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Presidential Documents

Title 3—

The President

Executive Order 13560 of December 14, 2010

White House Council for Community Solutions

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to encourage the growth and maximize the impact of innovative community solutions and civic participation by all Americans, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the White House Council for Community Solutions (Council) within the Corporation for National and Community Service (CNCS) to support the social innovation and civic participation agenda of the Domestic Policy Council.

Sec. 2. *Mission and Functions of the Council.* The Council shall support the nationwide "Call To Service" campaign authorized in the Serve America Act (Public Law 111–13) by:

(a) identifying the key attributes of effective community-developed solutions to our national problems;

(b) identifying specific policy areas in which the Federal Government is investing significant resources that lend themselves to cross-sector collaboration and providing recommendations for such collaborations;

(c) highlighting examples of best practices, tools, and models that are making a demonstrable positive impact in communities and fostering increased cross-sector collaboration and civic participation;

(d) making recommendations to the President on how to engage individuals, State and local governments, institutions of higher education, non-profit and philanthropic organizations, community groups, and businesses to support innovative community-developed solutions that have a significant impact in solving our Nation's most serious problems; and

(e) honoring and highlighting the work of leaders in service and social innovation who are making a significant impact in their communities.

Sec. 3. *Membership.* (a) The Council shall be composed of not more than 30 members from outside the Federal Government appointed by the President. The Chair of the Board of Directors of the CNCS shall also serve on the Council. Appointed members of the Council may include individuals with relevant experience or subject matter expertise that the President deems appropriate, as well as individuals who may serve as representatives of a variety of sectors, including, among others, State and local governments, institutions of higher education, non-profit and philanthropic organizations, community groups, and businesses.

(b) The President shall designate one of the members of the Council to serve as Chair. The Chair shall convene and preside at meetings of the Council.

(c) The term of office of members appointed by the President shall be 2 years, and members shall be eligible for reappointment. Members may continue to serve after the expiration of their terms until the President appoints a successor. A member appointed to fill a vacancy shall serve only for the unexpired term of such vacancy.

Sec. 4. *Administration.* (a) The CNCS shall provide funding and administrative support for the Council to the extent permitted by law and within existing appropriations.

(b) The heads of executive departments and agencies shall assist and provide information to the Council, consistent with applicable law and

subject to the availability of appropriations, as may be necessary to carry out the functions of the Council.

(c) The members of the Council shall serve without compensation for their work on the Council. Members of the Council may, however, receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707).

(d) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the administration of the Council, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Chief Executive Officer of the CNCS in accordance with the guidelines issued by the Administrator of General Services.

Sec. 5. *Termination.* The Council shall terminate 2 years from the date of this order, unless renewed by the President.

Sec. 6. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department, agency, or the head thereof; or

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

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

THE WHITE HOUSE,
December 14, 2010.

[FR Doc. 2010–31878
Filed 12–16–10; 8:45 am]
Billing code 3195–W1–P

Rules and Regulations

Federal Register
Vol. 75, No. 242
Friday, December 17, 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.

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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1604, 1650, 1651, and 1690

Employee Contribution Elections and Contribution Allocations; Uniformed Services Accounts; Methods of Withdrawing Funds From the Thrift Savings Plan; Death Benefits; Thrift Savings Plan

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) is amending its regulations to establish procedures to maintain beneficiary participant accounts for spouse beneficiaries in accordance with the Thrift Savings Plan Enhancement Act of 2009.

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

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at 202–942–1645.

SUPPLEMENTARY INFORMATION: The Agency administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

This regulation was published in proposed form on November 10, 2010 (75 FR 69026). The Agency received two comments. Both commenters recommended changes to the Agency's regulations. However, each of the recommendations offered by the commenters are either outside the scope of this proposed rule or would result in a change that is beyond the authority granted by the Thrift Savings Plan Enhancement Act of 2009 ("the Act"), Public Law 111–31 (Division B, Title I), 123 Stat. 1776, 1853. Therefore, the Agency is publishing the proposed rule as final without substantive modification.

Congressional Authorization for Beneficiary Participant Accounts

Currently, a spouse beneficiary of a TSP participant must either transfer his or her TSP death benefit payment to another eligible employer plan or individual retirement account (IRA), or receive the payment immediately. Subject to certain restrictions on contributions, loans, and withdrawal elections, the Act authorizes the Agency to allow a spouse of a deceased participant to retain a lump sum death benefit payment in the TSP. This final rule conforms the Agency's regulations to the Act and sets forth the rules and limitations applicable to beneficiary participant accounts.

Establishing a Beneficiary Participant Account

The Agency will automatically establish a beneficiary participant account upon identifying a deceased participant's spouse as a sole or partial beneficiary eligible for a lump sum death benefit payment. Consistent with its treatment of accounts of participants who have separated from Federal service, the Agency will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than $200 on the date the account is established. The Agency also will not transfer this de minimus amount to another eligible plan or pay it by electronic funds transfer. Instead the TSP will make an immediate distribution to the spouse in the form of a U.S. Treasury check.

A civilian beneficiary participant account is a beneficiary participant account that is established with a death benefit payment from a civilian TSP participant account to which contributions were made by or on behalf of a civilian employee (*i.e.,* a civilian TSP participant account). A uniformed services beneficiary participant account is a beneficiary participant account that is established with a death benefit payment from a TSP participant account to which contributions were made by or on behalf of a member of the uniformed services (*i.e.,* a uniformed services TSP participant account).

Consistent with its treatment of accounts of participants who have both civilian accounts and uniformed services accounts, the TSP will maintain civilian beneficiary participant accounts separate from uniformed services beneficiary participant accounts. Beneficiary participants who acquire both a uniformed services participant account and a civilian beneficiary participant account will receive two separate TSP account numbers; one for the civilian beneficiary participant account and one for the uniformed services beneficiary participant account.

Initial Account Balance Allocation

Upon notice of a participant's death, the Agency currently transfers all funds in a deceased participant's account to the Government Securities Investment (G) Fund. This practice protects the account balance from risk of incurring market-driven losses between the time the Agency receives notice of the participant's death and the time the Agency makes a distribution to a beneficiary. The Agency will continue this practice for beneficiaries who are spouses. Therefore, regardless of the allocation of the participant's account balance at the time of his or her death, funds in a beneficiary participant account will initially be allocated entirely to the G Fund. Once a beneficiary participant account is established, the spouse beneficiary may redistribute the beneficiary participant account balance among the TSP investment funds by making an interfund transfer.

Withdrawal Options

A spouse beneficiary will be afforded the same withdrawal options with respect to his or her beneficiary participant account that the participant would have had with respect to his or her TSP account if the participant was living and separated from service. Accordingly, a spouse beneficiary may elect to withdraw all or a portion of his or her beneficiary participant account as a partial payment or as a full withdrawal, that is in a single payment, a series of monthly payments, a life annuity, or any combination of these options. The spouse beneficiary cannot

request loans, age-based withdrawals, or financial hardship withdrawals.

Required Minimum Distributions

The Internal Revenue Code requires spouse beneficiaries to receive a portion of their beneficiary participant account on or before the later of—(1) The end of the calendar year immediately following the calendar year in which the participant died; or (2) The end of the calendar year in which the employee would have attained age 70½. The Agency will ensure that the annual total payments satisfy any applicable minimum distribution requirement of the Internal Revenue Code by making a supplemental payment, if necessary. The Agency will calculate minimum distributions based on the beneficiary participant account balance and the beneficiary participant's age, using the IRS Single Life Table, Treas. Reg. § 1.401(a)(9)–9, Q&A 1.

Spousal Rights After Remarriage

Sections 8351 and 8435, Title 5 of the United States Code give certain rights to the spouses of participants. These spousal rights are not applicable to the spouse of a beneficiary participant. Thus, if a beneficiary participant remarries, his or her new spouse will not have the right to consent, notice, or any particular form of distribution (*e.g.* joint and survivor annuity) with respect to withdrawals from the beneficiary participant account.

Contributions, Transfers, and Rollovers to Beneficiary Participant Accounts

The Thrift Savings Plan Enhancement Act of 2009 prohibits a spouse beneficiary from making contributions or "transfers" (trustee-to-trustee transfers or rollovers) to a beneficiary participant account. Accordingly, the Agency cannot accept a contribution allocation request from a spouse beneficiary and a spouse beneficiary cannot transfer or roll over any distributions from an IRA or an eligible employer plan into a beneficiary participant account.

A beneficiary participant may acquire multiple civilian beneficiary participant accounts and/or multiple uniformed services beneficiary participants if he or she remarries a Federal employee who then dies having designated him or her as a beneficiary. Beneficiary participant accounts cannot be combined since combining accounts requires a transfer from one beneficiary participant account to another.

Transfers and Rollovers From Beneficiary Participant Accounts

A spouse beneficiary may transfer or roll over all or a portion of an eligible rollover distribution (within the meaning of Internal Revenue Code section 402(c)(4)) to a traditional IRA, Roth IRA, or eligible employer plan. A spouse beneficiary who is a current or former Federal employee may also transfer or roll over all or a portion of an eligible rollover distribution from a civilian beneficiary participant account into his or her own civilian or uniformed services TSP participant account.

A spouse beneficiary who is a current or former Federal employee may, likewise, transfer or roll over all or a portion of an eligible rollover distribution from a uniformed services beneficiary participant account into a civilian or uniformed services TSP participant account. However, a transfer of a uniformed services beneficiary participant account to a civilian TSP participant account cannot include tax-exempt money attributable to the combat zone exclusion. Any tax-exempt money must remain in the uniformed services beneficiary account unless it is transferred or rolled over to an IRA or it is transferred directly to a uniformed services TSP participant account or other eligible employer plan that accepts tax-exempt money.

As currently written, the Agency's regulations prohibit participants from requesting incoming transfers or rollovers if they are receiving monthly payments from their TSP accounts. For this reason, a spouse beneficiary who is a current or former Federal employee would not be permitted to transfer an eligible rollover distribution from a beneficiary participant account to his or her own TSP participant account if he or she is receiving monthly payments from that account.

This final rule removes the above described limitation on incoming transfers and rollovers. Thus, a spouse beneficiary will be permitted to transfer or roll over all or a portion of an eligible rollover distribution from his or her beneficiary participant account to his or her own TSP participant account even if he or she is receiving monthly payments.

Combining a Uniformed Services Beneficiary Participant Account and a Civilian Beneficiary Participant Account Not Permitted

The Agency's regulations currently provide that a participant may combine his or her uniformed services account with a civilian account through a "transfer." *See* 5 CFR 1604.5(b). Even in the absence of this regulatory language, combining accounts would, as a practical matter, require that one account be transferred to the other. Because the Thrift Savings Plan Enhancement Act prohibits contributions or transfers to a beneficiary participant account, a spouse beneficiary cannot combine his or her uniformed services beneficiary participant account with his or her civilian beneficiary participant account.

Death of a Beneficiary Participant

The balance of a beneficiary participant account must be disbursed upon the death of the beneficiary participant. A beneficiary participant may designate a beneficiary for his or her beneficiary participant account. If the beneficiary participant does not designate a beneficiary for his or her beneficiary participant account, the account will be disbursed in accordance with the order of precedence set forth at 5 CFR 1651(a)(2)–(6). No individual who is entitled to a death benefit from a beneficiary participant account shall be eligible to keep his or her benefit in the TSP.

A recipient of a death benefit payment from a beneficiary participant account cannot transfer the payment to an IRA or eligible retirement plan (including the TSP). The Internal Revenue Code permits death benefit distributions to be rolled over only when the distribution is "*paid to the spouse of the employee*" or the "*designated beneficiary (as defined by section 401(a)(9)(E)) of the employee.*" 26 U.S.C. 402(c)(9) (emphasis added); 26 U.S.C. 402(c)(11) (emphasis added). Because a beneficiary participant is not the employee, the TSP must pay the recipient of the death benefit payment directly and the payment will be fully taxable to that individual in the year of distribution. 26 U.S.C. 402(a).

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, and which is administered by the Agency. It will also affect their spouse beneficiaries.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under § 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted 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 before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects

5 CFR Part 1600

Government employees, Pensions, Retirement.

5 CFR Part 1604

Military personnel, Pensions, Retirement.

5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

5 CFR Part 1651

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1690

Government employees, Pensions, Retirement.

Gregory T. Long,

Executive Director, Federal Retirement Thrift Investment Board.

■ For the reasons stated in the preamble, the Agency amends 5 CFR chapter VI as follows:

PART 1600—EMPLOYEE CONTRIBUTION ELECTIONS AND CONTRIBUTION ALLOCATIONS

■ 1. The authority citation for part 1600 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b), 8432(c), 8432(j), 8474(b)(5) and (c)(1), Thrift Savings Plan Enhancement Act of 2009, section 102.

■ 2. Amend § 1600.31, by revising paragraph (a) to read as follows:

§ 1600.31 Accounts eligible for transfer.

(a) A participant who has an open TSP account and is entitled to receive (or receives) an eligible rollover distribution, within the meaning of I.R.C. section 402(c)(4) (26 U.S.C. 402(c)(4)), from an eligible employer plan or a rollover contribution, within the meaning of I.R.C. section 408(d)(3) (26 U.S.C. 408(d)(3)), from a traditional IRA may cause to be transferred (or transfer) that distribution into his or her TSP account.

