–44, "Employee Fitness Center Records—NRC."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, consultants, contractors, other Government personnel, and anyone on NRC premises who requires emergency or first-aid treatment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of voluntary employee use of health services provided by the Health Center, and of emergency health services rendered by Health Center staff to individuals for injuries and illnesses suffered while on NRC premises. Specific information maintained on individuals may include, but is not limited to, their name, date of birth, and Social Security number; medical history and other biographical data; test reports and medical diagnoses based on employee health maintenance physical examinations or health screening programs (tests for single medical conditions or diseases); history of complaint, diagnosis, and treatment

of injuries and illness rendered by the Health Center staff; immunization records; records of administration by Health Center staff of medications prescribed by personal physicians; medical consultation records; statistical records; daily log of patients; and medical documentation such as personal physician correspondence, test results submitted to the Health Center staff by the employee; and occupational health records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; Executive Order 9397, as amended by E.O. 13478.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency concerning individuals who have contracted certain communicable diseases or conditions in an effort to prevent further outbreak of the disease or condition.

b. To disclose information to the appropriate Federal, State, or local agency responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.

c. To disclose information to the Office of Workers' Compensation Programs in connection with a claim for benefits filed by an employee.

d. To Health Center staff and medical personnel under a contract or agreement with NRC who need the information in order to schedule, conduct, evaluate, or follow up on physical examinations, tests, emergency treatments, or other medical and health care services.

e. To refer information to private physicians designated by the individual when requested in writing.

f. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

g. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfiche, on electronic media, and on file cards, logs, x-rays, and other medical reports and forms.

RETRIEVABILITY:

Records are retrieved by the individual's name, date of birth, and Social Security number, or any combination of those identifiers.

SAFEGUARDS:

Records in the primary system are maintained in a building where access is controlled by a security guard force and entry to each floor is controlled by keycard. Records in the system are maintained in lockable file cabinets with access limited to agency or contractor personnel whose duties require access. The records are under visual control during duty hours. Access to automated data requires use of proper password and user identification codes by authorized personnel.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESSES:

Technical Assistance Project Manager, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9; and provide their full name, any former name(s), date of birth, and Social Security number.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from a number of sources including, but not limited to, the individual to whom it pertains; laboratory reports and test results; NRC Health Center physicians, nurses, and other medical technicians or personnel who have examined, tested, or treated the individual; the individual's coworkers or supervisors; other systems of records; the individual's personal physician(s); NRC Fitness Center staff; other Federal agencies; and other Federal employee health units.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–44

SYSTEM NAME:

Employee Fitness Center Records—NRC.

SYSTEM LOCATION:

Primary system—Fitness Center, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Duplicate system—Regional offices, listed in Addendum I, Part 2, only maintain lists of their employees who receive subsidy from NRC for off-site fitness center memberships.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who apply for membership at the Fitness Center, including current and former members.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes applications to participate in NRC's Fitness Center, information on an individual's degree of physical fitness and their fitness activities and goals; and various forms, memoranda, and correspondence related to Fitness Center membership and financial/payment matters. Specific information contained in the application for membership includes the employee applicant's name, gender, age, Social Security number, height, weight, and medical information, including a history of certain medical conditions; the name of the individual's personal physician and any prescription or over-the-counter drugs taken on a regular basis; and the name and address of a person to be notified in case of emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; Executive Order (E.O.) 9397, as amended by E.O. 13478.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the individual listed as an emergency contact, in the event of an emergency.

b. To the National Archives and Records Administration or to the General Services Administration for records management inspections conducted under 44 U.S.C. 2904 or 2906.

c. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552A(B)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) (1970)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3) (1996)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and electronic media.

RETRIEVABILITY:

Information is indexed and accessed by an individual's name and/or Social Security number.

SAFEGUARDS:

Records are maintained in a building where access is controlled by a security guard force. Access to the Fitness Center is controlled by keycard and bar code verification. Records in paper form are stored alphabetically by individuals' names in lockable file cabinets maintained in the NRC Fitness Center where access to the records is limited to agency and Fitness Center personnel whose duties require access. The records are under visual control during duty hours. Automated records are protected by screen saver. Access to automated data requires use of proper password and user identification codes. Only authorized personnel have access to areas in which information is stored.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Employee Assistance and Wellness Services, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR Part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is principally obtained from the subject individual. Other sources of information include, but are not limited to, the NRC Fitness Center Director, staff physicians retained by the NRC, and the individual's personal physicians.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NRC–45

SYSTEM NAME:

Digital Certificates for Personal Identity Verification Records–NRC.

SYSTEM LOCATION:

Primary system—Office of Information Services, NRC, White Flint North Complex, 11555 Rockville Pike, Rockville, Maryland, and current contractor facility.