* * * * *

PART 1604—UNIFORMED SERVICES ACCOUNTS

■ 3. The authority citation for part 1604 continues to read as follows:

Authority: 5 U.S.C. 8440e, 8474(b)(5) and (c)(1).

■ 4. Revise § 1604.8 to read as follows:

§ 1604.8 Death benefits.

The account balance of a deceased service member will be paid as described at 5 CFR part 1651. If a service member account contains combat zone contributions, the death benefit payment will be made pro rata from all sources.

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

■ 5. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

■ 6. Amend § 1650.13, by removing paragraph (f).

PART 1651—DEATH BENEFITS

■ 7. Revise the authority citation for part 1651 to read as follows:

Authority: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5), 8474(c)(1), and Sec. 109, Pub. L. 111–31,123 Stat. 1176 (5 U.S.C. 8433(e)).

■ 8. Amend § 1651.5, by revising paragraph (a) to read as follows:

§ 1651.5 Spouse of participant.

(a) For purposes of payment under § 1651.2(a)(2) and establishment of beneficiary participant accounts under § 1651.19, the spouse of the participant is the person to whom the participant was married on the date of death. A person is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. The state law of the participant's domicile will be used to determine whether the participant was married at the time of death.

* * * * *

■ 9. Amend § 1651.14, by revising paragraph (c) to read as follows:

§ 1651.14 How payment is made.

* * * * *

(c) *Payment to the participant's spouse.* The Agency will automatically establish a beneficiary participant account (described in § 1651.19) for any spouse beneficiary. The Agency will not maintain a beneficiary participant account if the balance of the beneficiary participant account is less than $200 on the date the account is established. The Agency also will not transfer this amount to another eligible plan or pay it by electronic funds transfer. Instead the spouse will receive an immediate distribution in the form of a check.

* * * * *

■ 10. Add § 1651.19 to read as follows:

§ 1651.19 Beneficiary participant accounts.

A beneficiary participant account may be established only for a spouse of a deceased participant who is a sole or partial beneficiary of the deceased participant's TSP account. Beneficiary participant accounts are subject to the following rules and procedures:

(a) *Initial investment allocation.* Regardless of the allocation of the deceased participant's account balance at the time of his or her death, each beneficiary participant account will be initially allocated 100 percent to the Government Securities Investment (G) Fund. A beneficiary participant may redistribute his or her beneficiary participant account balance among the TSP investment funds by making an interfund transfer request described in part 1601, subpart C of this chapter.

(b) *Contributions.* A beneficiary participant may not make contributions or transfers to his or her beneficiary participant account. The TSP will not accept a contribution allocation request described in part 1601, subpart B of this chapter for a beneficiary participant account.

(c) *Required minimum distributions.* (1) A beneficiary participant must begin receiving annual distributions from his or her beneficiary participant account balance on or before the later of –

(i) The end of the calendar year immediately following the calendar year in which the participant died; or

(ii) The end of the calendar year in which the participant would have attained age 70½.

(2) The TSP will ensure that the amount of the beneficiary participant's

annual distributions that occur after the required minimum distribution date satisfy the applicable minimum distribution requirements of the Internal Revenue Code. The TSP will calculate minimum distributions based on the beneficiary participant account balance and the beneficiary participant's age, using the IRS Single Life Table, 26 CFR 1.401(a)(9)-9, Q&A–1.

(d) *Withdrawal elections.* A beneficiary participant may elect any withdrawal option is available to separated participants. The provisions of § 1650.12, § 1650.13, and § 1650.14 shall apply as if all references to a participant are references to a beneficiary participant and all references to an account balance are references to a beneficiary participant account balance.

(e) *Ineligibility for certain withdrawals.* A beneficiary participant is ineligible to request the following types of withdrawals from his or her beneficiary participant account: Age-based withdrawals described in § 1650.31 of this chapter, financial hardship withdrawals described in § 1650.32 of this chapter, or loans described in part 1655 of this chapter. A beneficiary participant will not be ineligible for a partial withdrawal because the deceased participant previously elected an age-based withdrawal.

(f) *Spousal rights.* The spousal rights described in 5 U.S.C. 8351, 5 U.S.C. 8435, and § 1650.61 of this chapter do not apply to beneficiary participant accounts.

(g) *Transfers.* A beneficiary participant may request that the TSP transfer all or a portion of an eligible rollover distribution (within the meaning of I.R.C. section 402(c)(4)) from his or her beneficiary participant account to traditional IRA, Roth IRA or eligible employer plan (including a civilian or uniformed services TSP account other than a beneficiary participant account). In order to request such a transfer, the beneficiary participant must use the transfer form provided by the TSP.

(h) *Periodic statements.* The TSP will furnish beneficiary participants with periodic statements in a manner consistent with part 1640 of this chapter.

(i) *Privacy Act.* Part 1630 of this chapter shall apply with respect to a beneficiary participant as if the beneficiary participant is a TSP participant.

(j) *Error correction.* If, because of an error committed by the Board or the TSP record keeper, a beneficiary participant's account is not credited or charged with the investment gains or losses the account would have received had the error not occurred, the account will be credited subject to and in accordance with the rules and procedures set forth in § 1605.21. A beneficiary participant may submit a claim for correction of Board or TSP record keeper error pursuant to the procedures described in § 1605.22.

(k) *Court orders.* Court orders relating to a civilian beneficiary participant account or uniformed services beneficiary participant account shall be processed pursuant to the procedures set forth in part 1653 of this chapter as if all references to a TSP participant are references to a beneficiary participant and all references to a TSP account or account balance are references to a beneficiary participant account or beneficiary participant account balance. Notwithstanding any provision of part 1653, a payee of a court-ordered distribution from a beneficiary participant account cannot request a transfer of the court-ordered distribution to an eligible employer plan or IRA.

(l) *Death of beneficiary participant.* To the extent it is not inconsistent with this § 1651.19, a beneficiary participant account shall be disbursed upon the death of the beneficiary participant in accordance with part 1651 as if any reference to a participant is a reference to a beneficiary participant. For example, a beneficiary participant may designate a beneficiary for his or her beneficiary participant account in accordance with § 1651.3 and § 1651.4 of this chapter. No individual who is entitled to a death benefit from a beneficiary participant account shall be eligible to keep the death benefit in the TSP or request that the TSP transfer all or a portion of the death benefit to an IRA or eligible employer plan.

(m) *Uniformed services beneficiary participant accounts.* Uniformed services beneficiary participant accounts are subject to the following additional rules and procedures:

(1) Uniformed services beneficiary participant accounts are established and maintained separately from civilian beneficiary participant accounts. Beneficiary participants who have a uniformed services beneficiary participant account and a civilian beneficiary participant account will be issued two separate TSP account numbers. A beneficiary participant must file separate interfund transfers and/or withdrawal requests for each account and submit separate beneficiary designation forms for each account;

(2) A uniformed services beneficiary participant account and a civilian beneficiary participant account cannot be combined;

(3) If a uniformed services beneficiary participant account contains combat zone contributions, any payments or withdrawals from the account will be distributed *pro rata* from all sources;

(4) A beneficiary participant may transfer or roll over all or any portion of an eligible rollover distribution (within the meaning of I.R.C. section 402(c)(4)) from a uniformed services beneficiary participant account into a civilian or uniformed services TSP participant account. However, tax-exempt money attributable to combat zone contributions cannot be transferred from a uniformed services beneficiary participant account to a civilian TSP participant account.

(n) *Multiple beneficiary accounts.* Each beneficiary participant account is maintained separately from all other beneficiary participant accounts. If an individual has multiple beneficiary participant accounts, each of the individual's beneficiary participant accounts will have a unique account number. A beneficiary participant must file separate interfund transfers and/or withdrawal requests and submit separate beneficiary designation forms for each beneficiary participant account that the TSP maintains for him or her. A beneficiary participant account cannot be combined with another beneficiary participant account.

PART 1690—THRIFT SAVINGS PLAN

■ 11. The authority citation for part 1690 continues to read as follows:

Authority: 5 U.S.C. 8474.

■ 12. Amend § 1690.1, to add the definitions of "Beneficiary participant", "Beneficiary participant account", "Civilian beneficiary participant account", and "Uniformed services beneficiary participant account", and by revising the definitions of "Plan participant" and "Spouse" in alphabetical order to read as follows:

§ 1690.1 Definitions.

* * * * *

Beneficiary participant means a spouse beneficiary for whom the TSP maintains a beneficiary participant account pursuant to 5 U.S.C. 8433(e) and in accordance with 5 CFR 1651.19.

Beneficiary participant account means an account maintained pursuant to 5 U.S.C. 8433(e) and in accordance with 5 CFR 1651.19. The term includes both civilian beneficiary participant accounts and uniformed services beneficiary participant accounts.

* * * * *

Civilian beneficiary participant account means a beneficiary participant account that is established with a death benefit payment from a TSP account to which contributions were made by or on behalf of a civilian employee.

* * * * *

Plan participant or participant means any person with an account (other than a beneficiary participant account) in the Thrift Savings Plan or who would have an account (other than a beneficiary account) but for an employing agency error.

* * * * *

Spouse means the person to whom a TSP participant is married on the date he or she signs a form on which the TSP requests spousal information, including a spouse from whom the participant is legally separated, and a person with whom the participant is living in a relationship that constitutes a common law marriage in the jurisdiction in which they live. Where a participant is seeking to reclaim an account that has been forfeited pursuant to 5 CFR 1650.16, spouse also means the person to whom the participant was married on the withdrawal deadline. For purposes of 5 CFR 1651.5 and 5 CFR 1651.19, spouse also means the person to whom the participant was married on the date of the participant's death.

* * * * *

Uniformed services beneficiary participant account means a beneficiary participant account that is established with a death benefit payment from a TSP account to which contributions were made by or on behalf of a member of the uniformed services.

* * * * *

[FR Doc. 2010–31656 Filed 12–16–10; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0596; Directorate Identifier 2010–NE–22–AD; Amendment 39–16533; AD 2010–24–14]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pratt & Whitney PW4000 series turbofan engines. This AD requires initial and repetitive borescope inspections (BSI) or fluorescent penetrant inspections (FPI) for cracks in the anti-vortex tube (AVT) shelf slots on the 10th stage disk of the high-pressure compressor (HPC) drum rotor disk assembly. This AD results from 47 reports received since 2007 of HPC 10th stage disks found cracked in the AVT shelf slots during shop visit inspections. We are issuing this AD to prevent failure of the HPC 10th stage disk, uncontained engine failure, and damage to the airplane.

DATES: This AD becomes effective January 21, 2011. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 21, 2011.

ADDRESSES: You can get the service information identified in this AD from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503.

The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: James Gray, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *james.e.gray@faa.gov;* telephone (781) 238–7742; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to certain Pratt & Whitney PW4000 series turbofan engines. We published the proposed AD in the **Federal Register** on July 14, 2010 (75 FR 40757). That action proposed to require initial and repetitive BSI or FPI for cracks in the AVT shelf slots on the 10th stage disk of the HPC drum rotor disk assembly.

Examining the AD Docket

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

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received.

Request for Airplane Model Changes in the Applicability

One commenter, The Boeing Company, requests that we change the list of airplane models in the applicability paragraph. The commenter requests that we add the 747–400 and –400F airplane models, and remove the 747–200 airplane model. These changes will make the list accurate.

We agree. We changed the AD applicability to reflect these changes.

Request To Include Engine Removal Disassembly Labor Costs

One commenter, Japan Airlines, requests that we change the costs of compliance estimate to include engine removal and disassembly labor costs. The commenter states that their domestic routes can go 7,000 cycles-in-service or more between engine overhauls. Since the inspection compliance interval in the proposed AD is within every 7,200 cycles-in-service, some of their engines could be removed and disassembled before they would normally be scheduled.

We do not agree. The inspection compliance interval of within every 7,200 cycles-in-service captures when most of the fleet will remove the low-pressure turbine shaft, or overhaul the HPC. Most operators will incur no additional costs. We did not change the AD.

Request To Add Service Bulletins as Terminating Action

Two commenters, Martinair Holland and Delta Airlines, Inc., request that we add Pratt & Whitney Service Bulletin (SB) No. PW4ENG 72–801 to the AD as terminating action for the repeat inspection. The commenters state that Pratt & Whitney issued that SB, as well as SB No. PW4G–100–72–225, to introduce a redesigned HPC 9th stage stator that will correct the cracking problem.

We agree. We modified the AD to include optional terminating action for the repetitive inspections.

Reference the Latest Service Bulletin

Since we issued the proposed AD, Pratt & Whitney has issued Revision 1 of Pratt & Whitney SB No. PW4ENG 72–799. We updated the AD to reference Revision 1 of this SB.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Interim Actions

These actions are interim actions and we may take further rulemaking actions in the future.

Costs of Compliance

We estimate that this AD will affect 869 engines installed on airplanes of U.S. registry. We also estimate that it will take about one work-hour per engine to perform an inspection, and that the average labor rate is $85 per work-hour. Required parts will cost about $303,010 per HPC drum rotor disk assembly. About 61 HPC drum rotor disk assemblies will need replacement due to cracks. Based on these figures, we estimate the cost of the AD on U.S. operators to be $18,557,475.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–24–14 Pratt & Whitney: Amendment 39–16533. Docket No. FAA–2010–0596; Directorate Identifier 2010–NE–22–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 21, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following Pratt & Whitney turbofan engines with a ring case configuration rear high-pressure compressor (HPC) installed, that includes a 9th stage compressor stator segment assembly with 24 slots. These engines are installed on, but not limited to, Boeing 747–400/–400F, 767–200/–300, and MD–11 airplanes, and Airbus A300–600, A310–300, A330–300, and A330–200 airplanes.

PW4000–94″ Engines

(1) PW4000–94″ series engine models PW4050, PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4062A, PW4152, PW4156, PW4156A, PW4158, PW4160, PW4460, PW4462, and PW4650, including all models with a dash number suffix.

PW4000–100″ Engines

(2) PW4000–100″ series engine models PW4168A–1D and PW4170 with serial numbers P735001 through P735039; and

(3) All engines converted to PW4164–1D, PW4168–1D, PW4168A–1D, or PW4170 model engines.

Unsafe Condition

(d) This AD results from 47 reports received since 2007 of HPC 10th stage disks found cracked in the anti-vortex tube (AVT) shelf slots during shop visit inspections. We are issuing this AD to prevent failure of the HPC 10th stage disk, uncontained engine failure, and damage to the airplane.

Compliance

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

Initial Inspection of the AVT Shelf Slots

(f) For engines listed in paragraphs (c)(1) and (c)(3) of this AD, do the following:

(1) Remove the low-pressure turbine (LPT) shaft and borescope-inspect (BSI) for cracks in the AVT shelf slots on the 10th stage disk of the HPC drum rotor disk assembly; or

(2) Remove the HPC drum rotor disk assembly and fluorescent-penetrant inspect (FPI) for cracks in the AVT shelf slots on the 10th stage disk of the HPC drum rotor disk assembly.

(3) Perform the inspection:

(i) Within 7,200 cycles-in-service (CIS) since incorporation of any of the following Pratt & Whitney Service Bulletins: (SB) No. PW4ENG 72–755, SB No. PW4ENG 72–756, SB No. PW4ENG 72–757, SB No. PW4ENG 72–759, or SB No. PW4G–100–72–220; or

(ii) Within 1,000 CIS after the effective date of this AD, whichever occurs later.

(4) If a crack is found, remove the HPC drum rotor disk assembly from service.

(g) For engines listed in paragraph (c)(2) of this AD, do the following:

(1) Remove the LPT shaft and BSI for cracks in the AVT shelf slots on the 10th stage disk of the HPC drum rotor disk assembly; or

(2) Remove the HPC drum rotor disk assembly and FPI for cracks in the AVT shelf slots on the 10th stage disk of the HPC drum rotor disk assembly.

(3) Perform the inspection:

(i) Within 7,200 cycles-since-new; or

(ii) Within 1,000 CIS after the effective date of this AD, whichever occurs later.

(4) If a crack is found, remove the HPC drum rotor disk assembly from service.

Repetitive Inspections of the AVT Shelf Slots

(h) Thereafter, perform a BSI or FPI for cracks in the AVT shelf slots on the 10th stage HPC disk of the HPC drum rotor disk assembly within every 7,200 cycles-since-last-inspection.

(i) If a crack is found, remove the HPC drum rotor disk assembly from service.

Relevant Service Bulletins

(j) Use paragraphs 3.A through 3.H of the Accomplishment Instructions of Pratt & Whitney SB No. PW4ENG 72–799, Revision

1, dated October 14, 2010, to perform the BSIs for engines listed in paragraph(c)(1) of this AD.

(k) Use paragraphs 3.A through 3.H of the Accomplishment Instructions of Pratt & Whitney SB No. PW4G–100–72–226, dated April 22, 2010, to perform the BSIs for engines listed in paragraphs(c)(2) and (c)(3) of this AD.

Optional Terminating Action

(l) As optional terminating action to the repetitive inspection requirements of this AD, install new 9th stage compressor stator segments, part number (P/N) 50S479–01, P/N 50S479–02, P/N 50S479–03, and P/N 50S479–04, and perform one of the following:

(1) At the time the new 9th stage compressor stator segments are installed, replace the HPC drum rotor disk assembly with a new, 0 cycle, HPC drum rotor disk assembly; or

(2) At the time the new 9th stage compressor stator segments are installed, replace the 10th stage HPC disk with a new, 0 cycle, 10th stage HPC disk; or

(3) Perform a one-time BSI or FPI for cracks in the AVT shelf slots on the 10th stage HPC disk of the HPC drum rotor disk assembly between 4,000 and 7,200 cycles-in-service since installation of the new 9th stage compressor stator segments.

(i) If a crack is found, remove the HPC drum rotor disk assembly from service.

(ii) If no crack is found, then no further inspections are required.

(4) Guidance on installation of the new 9th stage compressor stator segments can be found in Pratt & Whitney SB No. PW4ENG 72–801, Revision 1, dated September 8, 2010, for engines listed in paragraph(c)(1) of this AD and in Pratt & Whitney SB No. PW4G–100–72–225 dated April 20, 2010, for engines listed in paragraphs(c)(2) and (c)(3) of this AD.

Alternative Methods of Compliance (AMOCs)

(m) The Manager, Engine Certification Office, has the authority to approve AMOCs for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(n) Contact James Gray, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *james.e.gray@faa.gov;* telephone (781) 238–7742; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(o) You must use Pratt & Whitney Service Bulletin (SB) No. PW4G–100–72–226, dated April 22, 2010, and Pratt & Whitney SB No. PW4ENG 72–799, Revision 1, dated October 14, 2010, to perform the borescope inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770; fax (860) 565–4503, for a copy of this service information. You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on November 17, 2010.

Peter A. White,

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

[FR Doc. 2010–31723 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0279; Directorate Identifier 2009–NM–148–AD; Amendment 39–16496; AD 2010–23–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Series Airplanes

Correction

In rule document 2010–27614 beginning on page 68181 in the issue of Friday, November 5, 2010, make the following corrections:

§ 39.13 [Corrected]

1. On page 68183, in § 39.13(c), in the second column, in the first column of the table, in the 30th entry, "D554 71000 000 00", should read "D554 71001 000 00".

2. On the same page, in the same section, in the third column, in the second column of the table, in the 19th entry, "TS–Z072", should read "TS–2072".

3. On page 68184, in the same section, in the first column, in the first column of the table, in the 12th entry, "D554 11002 000 00 003" should read "D554 71002 000 00 0003".

4. On the same page, in the same section, in the same column, in the same column of the table, in the 14th entry, "D554 11004 000 00 0000" should read "D554 71004 000 00 0000".

[FR Doc. C1–2010–27614 Filed 12–16–10; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 101102553–0553–01]

RIN 0694–AF01

Implementation of Additional Changes From the Annual Review of the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) to implement additional changes to the Entity List (Supplement No. 4 to Part 744) on the basis of the annual review of the Entity List conducted by the End-User Review Committee (ERC). The changes from the annual review will be implemented in three rules. The first rule published on May 28, 2010 (75 FR 29884) implemented the results of the annual review for listed entities located in Canada, Egypt, Germany, Hong Kong, Israel, Kuwait, Lebanon, Malaysia, South Korea, Singapore, and the United Kingdom.

The second rule, published today, implements the results of the annual review for entities located in China and Russia. This rule removes five entities from the Entity List under Russia and makes twenty-one modifications to the Entity List (consisting of modifications to eighteen Chinese entries and three Russian entries currently on the Entity List) by adding additional addresses, aliases and/or clarifying the names for these twenty-one entities.

The third rule, which will likely be published in early 2011, will implement the remaining results of the annual review.

The Entity List provides notice to the public that certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require a license from the Bureau of Industry and Security and that availability of license exceptions in such transactions is limited.

DATES: *Effective Date:* This rule is effective December 17, 2010. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AF01, by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include "RIN 0694–AF01" in the subject line of the message.

Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AF01.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the final rule (*i.e.* RIN 0694–AF01)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chairman, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, E-mail: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List provides notice to the public that certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require a license from the Bureau of Industry and Security (BIS) and that the availability of license exceptions in such transactions is limited. Entities are placed on the Entity List on the basis of certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions to make additions to, removals from and other changes to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

Annual Review of the Entity List

This rule amends the Export Administration Regulations (EAR) to implement changes to the Entity List (Supplement No. 4 to part 744) on the basis of the annual review of the Entity List conducted by the ERC, in accordance with the procedures outlined in Supplement No. 5 to part 744 (Procedures for End-User Review Committee Entity List Decisions).

The changes from the annual review of the Entity List that were approved by the ERC will be implemented in three rules. The first rule, published on May 28, 2010 (75 FR 29884), implemented the results of the annual review for listed entities located in Canada, Egypt, Germany, Hong Kong, Israel, Kuwait, Lebanon, Malaysia, South Korea, Singapore, and the United Kingdom.

The second rule, published today, implements the results of the annual review for entities located in China and Russia. The third rule that will likely be published in early 2011 will implement the remaining results of the annual review.

The first rule published on May 28 indicated the implementation of the annual review changes would be done in two rules, but a decision was made by the ERC to implement the approved annual review changes for these two countries in this second rule and then publish a third rule (if needed) to close out the implementation of the annual review, while allowing for the additional time necessary to review any additional changes for the remaining countries.

As the changes included in this final rule (*i.e.,* the second annual review implementation rule) will assist exporters, reexporters and persons making transfers (in-country) to better identify these persons listed on the Entity List, delaying the implementation of these approved changes until the ERC completes its review for the persons listed under the remaining destinations is not in the public interest.

ERC Entity List Decisions

This rule removes five entities from the Entity List under Russia. This rule also makes twenty-one modifications to the Entity List (consisting of modifications to eighteen Chinese entries and three Russian entries currently on the Entity List): by adding additional addresses, aliases and/or clarifying the names for these twenty-one entities, as described below in greater detail under the *Modifications to the Entity List* section.

Removal from the Entity List

The five entities being removed from the Entity List are located in Russia: "Baltic State Technical University, 1/21, 1-ya Krasnoarmeiskaya Ul., 198005, St. Petersburg", "Glavkosmos, 9 Krasnoproletarskaya St., 103030 Moscow", "Medeleyev University of Chemical Technology of Russia (including at 9 Miusskaya Sq. Moscow 125047, Russia)", "Moscow Aviation Institute (MAI) (including at 4 Volokolamskoye Shosse, Moscow 125871, Russia)", and "Tula Instrument Design Bureau (all locations, including at Tula 300001, Russia) (§ 744.20 of the EAR)". These entities are being removed from the Entity List in parallel with the removal of the sanctions imposed pursuant to Sections 4(b), 4(c) and 4(d) of Executive Order 12938.

Russia

(1) *Baltic State Technical University,* 1/21, 1-ya Krasnoarmeiskaya Ul., 198005, St. Petersburg;

(2) *Glavkosmos,* 9 Krasnoproletarskaya St., 103030 Moscow;

(3) *Medeleyev University of Chemical Technology of Russia* (including at 9 Miusskaya Sq. Moscow 125047, Russia);

(4) *Moscow Aviation Institute (MAI)* (including at 4 Volokolamskoye Shosse, Moscow 125871, Russia); and

(5) *Tula Instrument Design Bureau* (all locations, including at Tula 300001, Russia) (§ 744.20 of the EAR).

The removal of these five entities from the Entity List (from Russia, as described above) eliminates the existing license requirement in Supplement No. 4 to part 744 for exports, reexports and transfers (in-country) to these five entities. However, the removal of Baltic State Technical University, Glavkosmos, Medeleyev University of Chemical Technology of Russia, Moscow Aviation Institute (MAI), and Tula Instrument Design Bureau from the Entity List does not relieve persons of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of an entity from the Entity List nor the removal of Entity List-based license requirements relieves persons of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, "you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR." Nor do these removals relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, "BIS's 'Know Your Customer' Guidance and Red Flags," when persons are involved in transactions that are subject to the EAR.

Modifications to the Entity List

(1) This rule amends twenty-one entries (consisting of eighteen Chinese entries and three Russian entries) currently on the Entity List by adding additional addresses, aliases or clarifying the names for the entities listed, as follows:

Note: To assist the public in better identifying the changes made to each entry, an asterisk is placed next to the portions of the existing entries that are being revised or are new in this final rule.

China

(1) *13 Institute, China Academy of Launch Vehicle Technology (CALT),* a.k.a., the following six aliases:

—*13th Institute China Aerospace Times Electronics Corp (CATEC);
—713 Institute of Beijing;
—Institute of Control Devices (BICD);
—*Beijing Institute of Aerospace Control Devices (BIACD);
—*Beijing Aerospace Control Instruments Institute; and
—*Design and Manufacture Center of Navigation and Control Device.

(2) *33 Institute,* a.k.a., the following four aliases:

—*Beijing Automation Control Equipment Institute (BACEI);
—Beijing Institute of Automatic Control Equipment;
—*China Haiying Electromechanical Technology Academy; and
—*No. 33 Research Institute of the Third Academy of China Aerospace Science and Industry Corp (CASIC).

(3) *35 Institute,* a.k.a., the following five aliases:

—*Beijing Hangxing Machine Building Corporation;
—Beijing Huahang Radio Measurements Research Institute;
—*China Haiying Electronic Mechanical Technical Research Academy;
—*Huahang Institute of Radio Measurement; and
—*No. 35 Research Institute of the Third Academy of China Aerospace Science and Industry Corp (CASIC).