Duplicate system—Duplicate systems may exist, in whole or in part, at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered are persons who have applied for the issuance of digital certificates for signature, encryption, and/or authentication purposes; have had their certificates renewed, replaced, suspended, revoked, or denied; have used their certificates to electronically make contact with, retrieve information from, or submit information to an automated information system; or have corresponded with NRC or its contractor concerning digital certificate services.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information needed to establish and verify the identity of users, to maintain the system, and to establish accountability and audit controls. System records may include: (a) Applications for the issuance, amendment, renewal, replacement, or revocation of digital certificates, including evidence provided by applicants or proof of identity and authority, and sources used to verify an applicant's identity and authority; (b) Certificates issued; (c) Certificates denied, suspended, or revoked, including reasons for denial, suspension, or revocation; (d) A list of currently valid certificates; (e) A list of currently invalid certificates; (f) A record of validation transactions attempted with digital certificates; and (g) A record of validation transactions completed with digital certificates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 42 U.S.C. 2165 and 2201(i); 44 U.S.C. 3501, 3504; Electronic Government Act of 2002, 44 U.S.C. Chapter 36; Homeland Security Presidential Directive 12 (HSPD–12), Policy for a Common Identification Standard for Federal Employees and Contractors, August 27, 2004; Executive Order (E.O.) 9397, as amended by E.O. 13478.

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

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is

compatible with the purpose for which the record was collected under the following routine uses:

a. To agency digital certificate program contractors to compile and maintain documentation on applicants for verifying applicants' identity and authority to access information system applications; to establish and maintain documentation on information sources for verifying applicants' identities; to ensure proper management, data accuracy, and evaluation of the system;

b. To Federal authorities to determine the validity of subscriber digital certificates and other identity attributes;

c. To the National Archives and Records Administration (NARA) for records management purposes;

d. To a public data repository (*only name, e-mail address, organization, and public key*) to facilitate secure communications using digital certificates; and

e. Any of the routine uses specified in the Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure of system records to consumer reporting systems is not permitted.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper or electronic media.

RETRIEVABILITY:

Records are retrievable by an individual's name, e-mail address, certificate status, certificate number, certificate issuance date, or approval role.

SAFEGUARDS:

Technical, administrative, and personnel security measures are implemented to ensure confidentiality, integrity, and availability of the system data stored, processed, and transmitted. Hard copy documents are maintained in locking file cabinets. Electronic records are, at a minimum, password protected. Access to and use of these records is limited to those individuals whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the National Archives and Records Administration (NARA) approved disposition schedules which can be found in the NRC Comprehensive Records Disposition Schedule, NUREG–0910, the NARA General Records Schedules, as well as in recently approved Requests for Records Disposition Authorities. NRC records disposition schedules are accessible through the NRC's Web site at *http://www.nrc.gov/reading-rm/records-mgmt/disposition.html*. Records that do not have an approved disposition schedule will be retained until disposition authority is obtained from NARA in accordance with Implementing Schedules under 36 CFR 1226.14.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Infrastructure and Computer Operations Division, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about them should write to the Freedom of Information Act and Privacy Act Officer, Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The sources for information are the individuals who apply for digital certificates, the NRC and contractors using multiple sources to verify identities, and internal system transactions designed to gather and maintain data needed to manage and evaluate the digital certificate program.

EXEMPTIONS CLAIMS FOR THE SYSTEM:

None.

Addendum I—List of U.S. Nuclear Regulatory Commission Locations

Part 1—NRC Headquarters Offices

1. One White Flint North, 11555 Rockville Pike, Rockville, Maryland.
2. Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.
3. Executive Boulevard Building, 6003 Executive Boulevard, Rockville, Maryland.
4. Gateway Building, 7201 Wisconsin Avenue, Suite 425, Bethesda, Maryland.
5. Twinbrook Building, 12300 Twinbrook Parkway, Rockville, Maryland.
6. Church Street Building, 21 Church Street, Rockville, Maryland.

Part 2—NRC Regional Offices

1. NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania.
2. NRC Region II, Marquis One Tower, 245 Peachtree Center Avenue, N.E., Suite 1200, Atlanta, Georgia.
3. NRC Region III, 2443 Warrenville Road, Suite 210, Lisle, Illinois.
4. NRC Region IV, Texas Health Resources Tower, 612 E. Lamar Boulevard, Suite 400, Arlington, Texas.
5. NRC Region IV Las Vegas Site Office, Pacific Enterprise Plaza, Building One, 3250 Pepper Lane, Las Vegas, Nevada.
6. NRC Technical Training Center, Osborne Office Center, 5746 Marlin Road, Suite 200, Chattanooga, Tennessee.

Dated at Rockville, Maryland this 9th day of September, 2010.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Director, Information and Records Services Division, Office of Information Services.

[FR Doc. 2010–23247 Filed 9–17–10; 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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