(4) *54th Research Institute of China,* a.k.a., the following three aliases:

—*CETC 54th Research Institute;
—Communication, Telemetry and Telecontrol Research Institute (CTI); and
—*Shijiazhuang Communication Observation and Control Technology Institute.

(5) **Baotou Guanghua Chemical Industrial Corporation (Parent Organization: China National Nuclear Group Corporation (CNNC)),* a.k.a., the following five aliases:

—*202 Plant, Baotou Nuclear Energy Facility;
—*Baotou Guanghua Chemical Industrial Corporation;
—*Baotou Guanghua Chemical Industry Company;
—*Baotou Nuclear Fuel Element Plant; and
—*China Nuclear Baotou Guanghua Chemical Industry Company.

202 Factory Baotou, Inner Mongolia.

(6) **Beijing Aerospace Automatic Control Institute (BICD),* a.k.a., the following four aliases:

—*12th Research Institute China Academy of Launch Vehicle Technology (CALT);
—*Beijing Institute of Space Automatic Control;
—*Beijing Spaceflight Autocontrol Research Institute; and
—*China Aerospace Science and Technology Corp First Academy 12th Research Institute.

51 Yong Ding Road, Beijing.

(7) **Beijing Institute of Structure and Environmental Engineering (BISE),* a.k.a., the following two aliases:

—*702nd Research Institute, China Academy of Launch Vehicle Technology (CALT); and
—Beijing Institute of Strength and Environmental Engineering.

No. 30 Wanyuan Road, Beijing.

(8) *Beijing Power Machinery Institute,* a.k.a., the following three aliases:

—*31st Research Institute of China Aerospace Science and Industry Corp (CASIC) or China Haiying Electromechanical Technology Academy (a.k.a., China Haiying Science & Technology Corporation);
—*Beijing Power Generating Machinery Institute; and
—*Beijing Power Machinery Research Laboratory.

(9) *Beijing University of Aeronautics and Astronautics (BUAA),* a.k.a., the following alias:

—Beihang University.

*37 Xueyuan Rd, Haidian District, Beijing.

(10) *Chinese Academy of Engineering Physics,* a.k.a., the following eighteen aliases:

—Ninth Academy;
—Southwest Computing Center;
—Southwest Institute of Applied Electronics;
—Southwest Institute of Chemical Materials;
—Southwest Institute of Electronic Engineering;
—Southwest Institute of Environmental Testing;
—Southwest Institute of Explosives and Chemical Engineering;
—*Southwest Institute of Fluid Physics;
—Southwest Institute of General Designing and Assembly;
—Southwest Institute of Machining Technology;
—Southwest Institute of Materials;
—Southwest Institute of Nuclear Physics and Chemistry (a.k.a., China Academy of Engineering Physics (CAEP)'s 902 Institute);
—Southwest Institute of Research and Applications of Special Materials Factory;
—Southwest Institute of Structural Mechanics;
(—all of the preceding located in or near Mianyang, Sichuan Province)
—*Chengdu Electronic Science and Technology University (CUST);
—The High Power Laser Laboratory, Shanghai;
—The Institute of Applied Physics and Computational Mathematics, Beijing; and
—*University of Electronic Science and Technology of China, 901 Institute, (No. 4, 2nd Section, North Jianshe Road, Chengdu, 610054).

(11) *First Department, Chinese Academy of Launch Vehicle Technology (CALT),* a.k.a., the following three aliases:

—*1st General Design Department (a.k.a. Planning Department No 1) of the China Aerospace Science & Technology Corporation's First Academy (CALT);
—*Beijing Institute of Astronautic Systems Engineering; and
—*Beijing Institute of Space System Engineering.

(12) **Northwest Institute of Nuclear Technology in the Science Research (NINT),* Xi'an, Shanxi.

(13) *Northwestern Polytechnical University,* a.k.a., the following three aliases:

—*Northwestern Polytechnic University;
—*Northwest Polytechnic University; and
—*Northwest Polytechnical University.

*127 Yonyi Xilu, Xi'an 71002 Shaanxi, China; and Youyi Xi Lu, Xi'an, Shaanxi, China.

(14) **Shanghai Academy of Spaceflight Technology (SAST),* a.k.a., the following four aliases:

—*8th Research Academy of China Aerospace;
—*Shanghai Astronautics Industry Bureau;
—*Shanghai Bureau of Astronautics (SHBOA); and
—*Shanghai Bureau of Space.

Shanghai, Spaceflight Tower, 222 Cao Xi Road, Shanghai, 200233.

(15) *Shanghai Institute of Space Power Sources,* a.k.a., the following three aliases:

—*811th Research Institute, 8th Academy, China Aerospace Science and Technology Corp (CASC);
—*Shanghai Space Energy Research Institute; and
—*Shanghai Space Power Supply Research Institute.

388 Cang Wu Road, Shanghai.

(16) *Southwest Research Institute of Electronics Technology,* a.k.a., the following three aliases:

—*10th Research Institute of China Electronic Technology Group Corp (CETC);
—*CETC 10th Research Institute; and
—*Southwest Institute of Electronic Technology (SWIET).

Chengdu.

(17) *Xi'an Research Institute of Navigation Technology,* a.k.a., the following two aliases:

—*20th Research Institute of China Electronic Technology Group Corp (CETC); and
—*CETC 20th Research Institute.

(18) **Xiangdong Machinery Factory, within the China Aerospace Science and Industry Corp's (CASIC) Third Academy* (a.k.a., the following two aliases: China Haiying Electromechanical Technology Academy and China Haiying Science & Technology Corporation), a.k.a., the following four aliases:

—*239 Factory (a.k.a., 35th Research Institute);
—*Beijing Xinghang Electromechanical Equipment Factory;
—*Beijing Hangxing Machinery Manufacturing Corporation; and
—*Hangxing Machine Building Company.

Russia

(1) *All-Union Scientific Research Institute of Experimental Physics,* a.k.a., the following twelve aliases:

—All Russian Research Institute of Experimental Physics;
—ARIEP;
—Arzamas-16;
—*Arzamas-75;
—*Federal State Unitary Enterprise Russian Federal Nuclear Center—All Russian Scientific Research Institute of Experimental Physics (FGUPRFNCs VNIIEF);
—Khariton Institute;
—Russian Federal Nuclear Center;
—VNIIEF; and
—*Vserossiyskiy Nauchno-Issledovatelskiy Institut Sperimentalnoy Fiziki.

37 Mira Ave. Sarov, Nizhny Novgorod Region, 607188 Russia.

—*Avarngard Electromechanical Plant;
—*Moscow Center 300; and
—*Sarov Nuclear Weapons Plant.

Kremlev (Sarov).

(2) *All-Russian Scientific Research Institute of Technical Physics,* a.k.a., the following ten aliases:

—All-Russian Research Institute of Technical Physics;
—*All-Union Scientific Research Institute of Instrument Building (VNIIP);
—ARITP;
—*Kasli;
—Russian Federal Nuclear Center;
—*Ural Nuclear Center, NII–1011;
—*VNIIEF;
—VNIITF; and
—*Vserosslyskly Nauchhnoissledovatelnyy Institut Tekhnicheskoy Fiziki.

*P.O. Box 245, 456770, Snezhinsk, Chelyabinsk Region Russia.

—*Federal State Unitary Enterprise Russian Federal Nuclear Center—Academician E.I. Zababkhin All-Russian Scientific Research Institute of Technical Physics (FGUPRFYaTs-VNIITF); and
—*Chelyabinsk 70/Snezhinsk.

(3) **Federal Atomic Power of Russia (Rusatom) (any entities, institutes, or centers associated with*), a.k.a., the following three aliases:

—*Federal Atomic Agency (FAAE);
—*MINATOM; and
—*Ministry of Atomic Power and Industry (MAPI).

Located in either Snezhinsk or Kremlev (Sarov).

A BIS license is required for the export, reexport or transfer (in-country) of any item subject to the EAR to the persons described above, including any transaction in which this listed entity will act as purchaser, intermediate consignee, ultimate consignee, or end-user of the items. This listing of these entities also prohibits the use of license exceptions (*see* part 740 of the EAR) for exports, reexports and transfers (in-country) of items subject to the EAR involving this entity.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport, on December 17, 2010, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before January 3, 2011. Any such items not actually exported or reexported before midnight, on January 3, 2011, require a license in accordance with this rule.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 12, 2010, 75 FR 50681 (August 16, 2010), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694–0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Total burden hours associated with the Paperwork Reduction Act of Office and Management and Budget control number 0694–0088 are expected to increase slightly as a result of this rule.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1).) BIS implements this rule to prevent items from being exported, reexported or transferred (in-country) to persons listed on the Entity List by making clarifications to existing entries to inform exporters, reexporters and persons making transfers (in-country) of the intended scope of the license requirements for these listed persons. This action does this by adding additional addresses for listed persons, clarifying names for listed person and adding aliases for listed persons. If this

rule were delayed to allow for notice and comment and a delay in effective date, there is a chance that certain exporters, reexporters and persons making transfers (in-country) to these listed persons may inadvertently export, reexport or transfer (in-country) to a listed person on the Entity List because the exporter, reexporter or person making the transfer (in-country) did not realize the listed person was subject to the Entity List-based license requirement because of perceived ambiguity regarding the listed person, such as the listed person was using an alias or an alternate address. There is also a chance an exporter, reexporter or person making a transfer (in-country) may turn away a potential export, reexport, or transfer (in-country) because the customer appeared to be within the scope of a listed person on the Entity List, but with a more clearly worded listing on the Entity List it would have been clear the person was not subject to an Entity List-based license requirement. For the five Russian entities that are removed with this rule, BIS is taking this action in the form of a final rule to conform the Entity List with a foreign policy decision that has already been made by Department of State to remove sanctions on these five entities. To ensure consistency across the U.S. Government in the implementation of this U.S. foreign policy it is important the publication of this rule is not delayed. In addition, if this rule were delayed this inconsistency in the implementation of U.S. foreign policy could have adverse consequences on U.S. foreign policy. For these reasons there is a public interest that these changes be implemented as a final action. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

■ Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010); Notice of November 4, 2010, 75 FR 68673 (November 8, 2010).

■ 2. Supplement No. 4 to part 744 is amended:

■ (a) By removing under Russia, these five Russian entities: "Baltic State Technical University, 1/21, 1-ya Krasnoarmeiskaya Ul., 198005, St. Petersburg.", "Glavkosmos, 9 Krasnoproletarskaya St., 103030 Moscow.", "Medeleyev University of Chemical Technology of Russia (including at 9 Miusskaya Sq. Moscow 125047, Russia).", "Moscow Aviation Institute (MAI) (including at 4 Volokolamskoye Shosse, Moscow 125871, Russia).", "Tula Instrument Design Bureau (all locations, including at Tula 300001, Russia) (§ 744.20 of the EAR).";

■ (b) By revising under China, People's Republic of, in alphabetical order, eighteen Chinese entities; and

■ (c) By revising under Russia, in alphabetical order, two Russian entities.

■ (d) By removing the Russian entity, the "Ministry for Atomic Power of Russia (any entities, institutes, or centers associated with) located in either Snezhinsk or Kremlev (Sarov)." and adding in its place the Russian entity "Federal Atomic Power of Russia (Rusatom) (any entities, institutes, or centers associated with), a.k.a. the following three aliases:—Federal Atomic Agency (FAAE);—MINATOM; *and* —Ministry of Atomic Power and Industry (MAPI). Located in either Snezhinsk or Kremlev (Sarov).".

The revisions read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
CHINA, PEOPLE'S REPUBLIC OF	*13 Institute, China Academy of Launch Vehicle Technology (CALT),* a.k.a., the following six aliases: —13th Institute China Aerospace Times Electronics Corp (CATEC); —713 Institute of Beijing; —Institute of Control Devices (BICD); —Beijing Institute of Aerospace Control Devices (BIACD); —Beijing Aerospace Control Instruments Institute; *and* —Design and Manufacture Center of Navigation and Control Device.	For all items subject to the EAR.	See § 744.3(d) of this part.	66 FR 24265, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	33 Institute, a.k.a., the following four aliases: —Beijing Automation Control Equipment Institute (BACEI); —Beijing Institute of Automatic Control Equipment; —China Haiying Electromechanical Technology Academy; *and* —No. 33 Research Institute of the Third Academy of China Aerospace Science and Industry Corp (CASIC).	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", *e.g.,* XX999.	See § 744.3(d) of this part.	66 FR 24266, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	35 Institute, a.k.a., the following five aliases: —Beijing Hangxing Machine Building Corporation; —Beijing Huahang Radio Measurements Research Institute; —China Haiying Electronic Mechanical Technical Research Academy; —Huahang Institute of Radio Measurement; *and* —No. 35 Research Institute of the Third Academy of China Aerospace Science and Industry Corp (CASIC).	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", *e.g.,* XX999.	See § 744.3(d) of this part.	66 FR 24266, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	54th Research Institute of China, a.k.a., the following three aliases: —CETC 54th Research Institute; —Communication, Telemetry and Telecontrol Research Institute (CTI); *and* —Shijiazhuang Communication Observation and Control Technology Institute.	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", *e.g.,* XX999.	See § 744.3(d) of this part.	66 FR 24266, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
*	* *	* *	*	*
	Baotou Guanghua Chemical Industrial Corporation (Parent Organization: China National Nuclear Group Corporation (CNNC)), a.k.a., the following five aliases: —202 Plant, Baotou Nuclear Energy Facility; —Baotou Guanghua Chemical Industrial Corporation; —Baotou Guanghua Chemical Industry Company; —Baotou Nuclear Fuel Element Plant; *and* —China Nuclear Baotou Guanghua Chemical Industry Company. 202 Factory Baotou, Inner Mongolia.	For all items subject to the EAR having a classification other than EAR99.	See § 744.2(d) of this part.	66 FR 24266, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	Beijing Aerospace Automatic Control Institute (BICD), a.k.a., the following four aliases: —12th Research Institute China Academy of Launch Vehicle Technology (CALT); —Beijing Institute of Space Automatic Control; —Beijing Spaceflight Autocontrol Research Institute; *and* —China Aerospace Science and Technology Corp First Academy 12th Research Institute. 51 Yong Ding Road, Beijing.	For all items subject to the EAR having a classification other than EAR99.	See § 744.3 of this part.	64 FR 28909, 5/28/99. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	Beijing Institute of Structure and Environmental Engineering (BISE), a.k.a., the following two aliases: —702nd Research Institute, China Academy of Launch Vehicle Technology (CALT); *and* —Beijing Institute of Strength and Environmental Engineering. No. 30 Wanyuan Road, Beijing.	For all items subject to the EAR having a classification other than EAR99.	See § 744.3 of this part.	64 FR 28909, 5/28/99. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Beijing Power Machinery Institute, a.k.a., the following three aliases: —31st Research Institute of China Aerospace Science and Industry Corp (CASIC) or China Haiying Electromechanical Technology Academy (a.k.a., China Haiying Science & Technology Corporation); —Beijing Power Generating Machinery Institute; *and* —Beijing Power Machinery Research Laboratory.	For all items subject to the EAR.	See § 744.3(d) of this part.	66 FR 24266, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	Beijing University of Aeronautics and Astronautics (BUAA), a.k.a., the following alias: —Beihang University. 37 Xueyuan Road, Haidan District, Beijing.	For all items subject to the EAR.	See § 744.3(d) of this part.	66 FR 24266, 5/14/01. 70 FR 54629, 9/16/05. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
*	*	*	*	*
	Chinese Academy of Engineering Physics, a.k.a., the following eighteen aliases: —Ninth Academy; —Southwest Computing Center; —Southwest Institute of Applied Electronics; —Southwest Institute of Chemical Materials; —Southwest Institute of Electronic Engineering; —Southwest Institute of Environmental Testing; —Southwest Institute of Explosives and Chemical Engineering; —Southwest Institute of Fluid Physics; —Southwest Institute of General Designing and Assembly; —Southwest Institute of Machining Technology; —Southwest Institute of Materials; —Southwest Institute of Nuclear Physics and Chemistry (a.k.a., China Academy of Engineering Physics (CAEP)'s 902 Institute); —Southwest Institute of Research and Applications of Special Materials Factory; —Southwest Institute of Structural Mechanics; (all of preceding located in or near Mianyang, Sichuan Province); —Chengdu Electronic Science and Technology University (CUST); —The High Power Laser Laboratory, Shanghai; —The Institute of Applied Physics and Computational Mathematics, Beijing; *and* —University of Electronic Science and Technology of China, 901 Institute (No. 4, 2nd Section, North Jianshe Road, Chengdu, 610054).	For all items subject to the EAR.	Case-by-case basis.	62 FR 35334, 6/30/97. 66 FR 24266, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
*	*	*	*	*
	First Department, Chinese Academy of Launch Vehicle Technology (CALT), a.k.a., the following three aliases: —1st General Design Department (a.k.a., Planning Department No. 1) of the China Aerospace Science & Technology Corporation's First Academy (CALT); —Beijing Institute of Astronautic Systems Engineering; *and* —Beijing Institute of Space System Engineering.	For all items subject to the EAR.	See § 744.3(d) of this part.	66 FR 24266, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
*	* *	* *	*	*
	Northwest Institute of Nuclear Technology in the Science Research (NINT), Xi'an, Shanxi.	For all items subject to the EAR.	See § 744.2 of this part.	64 FR 28909, 5/28/99. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	Northwestern Polytechnical University, a.k.a., the following three aliases: —Northwestern Polytechnic University; —Northwest Polytechnic University; *and* —Northwest Polytechnical University. 127 Yonyi Xilu, Xi'an 71002 Shaanxi, China; *and* Youyi Xi Lu, Xi'an, Shaanxi, China.	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", *e.g.,* XX999.	See § 744.3(d) of this part.	66 FR 24266, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	Shanghai Academy of Spaceflight Technology SAST), a.k.a., the following four aliases: —8th Research Academy of China Aerospace; —Shanghai Astronautics Industry Bureau; —Shanghai Bureau of Astronautics (SHBOA); *and* —Shanghai Bureau of Space. Shanghai, Spaceflight Tower, 222 Cao Xi Road, Shanghai, 200233.	For all items subject to the EAR having a classification other than EAR99.	See § 744.3 of this part.	64 FR 28909, 5/28/99. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	Shanghai Institute of Space Power Sources, a.k.a., the following three aliases: —811th Research Institute, 8th Academy, China Aerospace Science and Technology Corp (CASC); —Shanghai Space Energy Research Institute; *and* —Shanghai Space Power Supply Research Institute. 388 Cang Wu Road, Shanghai.	For all items subject to the EAR having a classification other than EAR99.	See § 744.3 of this part.	64 FR 28909, 5/28/99. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	Southwest Research Institute of Electronics Technology, a.k.a., the following three aliases: —10th Research Institute of China Electronic Technology Group Corp (CETC); —CETC 10th Research Institute; *and* —Southwest Institute of Electronic Technology (SWIET). Chengdu.	For all items subject to the EAR having a classification other than EAR99 or a classification where the third through fifth digits of the ECCN are "999", *e.g.,* XX999.	See § 744.3(d) of this part.	66 FR 24267, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
*	* *	* *	*	*
	Xi'an Research Institute of Navigation Technology, a.k.a., the following two aliases: —20th Research Institute of China Electronic Technology Group Corp (CETC); *and* —CETC 20th Research Institute.	For all items subject to the EAR having a classification other than EAR99.	See § 744.3(d) of this part.	66 FR 24267, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	Xiangdong Machinery Factory, within the China Aerospace Science and Industry Corp's (CASIC) Third Academy (a.k.a., the following two aliases: China Haiying Electromechanical Technology Academy and China Haiying Science & Technology Corporation), a.k.a., the following four aliases: —239 Factory (a.k.a., 35th Research Institute); —Beijing Xinghang Electromechanical Equipment Factory; —Beijing Hangxing Machinery Manufacturing Corporation; *and* —Hangxing Machine Building Company.	For all items subject to the EAR.	See § 744.3(d) of this part.	66 FR 24267, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
*	* *	* *	*	*
RUSSIA	*All-Russian Scientific Research Institute of Technical Physics,* a.k.a., the following ten aliases: —All-Russian Research Institute of Technical Physics; —All-Union Scientific Research Institute of Instrument Building (VNIIP); —ARITP; —Kasli; —Russian Federal Nuclear Center; —Ural Nuclear Center, NII–1011; —VNIITF; *and* —Vserosslyskly Nauchhnoissledovatelnyy Institut Tekhnicheskoy Fiziki. P.O. Box 245, 456770, Snezhinsk, Chelyabinsk Region Russia. —Federal State Unitary Enterprise Russian Federal Nuclear Center—Academician E.I. Zababkhin All-Russian Scientific Research Institute of Technical Physics (FGUPRFYaTs–VNIITF); *and* —Chelyabinsk 70/Snezhinsk.	For all items subject to the EAR.	Case-by-case basis.	62 FR 35334, 6/30/97. 66 FR 24267, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
	All-Union Scientific Research Institute of Experimental Physics, a.k.a., the following twelve aliases: —All Russian Research Institute of Experimental Physics; —ARIEP; —Arzamas-16; —Arzamas-75; —Federal State Unitary Enterprise Russian Federal Nuclear Center—All Russian Scientific Research Institute of Experimental Physics (FGUPRFNCs VNIIEF); —Khariton Institute; —Russian Federal Nuclear Center; —VNIIEF; *and* —Vserossiyskiy Nauchno-Issledovatelskiy Institut Sperimentalnoy Fiziki). 37 Mira Ave. Sarov, Nizhny Novgorod Region, 607188 Russia. —Avarngard Electromechanical Plant; —Moscow Center 300; *and* —Sarov Nuclear Weapons Plant. Kremlev (Sarov).	For all items subject to the EAR.	Case-by-case basis.	62 FR 35334, 6/30/97. 66 FR 24267, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
*	* *	* *	*	*
	Federal Atomic Power of Russia (Rusatom) (any entities, institutes, or centers associated with), a.k.a., the following three aliases: —Federal Atomic Agency (FAAE); —MINATOM; *and* —Ministry of Atomic Power and Industry (MAPI). Located in either Snezhinsk or Kremlev (Sarov).	For all items subject to the EAR.	Case-by-case basis.	62 FR 35334, 6/30/97. 66 FR 24267, 5/14/01. 75 FR [INSERT FR PAGE NUMBER], 12/17/10.
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Dated: December 13, 2010.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2010–31653 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 44

RIN 3038–AD29

Reporting Certain Post-Enactment Swap Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Interim final rule; request for comment.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is publishing for comment an interim final rule to implement new statutory provisions introduced by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Section 723 of the Dodd-Frank Act amends Section 2 of the Commodity Exchange Act ("CEA" or the "Act") by adding new Section 2(h)(5)(B), which directs that rules adopted by the Commission under this section shall provide for the reporting of "transition" swaps—that is, swaps entered into on or after the date of enactment of the Dodd-Frank Act and prior to the effective date of swap data reporting rules to implement Section 2(h)(5)(B)—to a registered swap data repository ("SDR") or to the Commission. Each category of data is subject to a reporting timetable specified in Section 2(h)(5). The Commission intends shortly to notice for comment substantive rules implementing the swap data reporting provisions of Section 2(h)(5)(B). In order to ensure the preservation of data pending implementation of such rules, the Commission is today adopting an interim final rule directing specified counterparties to post-enactment, or transition, swap transactions entered into prior to the effective date of the swap data reporting and recordkeeping rules implementing Section 2(h)(5)(B) of the CEA to retain information pertaining to the terms of such swaps.

DATES: This interim final rule is effective December 17, 2010. Comments on all aspects of the interim final rule must be received on or before January 18, 2011.

ADDRESSES: You may submit comments, identified by RIN number 3038–AD29, by any of the following methods:

- *Agency Web Site:* via its Comments Online process: *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Address to David A. Stawick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All comments must be submitted in English or, if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's Regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, Senior Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, at (202) 418–5133.

SUPPLEMENTARY INFORMATION: The Commission is adopting an interim final rule under part 44 of its regulations under the Commodity Exchange Act and is soliciting comments on all aspects of the rule. The Commission will carefully consider all comments received and will address them, as applicable, in connection with the permanent reporting rules to be adopted under the Dodd-Frank Act.

[1] 17 CFR 145.9.

I. Background

On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").[2] Title VII of the Dodd-Frank Act[3] amended the Commodity Exchange Act ("CEA" or the "Act")[4] to establish a comprehensive new regulatory framework for swaps and security-based swaps. The legislation was enacted to reduce risk, increase transparency, and promote market integrity within the financial system by, among other things: (1) Providing for the registration and comprehensive regulation of swap dealers and major swap participants; (2) imposing clearing and trade execution requirements on standardized derivative products; (3) creating robust recordkeeping and real-time reporting regimes; and (4) enhancing the Commission's rulemaking and enforcement authorities with respect to, among others, all registered entities and intermediaries subject to the Commission's oversight.

Among other things, the Dodd-Frank Act requires that swaps be reported to a registered SDR[5] or to the Commission if there is no registered SDR that would accept the swap. Section 723 of the Dodd-Frank Act adds to the CEA new Section 2(h)(5)(B), to require that transition swaps be reported to a registered SDR or the Commission according to specified timetables. As described below, pursuant to its authority under Sections 4r and 2(h)(5)(A) of the CEA the Commission previously has adopted an interim final rule addressing the reporting timetable for swaps entered into prior to the enactment of the Dodd-Frank Act the terms of which had not expired by that date.

Separately, Section 729 of the Dodd-Frank Act established in new Section 4r(a)(2)(A) a transition rule applicable to pre-enactment swaps, providing for the reporting, by a date certain, of each swap entered into before the date of enactment of the Dodd-Frank Act, the

[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010), hereinafter cited as "Dodd-Frank Act." The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm.*

[3] Pursuant to Section 701 of the Dodd-Frank Act, Title VII may be cited as the "Wall Street Transparency and Accountability Act of 2010."

[4] 7 U.S.C. 1 *et seq.*

[5] The term "swap data repository" is defined in Section 1a(48) of the CEA to mean "any person that collects and maintains information or records with respect to transactions or positions in, or the terms and conductions of, swaps entered into by third parties for the purpose of providing a centralized recordkeeping facility for swaps."

terms of which had not expired as of that date.[6] Section 4r(a)(2)(B) directs the Commission to promulgate an interim final rule within 90 days of the date of enactment of the Dodd-Frank Act providing for the reporting of each swap entered into before the date of enactment. On October 14, 2010, the Commission published in part 44 of its regulations an interim final rule instructing specified counterparties to pre-enactment swaps to report data to a registered SDR or to the Commission by the compliance date to be established in reporting rules to be promulgated under CEA Section 2(h)(5), and advising such counterparties of the necessity, inherent in the reporting requirement, to preserve information pertaining to the terms of such swaps until reporting can be effectuated under permanent rules. The reporting requirements established by Section 4r and §§ 44.00–44.02 of the Commission's Regulations will remain in effect until the effective date of the permanent reporting rules to be adopted by the Commission pursuant to Section 2(h)(5) of the CEA.[7]

Section 4r did not mandate an interim final rulemaking addressing reporting provisions for transition swap transactions entered into on or after the date of enactment of the Dodd-Frank Act and prior to the effective date of the swap data reporting rule to implement the provisions of Section 2(h)(5)(B). The instant interim final rule is intended to provide clarity and guidance with respect to such swaps by (i) establishing that transition swaps[8] be subject to Section 2(h)(5)(B)'s reporting requirements and to Commission regulations to be promulgated thereunder; and (ii) advising potential counterparties to such swaps that implicit in this reporting requirement is the need to retain relevant data.

The Commission intends to establish permanent data recordkeeping and reporting requirements for transition swaps in a separate rulemaking under Section 2(h)(5)(B) of the CEA.[9] The Commission anticipates that its rulemaking for transition swaps will address specifically the records, information and data regarding transition swaps that must be retained and the timeframe for reporting such information to a registered SDR or to the Commission.

II. The Scope of the Interim Final Rule

This interim final rule will apply to all swaps entered into on or after the date of enactment of the Dodd-Frank Act and before the effective date of the swap data reporting and recordkeeping rules implementing Section 2(h)(5)(B) of the CEA.

1. Reporting Obligations

The Commission expects that the reporting obligations outlined in § 44.03 will implicate swap transaction information and data that counterparties normally retain as sound business practice. Interim § 44.03 establishes that reporting requirements are applicable to transition swaps and describes the information that would be reported to a registered SDR or to the Commission with respect to such transaction: (i) A copy of the transaction confirmation in electronic form, if available, or in written form if there is no electronic copy; (ii) if available, the time the transaction was executed; and (iii) additional information of the character described in Section 4 ("Record Preservation") below.

In addition, Interim § 44.03 provides that a designated counterparty[10] to a transition swap[11] must provide to the Commission on request any information relating to such transaction during the time that this interim final rule is in effect. The Commission expects that such information would vary depending upon the needs of the Commission and may include actual as well as summary trade data. Such summary data may include a description of a swap dealer's counterparties or the total number of post-enactment pre-effective swap transactions entered into by the dealer and some measure of the frequency and duration of those contracts. The Commission believes that this requirement will facilitate its ability to understand and evaluate the current market for swaps and may inform its analysis of other required rulemakings under the Dodd-Frank Act.

2. Reporting Party

Section 4r(a)(3) of the CEA specifies the party obligated to report a particular swap transaction. Specifically, this section provides, with respect to a swap in which only one counterparty is a swap dealer or major swap participant, that entity must report the swap. With respect to a swap in which one counterparty is a swap dealer and the other counterparty is a major swap participant, the swap dealer is responsible for reporting the swap. With respect to any other swap, the counterparties shall select one of them to report the swap. Interim § 44.03 incorporates these provisions.

3. Effective Date for Reporting Transition Swaps

Section 2(h)(5)(B) of the CEA requires that rules adopted by the Commission shall provide for the reporting of data for transition swaps no later than the later of 90 days after the effective date of the Dodd-Frank Act[12] or such other time after entering into the swap as the Commission may prescribe. Section 4r(a)(2)(C) establishes that the reporting obligations described in Section 4r shall be effective on the enactment of that section—July 21, 2010. In a July 15, 2010 floor statement, Senator Lincoln addressed inconsistencies between Sections 4r and 2(h)(5), emphasizing that the provisions of these two sections "should be interpreted as complementary to one another to assure consistency between them. This is particularly true with respect to issues such as the effective dates of these reporting requirements."[13] Accordingly,

[6] The statute provides that reporting must occur either (i) 30 days after issuance of the interim final rule; or (ii) such other date as the Commission determines to be appropriate.

[7] *See Interim Final Rule for Reporting Pre-Enactment Swap Transactions,* 75 FR 63080, Oct. 14, 2010.

[8] The term "transition swap" refers to a swap executed on or after the date of enactment of the Dodd-Frank Act and before the effective date of the swap data reporting and recordkeeping rules implementing Section 2(h)(5)(B) of the CEA. As discussed infra., Sections 2(h)(5)(A) and 4r describe as a separate category of swaps those executed prior to the enactment of the Dodd-Frank Act, the terms of which had not expired by that date ("pre-enactment swaps").

[9] *See Notice of Proposed Rulemaking Relating to Swap Data Recordkeeping and Reporting Requirements n. 10,* approved for publication by the Commission at an open meeting on November 19, 2010 and expected to be published shortly in the **Federal Register** (to be codified at 17 CFR part 45). Rules adopted by the Commission under this section shall provide for the reporting of swap data as follows:

(A) Swaps entered into on or before the date of the enactment of this subsection shall be reported to a registered swap data repository or the Commission no later than 180 days after the effective date of this subsection.

(B) Swaps entered into on or after such date of enactment shall be reported to a registered swap data repository or the Commission no later than the later of—

(i) 90 days after such effective date; or

(ii) Such other time after entering into the swap as the Commission may prescribe by rule or regulation.

[10] The reporting obligations of specified counterparties are delineated in Section 4r(a)(3) of the CEA, as amended. Unlike certain other provisions of Section 4r, these obligations are not limited to pre-enactment swaps.

[11] The term "transition swap" is defined in § 44.00(c) of the Commission's Regulations to mean "any swap entered into after the enactment of the Dodd-Frank Act of 2010 (July 21, 2010) and prior to the effective date of the swap data reporting and recordkeeping rules implemented pursuant to Section 2(h)(5)(B)" of the CEA.

[12] As relevant here, the effective date is 360 days after the enactment of the Dodd-Frank Act—July 15, 2011.

[13] Lincoln, "Wall Street Transparency and Accountability," *Congressional Record* (July 15, 2010) at S5923.

Section 4r(a)(2)(C) should be read to require that the reporting *obligations* of Section 2(h)(5)(B) became effective on enactment of the Dodd-Frank Act and that counterparties who are or may become subject to this obligation should, as of that date, be prepared to report swap data relating to post-enactment pre-effective swaps at such time as reporting is required: the later of 90 days after July 15, 2011 or such other time after entering into the swap as the Commission may prescribed by rule. The Commission believes that this result achieves Senator Lincoln's goal of assuring consistency between the legislative provisions embodied in Sections 4r and 2(h)(5).

4. Record Preservation

While neither Section 4r nor Section 2(h)(5) expressly requires that counterparties retain data related to transition swaps, implicit in the reporting requirements established by these provisions is the necessity for counterparties to these transactions to retain information and data related to the terms of each transaction so that it may subsequently be reported. In this regard, § 44.03 includes a Note to paragraphs (a)(1) and (a)(2) advising potential counterparties to a post-enactment pre-effective swap transaction to retain all information and documents relating to the terms of the transaction, to the extent and in such form as they presently exist. The Commission expects that counterparties to existing swaps routinely retain, consistent with reasonable business practice, information including but not limited to: (i) Any information necessary to identify and value the transaction (*e.g.,* underlying asset and tenor); (ii) the date and time of execution of the transaction; (iii) volume (*e.g.,* notional or principal amount); (iv) information relevant to the price and payment of the transaction until the swap is terminated, reaches maturity, or is novated; (v) whether the transaction was accepted for clearing by any clearing agency or derivatives clearing organization, and if so, the identity of such agency or organization; (vi) any modification(s) to the terms of the transaction; and (vii) the final confirmation of the transaction.

The Commission believes that counterparties that may be required to report transition swap transactions should preserve such information in order to ensure that they will be able to comply with the reporting requirements of Interim § 44.03 as well as with permanent reporting rules to be promulgated under CEA Section 2(h)(5). The Commission is mindful that the data retention requirement may be perceived as burdensome, and in that regard the Note attempts to limit the data to material information that may be expected to assist the Commission in performing its oversight functions under the CEA. In addition, to ensure that important information relating to the terms of such swaps may be retained with minimal burden on the counterparties, the Note does not require any counterparty to a transition swap transaction to create new records, and permits records to be retained in their existing format. Similarly, the Commission recognizes that information that the counterparty does not have prior to the effective date of the interim final rule cannot be reported.

III. Request for Comments

The Commission requests comments on the questions outlined below:

1. Should the date on which data concerning transition swaps is required to be reported to a registered swap data repository or to the Commission be more than 90 days following the July 15, 2011 effective date of the Dodd-Frank Act? If so, what date(s) should the Commission consider and why?

2. Should the date for such reporting be different for reporting counterparties who are swap dealers or major swap participants than it is for reporting counterparties who are not swap dealers or major swap participants?

3. What information should be reported with respect to transition swaps? Who would use this information, and for what purpose(s)?

4. Should data reporting for transition swaps be asset-class specific?

5. What methods of data accuracy verification should be used for transition swap data?

6. Should the Commission's permanent rules concerning data reporting for transition swaps between counterparties who are not swap dealers or swap participants specify how such counterparties should determine which counterparty will report the swap data? If so, what factors should govern this choice?

7. The Note to the interim final rule advises that counterparties retain, in their existing format, all information and documents relating to the terms of the transition swap, including but not limited to certain data elements. What documents and data typically are kept by swap market participants to memorialize their transactions? In what format? How long are such records currently maintained by market participants?

8. What additional records should be kept, if any, and what burdens or costs would the retention of such information entail?

In addition to the specific requests for comment above, the Commission welcomes comment on all aspects of the interim final rule and invites interested persons to submit written presentations of views, data and arguments on all aspects of the interim final rule.

IV. Related Matters

A. Administrative Procedure Act

The Administrative Procedure Act [14] ("APA") generally requires an agency to publish notice of a proposed rulemaking in the **Federal Register**.[15] This requirement does not apply, however, when the agency "for good cause finds * * * that notice and public procedure are impracticable, unnecessary, or contrary to the public interest." [16] Moreover, while the APA requires generally that an agency publish an adopted rule in the **Federal Register** 30 days before it becomes effective, this requirement does not apply if the agency finds good cause to make the rule effective sooner.[17]

By way of background, Section 729 of the Dodd-Frank Act amended the CEA to add new Section 4r, which in turn requires the Commission to adopt, within 90 days of enactment of the Dodd-Frank Act, an interim final rule providing for the reporting of swaps entered into before the date of enactment of the Dodd-Frank Act the terms of which had not expired as of that date. In response to that mandate, the Commission adopted in new part 44 of the CEA an interim final rule whose purpose was to establish reporting requirements for pre-enactment unexpired swaps and to serve as notice to potential reporting entities of a subsequent requirement to report certain data [18] associated with such swaps. This interim rule provides notice to counterparties to preserve data associated with transition swaps until the Commission issues permanent reporting and recordkeeping rules for all swaps pursuant to CEA Section 2(h)(5).[19]

The Commission is mindful that the Dodd-Frank Act did not mandate an interim final rule relating to transition swaps (those entered into after the date of enactment of the Act and prior to its effective date), although such swaps will in the future be subject to a permanent reporting requirement

[14] 5 U.S.C. 553.

[15] 5 U.S.C. 553(b).

[16] *Id.*

[17] 5 U.S.C. 553(d).

[18] 75 FR 63080 (Oct. 14, 2010).

[19] *Id.* at 63084.

pursuant to new Section 2(h)(5)(B) of the CEA. The Commission believes that these circumstances similarly warrant notice to potential counterparties of a present obligation to retain data relating to such swaps until the Commission issues permanent rules pursuant to Section 2(h)(5)(B). Moreover, the Commission believes that issuance of such a rule as an interim final rule serves the public interest. The availability of this data will facilitate the Commission's ability to understand and evaluate the current market for swaps and may inform its analysis of other required rulemaking under the Dodd-Frank Act; any delay in adopting such rules likely will result in a substantial loss of significant swap data. Accordingly, the Commission believes that good cause exists under 5 U.S.C. 553(b) and (d) because delay in clarifying the potential scope of Section 2(h)(5)'s reporting and record preservation obligations likely will result in a substantial loss of material data relating transition swaps that would assist the Commission in performing its oversight and analytic functions under the CEA.

B. Paperwork Reduction Act

The Paperwork Reduction Act ("PRA") provides 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 from the Office of Management and Budget ("OMB").[20] OMB has not yet assigned a control number to the new collection. As described below, the Interim Final Rule will result in new collection of information requirements within the meaning of the PRA.

1. Reporting Requirements

The Commission has determined that this interim final rulemaking will not impose on swap counterparties any new reporting requirements that would be collections of information requiring the approval of the Office of Management and Budget ("OMB") under the Paperwork Reduction Act ("PRA").[21] The Commission intends to propose permanent reporting requirements associated with Section 723 of the Dodd-Frank Act, at which time the Commission will issue a notice of proposed rulemaking, seek comments on the proposed reporting requirements, and seek OMB approval for the collections of information as provided by 5 CFR 1320.8 and 1320.11.

2. Recordkeeping Requirements

In order to comply with the reporting requirements contained in § 44.03, and in anticipation of permanent recordkeeping and reporting requirements to be adopted by the Commission pursuant to Section 2(h)(5)(B) of the CEA, each potential counterparty to a transition swap that may be required to report such transaction should retain information relating to the terms of the swap transaction. The Commission believes that this recordkeeping element, while not explicit, is considered to be a collection of information within the meaning of the PRA. The Commission therefore is submitting this proposal to the Office of Management and Budget (OMB) for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title for this collection of information is "Regulation 44.03—Interim Final Rule for Reporting Certain Post-Enactment Swap Transactions. OMB control number 3038–NEW."

The Commission will, by separate action, publish in the **Federal Register** a notice and request for comment on the paperwork burden associated with the recordkeeping element of this interim final rule in accordance with 5 CFR 1320.8. If approved, this new collection of information will be mandatory.

C. Cost-Benefit Analysis

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its action before issuing a new regulation or order under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of its action or to determine whether the benefits of the action outweigh its costs. Rather, Section 15(a) requires the Commission simply to "consider the costs and benefits" of the subject rule or order. Section 15(a) further specifies that the costs and benefits of Commission regulations shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of the market for listed derivatives; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may, in its discretion, determine that notwithstanding its costs, a particular regulation is necessary or appropriate to protect the public interest or to effectuate any of the provisions or accomplish any of the purposes of the CEA.

Title VII of the Dodd-Frank Act requires the Commission to undertake a number of rulemakings to implement the regulatory framework for swaps dictated by that Act, including the reporting of swap transactions. This interim final rule implements the Dodd-Frank Act by providing clarity and guidance with respect to the reporting of transition swaps by (i) establishing that transition swaps will be subject to Section 2(h)(5)(B)'s reporting requirements and to Commission regulations to be promulgated thereunder; and (ii) advising potential counterparties to such transition swaps that implicit in this reporting requirement is the present obligation to retain data for reporting at a time to be determined by rules promulgated under Section 2(h)(5)(B). This interim final rule will enable the Commission to obtain data on transition swaps and will also ensure the preservation of such data until permanent recordkeeping and reporting rules are issued by the Commission. The availability of data relating to transition swaps will enable the Commission to gain a better understanding of the swap market—including the size and scope of that market. This understanding ultimately will lead to a more robust and transparent environment for the swaps market. Further, the Commission expects this rule to make available information that could inform the Commission's decision-making with respect to the rules it is required to implement under the Dodd-Frank Act.

The Note to Interim § 44.03(a)(1) and (2) addresses the retention of records relating to transition swaps. Although there are recordkeeping costs associated with retention of existing swap transaction information, the Commission has crafted the Interim Final Rule to be efficient in terms of these costs. The Interim Rule does not require market participants to modify data for retention purposes, and the information that is to be reported should be information that is already kept by swap counterparties in their normal course of business—and it may be reported in the format in which it is kept. Moreover, counterparties must report the time of execution only to the extent such information is available.

The recordkeeping and reporting rules that the Commission is required to adopt under new CEA Section 2(h)(5)(B) will apply to transition swaps. Accordingly, in adopting this Interim Rule the Commission has sought to limit the burden on market participants by

[20] 44 U.S.C. 3501 *et.seq.*

[21] 44 U.S.C. 3501 *et seq.*

not imposing substantial or potentially conflicting reporting requirements.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.,* requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities. The term "rule" under the RFA is defined as "any rule for which the agency publishes a general notice of proposed rulemaking pursuant to Section 553(b) of this title, or any other law * * *."[22] However, a general notice of proposed rulemaking under Section 553(b) does not apply "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor) in the rules [issued] that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest."[23] As noted above, the Commission believes that good cause exists under 5 U.S.C. 553(b) because delay in clarifying the scope of 2(h)(5)'s reporting and record preservation obligations will likely result in a substantial loss of material data relating to post-enactment pre-effective swaps that would assist the Commission in performing its oversight functions under the CEA.

List of Subjects in 17 CFR Part 44

Swap markets, Counterparties, Reporting and Recordkeeping requirements.

■ In consideration of the foregoing, and pursuant to the authority in the Commodity Exchange Act, as amended, and in particular Sections 2(h)(5), 4r(a) and 12a(5), the Commission hereby proposes to amend Chapter 1 of Title 17 of the Code of Federal Regulations by amending part 44 as follows:

PART 44—INTERIM FINAL RULE FOR PRE–ENACTMENT SWAP TRANSACTIONS

Authority and Issuance

■ 1. The authority citation for part 44 shall continue to read as follows:

Authority: 7 U.S.C. 2(h)(5), 4r and 12a(5), as amended by Title VII of the Wall Street Reform and Consumer Protection Act (Dodd-Frank Act of 2010), Pub. L. 111–203, 124 Stat. 1376 (2010).

■ 2. Section 44.00 is amended by redesignating paragraphs (c) through (e) as paragraphs (d) through (f) and by revising paragraph (c) to read as follows:

§ 44.00 Definition of terms used in Part 44 of this chapter.

* * * * *

(c) Transition swap means any swap entered into after the enactment of the Dodd-Frank Act of 2010 (July 21, 2010) and prior to the effective date of the swap data reporting and recordkeeping rule implemented under Section 2(h)(5)(B) of the CEA.

* * * * *

■ 3. Section 44.03 is added to read as follows:

§ 44.03 Reporting transition swaps to a swap data repository or to the Commission.

(a) A counterparty to a post-enactment pre-effective swap transaction shall:

(1) As required by the reporting rules required to be adopted pursuant to Section 2(h)(5)(B) of the Commodity Exchange Act, report data related to a transition swap to a registered swap data repository or the Commission by the compliance date established in such reporting rules or within 60 days after an appropriate swap data repository becomes registered with the Commission and commences operations to receive and maintain data related to such swap, whichever occurs first, the following information with respect to the swap transaction:

(i) A copy of the transaction confirmation, in electronic form if available, or in written form if there is no electronic copy;

(ii) The time, if available, that the transaction was executed; and

(2) Report to the Commission on request, in the form and manner prescribed by the Commission, any information relating to the swap transaction.

Note to Paragraphs (a). In order to comply with the reporting requirements contained in paragraphs (a)(1) and (a)(2) of this section, each counterparty to a post-enactment pre-effective swap transaction that may be required to report such transaction should retain, in its existing format, all information and documents, to the extent and in such form as they exist on the effective date of this section, relating to: the terms of a swap transaction, including but not limited to any information necessary to identify and value the transaction (*e.g.,* underlying asset and tenor); the date and time of execution of the transaction; volume (*e.g.,* notional or principal amount); information relevant to the price and payment for the transaction until the swap is terminated, reaches maturity or is novated; whether the transaction was accepted for clearing and, if so, the identity of such clearing organization; any modification(s) to the terms of the transaction; and the final confirmation of the transaction.

(b) Reporting party. The counterparties to a swap transaction shall report the information required under paragraph (a) of this section as follows:

(1) Where only one counterparty to a swap transaction is a swap dealer or a major swap participant, the swap dealer or major swap participant shall report the transaction;

(2) Where one counterparty to a swap transaction is a swap dealer and the other counterparty is a major swap participant, the swap dealer shall report the transaction; and

(3) Where neither counterparty to a swap transaction is a swap dealer or a major swap participant, the counterparties to the transaction shall select the counterparty who will report the transaction.

Issued in Washington, DC, on December 9, 2010, by the Commission.

David A. Stawick,

Secretary of the Commission.

Appendices to Interim Final Rule for Reporting Certain Post-Enactment Swap Transactions—Commission Voting Summary and Statements of Commissioners

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendix 1—Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Dunn, Sommers, Chilton and O'Malia voted in the affirmative; no Commissioner voted in the negative.

Appendix 2—Statement of Chairman Gary Gensler

I support the interim final rulemaking regarding the reporting timetable for swaps entered into after the date of enactment of the Dodd-Frank Act but prior to the effective date of swap data reporting rules, or "transition" swaps. The interim final rule is intended to ensure that data and information related those transition swaps will be preserved until reporting to swap data repositories or regulators can occur. The rule is indeed to prevent a substantial loss of data on transition swaps and to assist the Commission in performing its oversight functions under the Commodity Exchange Act.

[FR Doc. 2010–31579 Filed 12–16–10; 8:45 am]

BILLING CODE 6351–01–P

[22] 5 U.S.C. 601(2).

[23] 5 U.S.C. 553(b).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9511]

RIN 1545–BI44

Definition of Omission From Gross Income

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations defining an omission from gross income for purposes of the six-year minimum period for assessment of tax attributable to partnership items and the six-year period for assessing tax. The regulations resolve a continuing issue as to whether an overstatement of basis in a sold asset results in an omission from gross income. The regulations will affect any taxpayer who overstates basis in a sold asset creating an omission from gross income exceeding twenty-five percent of the income stated in the return. Additionally, provisions related to estate, gift and excise tax are reinstated from the prior final regulation.

DATES: *Effective Date:* These regulations are effective on December 14, 2010.

Applicability Date: The regulations relating to income taxes apply to taxable years with respect to which the period for assessing tax was open on or after September 24, 2009, which is the date that the proposed and temporary regulations to which these regulations relate were filed with the **Federal Register**. For dates of applicability regarding the regulations relating to estate, gift and excise taxes, see § 301.6501(e)–1(e)(2).

FOR FURTHER INFORMATION CONTACT: William A. Heard, III at (202) 622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Procedure and Administration Regulations (26 CFR part 301) under section 6229(c)(2) and section 6501(e) of the Internal Revenue Code. On September 28, 2009, temporary regulations (TD 9466) regarding the definition of an omission from gross income for purposes of the six-year period for assessment were published in the **Federal Register** (74 FR 49321). A notice of proposed rulemaking (REG–108045–08) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (74 FR 49354). One written comment was received from the public in response to the notice of proposed rulemaking. No public hearing was requested or held. After consideration of the comment, the proposed regulations are adopted as amended by this Treasury decision, and the corresponding temporary regulations are removed.

Summary of Comments and Explanation of Revisions

These final regulations amend the Procedure and Administration Regulations (26 CFR part 301) relating to sections 6229(c)(2) and 6501(e). In addition to the revisions set forth in the proposed regulations cross-referencing the temporary regulations, the final regulations reflect structural amendments to sections 6229(c)(2) and 6501(e) in the Hiring Incentives To Restore Employment Act (Pub. L. 111–147, 124 Stat. 112) to accommodate an additional threshold triggering the six-year period of limitations for omissions from gross income attributable to assets subject to certain reporting requirements, which is not otherwise addressed in these final regulations. The final regulations also clarify the effective/applicability date provisions in the section 6229(c)(2) and section 6501(e) regulations to eliminate a perceived ambiguity in the temporary regulations, that was brought to light by the Tax Court in *Intermountain Insurance Service of Vail* v. *Commissioner,* 134 T.C. No. 11 (2010), appeal docketed, No. 10–1204 (DC Cir.).

As explained in the preamble to the temporary regulations, the United States Courts of Appeals for the Ninth Circuit and the Federal Circuit construed section 6501(e)(1) in cases outside the trade-or-business context contrary to the interpretation provided in these final regulations, holding that an overstatement of basis does not constitute an "omission." *Bakersfield Energy Partners* v. *Commissioner,* 568 F.3d 767 (9th Cir. 2009); *Salman Ranch Ltd* v. *United States,* 573 F.3d 1362 (Fed. Cir. 2009). Those courts relied on the Supreme Court's opinion in *Colony* v. *Commissioner,* 357 U.S. 28 (1958), which dealt with an omission from gross income in the context of a trade or business under the predecessor of section 6501(e). The Treasury Department and the Internal Revenue Service disagree with those courts that the Supreme Court's reading of the predecessor to section 6501(e) in *Colony* applies to sections 6501(e)(1) and 6229(c)(2), for the reasons set forth in the preamble to the temporary regulations.

After publication of the temporary regulations, the Tax Court declared the temporary regulations invalid, adhering to its prior opinion in *Bakersfield Energy Partners* v. *Commissioner,* 128 T.C. 207 (2007). *Intermountain Insurance Service of Vail* v. *Commissioner,* 134 T.C. No. 11 (2010), appeal docketed, No. 10–1204 (DC Cir.). In part, the Tax Court in *Intermountain* concluded that the Supreme Court's opinion in *Colony* was the only permissible interpretation of the statutory language in question ("omits from gross income"). The Treasury Department and the Internal Revenue Service disagree with *Intermountain.* The Supreme Court stated in *Colony* that the statutory phrase "omits from gross income" is ambiguous, meaning that it is susceptible to more than one reasonable interpretation. The interpretation adopted by the Supreme Court in *Colony* represented that court's interpretation of the phrase but not the only permissible interpretation of it. Under the authority of *Nat'l Cable & Telecomms. Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 982–83 (2005), the Treasury Department and the Internal Revenue Service are permitted to adopt another reasonable interpretation of "omits from gross income," particularly as it is used in a new statutory setting. *See Hernandez-Carrera* v. *Carlson,* 547 F.3d 1237 (10th Cir. 2008) (agencies are free to promulgate a reasonable construction of an ambiguous statute that contradicts any court's interpretation, even the Supreme Court's). The interpretation of the phrase "omits from gross income" as used in section 6501(e)(1) is currently pending before several United States Courts of Appeals.

Because these regulations are a clarification of the period of limitations provided in sections 6501(e)(1) and 6229(c)(2) and are consistent with the Secretary's application of those provisions both with respect to a trade or business (that is, gross income means gross receipts), as well as outside of the trade-or-business context (that is, the section 61 definition of gross income applies), they are applicable to all cases with respect to which the period for assessing tax was open on or after September 24, 2009, the date the temporary regulations were filed with the **Federal Register**.

1. Retroactivity

The sole written comment received in response to the notice of proposed rulemaking by cross-reference to the temporary regulations questioned the application of the regulations, characterizing them as retroactive, and

recommended that they be applied only prospectively. The commentator stated that the temporary regulations apply with retroactive effect "in that taxable years which had closed are now reopened." The Treasury Department and the Internal Revenue Service disagree with the characterization of the regulations as retroactive. The final regulations have been clarified to emphasize that they only apply to open tax years, and do not reopen closed tax years as suggested by the commentator.

The commentator also relied on the 1996 amendments to section 7805(b) to argue that retroactively effective Treasury regulations are impermissible, with limited exceptions. The 1996 amendments to section 7805(b), however, do not apply to the regulations under sections 6229(c)(2) and 6501(e)(1). That is because those amendments are only effective for regulations that relate to statutory provisions enacted on or after July 30, 1996. Taxpayer Bill of Rights 2 (Pub. L. 104–168, section 1101(a), 110 Stat. 1469). Since section 6229(c)(2) was enacted in 1982 and section 6501(e)(1)(A) was enacted in 1954 (and redesignated as subparagraph (B) as part of the HIRE Act in 2010), the 1996 amendments to section 7805(b) are inapplicable to the regulations. Prior to the 1996 amendments, section 7805(b) provided, "The Secretary may prescribe the extent, if any, to which any ruling or regulation, relating to the internal revenue laws, shall be applied without retroactive effect." Although these regulations are not retroactive, a retroactive regulation interpreting sections 6229(c)(2) and 6501(e)(1) is expressly permitted by the applicable version of section 7805(b), which presumes regulations to apply retroactively unless otherwise provided.

2. Intermountain

The Tax Court's majority in *Intermountain* erroneously interpreted the applicability provisions of the temporary and proposed regulations, which provided that the regulations applied to taxable years with respect to which "the applicable period for assessing tax did not expire before September 24, 2009." The Internal Revenue Service will continue to adhere to the position that "the applicable period" of limitations is not the "general" three-year limitations period. The three-year limitations period is one of several limitations periods in the Internal Revenue Code, including the six-year limitations period under sections 6229(c)(2) and 6501(e)(1). The expiration of the three-year period does not "close" a taxable year if a longer period applies. Consistent with that position, the final regulations apply to taxable years with respect to which the six-year period for assessing tax under section 6229(c)(2) or 6501(e)(1) was open on or after September 24, 2009. This includes, but is not limited to, all taxable years (1) for which six years had not elapsed from the later of the date that a tax return was due or actually filed, (2) that are the subject of any case pending before any court of competent jurisdiction (including the United States Tax Court and Court of Federal Claims) in which a decision had not become final (within the meaning of section 7481) or (3) with respect to which the liability at issue had not become fixed pursuant to a closing agreement entered into under section 7121. The Internal Revenue Service's position is consistent with the effective/applicability date provisions of these final regulations.

3. Other Revisions

The final regulations are amended to reinstate estate, gift and excise tax provisions that were inadvertently removed by the temporary regulations.

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the NPRM cross-referencing the temporary regulations preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is William A. Heard III of the Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 301

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

Adoption of Amendments to the Regulations

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

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 301.6229(c)(2)–1 is also issued under 26 U.S.C. 6230(k). * * *

■ **Par. 2.** Section 301.6229(c)(2)–1 is added to read as follows:

§ 301.6229(c)(2)–1 Substantial omission of income.

(a) *Partnership return*—(1) *General rule.* (i) If any partnership omits from the gross income stated in its return an amount properly includible therein and that amount is described in clause (i) of section 6501(e)(1)(A), subsection (a) of section 6229 shall be applied by substituting "6 years" for "3 years."

(ii) For purposes of paragraph (a)(1)(i) of this section, the term *gross income,* as it relates to a trade or business, means the total of the amounts received or accrued from the sale of goods or services, to the extent required to be shown on the return, without reduction for the cost of those goods or services.

(iii) For purposes of paragraph (a)(1)(i) of this section, the term *gross income,* as it relates to any income other than from the sale of goods or services in a trade or business, has the same meaning as provided under section 61(a), and includes the total of the amounts received or accrued, to the extent required to be shown on the return. In the case of amounts received or accrued that relate to the disposition of property, and except as provided in paragraph (a)(1)(ii) of this section, gross income means the excess of the amount realized from the disposition of the property over the unrecovered cost or other basis of the property. Consequently, except as provided in paragraph (a)(1)(ii) of this section, an understated amount of gross income resulting from an overstatement of unrecovered cost or other basis constitutes an omission from gross income for purposes of section 6229(c)(2).

(iv) An amount shall not be considered as omitted from gross income if information sufficient to apprise the Commissioner of the nature and amount of the item is disclosed in the return, including any schedule or statement attached to the return.

(b) *Effective/applicability date.* This section applies to taxable years with respect to which the period for assessing tax was open on or after September 24, 2009.

§ 301.6229(c)(2)–1T [Removed]

■ **Par. 3.** Section 6229(c)(2)–1T is removed.

■ **Par. 4.** Section 301.6501(e)–1 is added to read as follows:

§ 301.6501(e)–1 Omission from return.

(a) *Income taxes*—(1) *General rule.* (i) If a taxpayer omits from the gross income stated in the return of a tax imposed by subtitle A of the Internal Revenue Code an amount properly includible therein that is in excess of 25 percent of the gross income so stated, the tax may be assessed, or a proceeding in court for the collection of that tax may be begun without assessment, at any time within 6 years after the return was filed.

(ii) For purposes of paragraph (a)(1)(i) of this section, the term *gross income,* as it relates to a trade or business, means the total of the amounts received or accrued from the sale of goods or services, to the extent required to be shown on the return, without reduction for the cost of those goods or services.

(iii) For purposes of paragraph (a)(1)(i) of this section, the term *gross income,* as it relates to any income other than from the sale of goods or services in a trade or business, has the same meaning as provided under section 61(a), and includes the total of the amounts received or accrued, to the extent required to be shown on the return. In the case of amounts received or accrued that relate to the disposition of property, and except as provided in paragraph (a)(1)(ii) of this section, *gross income* means the excess of the amount realized from the disposition of the property over the unrecovered cost or other basis of the property. Consequently, except as provided in paragraph (a)(1)(ii) of this section, an understated amount of gross income resulting from an overstatement of unrecovered cost or other basis constitutes an omission from gross income for purposes of section 6501(e)(1)(A)(i).

(iv) An amount shall not be considered as omitted from gross income if information sufficient to apprise the Commissioner of the nature and amount of the item is disclosed in the return, including any schedule or statement attached to the return.

(2) [Reserved]

(b) *Estate and gift taxes*—(1) If the taxpayer omits from the gross estate as stated in the estate tax return, or from the total amount of the gifts made during the period for which the gift tax return was filed (see § 25.6019–1 of this chapter) as stated in the gift tax return, an item or items properly includible therein the amount of which is in excess of 25 percent of the gross estate as stated in the estate tax return, or 25 percent of the total amount of the gifts as stated in the gift tax return, the tax may be assessed, or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the estate tax or gift tax return, as applicable, was filed.

(2) For purposes of this paragraph (b), an item disclosed in the return or in any schedule or statement attached to the return in a manner sufficient to apprise the Commissioner of the nature and amount thereof shall not be taken into account in determining items omitted from the gross estate or total gifts, as the case may be. Further, there shall not be taken into account in computing the 25 percent omission from the gross estate stated in the estate tax return or from the total gifts stated in the gift tax return, any increases in the valuation of assets disclosed on the return.

(c) *Excise taxes*—(1) *In general.* If the taxpayer omits from a return of a tax imposed under a provision of subtitle D an amount properly includible thereon, which amount is in excess of 25 percent of the amount of tax reported thereon, the tax may be assessed or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return was filed. For special rules relating to chapter 41, 42, 43 and 44 taxes, see paragraphs (c)(2), (3), (4), and (5) of this section.

(2) *Chapter 41 excise taxes.* If an organization discloses an expenditure in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the Commissioner of the existence and nature of the expenditure, the three-year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax under chapter 41 arising from the expenditure. If a taxpayer fails to so disclose an expenditure in its return (or in a schedule or statement attached thereto), the tax arising from the expenditure not so disclosed may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment, at any time within 6 years after the return was filed.

(3) *Chapter 42 excise taxes.* (i) If a private foundation omits from its annual return with respect to the tax imposed by section 4940 an amount of tax properly includible therein that is in excess of 25 percent of the amount of tax imposed by section 4940 that is reported on the return, the tax may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment, at any time within 6 years after the return was filed. If a private foundation discloses in its return (or in a schedule or statement attached thereto) the nature, source, and amount of any income giving rise to any omitted tax, the tax arising from the income shall be counted as reported on the return in computing whether the foundation has omitted more than 25 percent of the tax reported on its return.

(ii) If a private foundation, trust, or other organization (as the case may be) discloses an item in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the Commissioner of the existence and nature of the item, the three-year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax imposed under sections 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4951(a), 4952(a), 4953 and 4958, arising from any transaction disclosed by the item. If a private foundation, trust, or other organization (as the case may be) fails to so disclose an item in its return (or in a schedule or statement attached thereto), the tax arising from any transaction not so disclosed may be assessed or a proceeding in court for the collection of the tax may be begun without assessment, at any time within 6 years after the return was filed.

(4) *Chapter 43 excise taxes.* If a taxpayer discloses an item in its return (or in a schedule or statement attached thereto) in a manner sufficient to apprise the Commissioner of the existence and nature of the item, the three-year limitation on assessment and collection described in section 6501(a) shall apply with respect to any tax imposed under sections 4971(a), 4972, 4973, 4974 and 4975(a), arising from any transaction disclosed by the item. If a taxpayer fails to so disclose an item in its return (or in a schedule or statement attached thereto), the tax arising from any transaction not so disclosed may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment, at any time within 6 years after the return was filed. The applicable return for the tax under sections 4971, 4972, 4973 and 4974, is the return designated by the Commissioner for reporting the respective tax. The applicable return for the tax under section 4975 is the return filed by the plan used to report the act giving rise to the tax.

(5) *Chapter 44 excise taxes.* If a real estate investment trust omits from its annual return with respect to the tax imposed by section 4981 an amount of tax properly includible therein that is in excess of 25 percent of the amount of tax imposed by section 4981 that is reported on the return, the tax may be assessed, or a proceeding in court for

the collection of the tax may be begun without assessment, at any time within 6 years after the return was filed. If a real estate investment trust discloses in its return (or in a schedule or statement attached thereto) the nature, source, and amount of any income giving rise to any omitted tax, the tax arising from the income shall be counted as reported on the return in computing whether the trust has omitted more than 25 percent of the tax reported on its return.

(d) *Exception.* The provisions of this section do not limit the application of section 6501(c).

(e) *Effective/applicability date*—(1) *Income taxes.* Paragraph (a) of this section applies to taxable years with respect to which the period for assessing tax was open on or after September 24, 2009.

(2) *Estate, gift and excise taxes.* Paragraphs (b) through (d) of this section continue to apply as they did prior to being removed inadvertently on September 28, 2009. Specifically, paragraph (b) of this section applies to returns filed on or after May 2, 1956, except for the amendment to paragraph (b)(1) of this section that applies to returns filed on or after December 29, 1972. Paragraph (c) of this section applies to returns filed on or after October 7, 1982, except for the amendment to paragraph (c)(3)(ii) of this section that applies to returns filed on or after January 10, 2001. Paragraph (d) of this section applies to returns filed on or after May 2, 1956.

§ 301.6501(e)–1T [Removed]

■ **Par. 5.** Section 301.6501(e)–1T is removed.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: December 13, 2010.

Michael Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2010–31747 Filed 12–14–10; 4:15 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 357 and 363

Regulations Governing Book-Entry Treasury Bonds, Notes and Bills Held in Legacy Treasury Direct; Regulations Governing Securities Held in Treasury Direct

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

ACTION: Final rule.

SUMMARY: Treasury's retail electronic systems for holding Treasury marketable securities began with the goal of permitting investors to buy and hold marketable Treasury securities until maturity. As a cost-saving measure, Treasury is returning the Legacy Treasury Direct and TreasuryDirect systems to this initial vision by eliminating the SellDirect program that permits investors to sell their marketable securities on the open market through a Federal Reserve Bank. Investors will now need to transfer a marketable security to a broker or financial institution in order to effect a sale of the security prior to maturity.

DATES: *Effective Date:* December 17, 2010.

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

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

Susan Sharp, Attorney-Adviser; Ann Fowler, Attorney-Adviser; Dean Adams, Assistant Chief Counsel; Edward Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480–8692 or *susan.sharp@bpd.treas.gov.*

SUPPLEMENTARY INFORMATION: Treasury's retail electronic systems for holding Treasury marketable securities began with the goal of permitting investors to buy and hold marketable Treasury securities until maturity. In 1997 Treasury offered Legacy Treasury Direct investors the ability, for a fee, to sell their marketable securities on the secondary market, thus bypassing the need to transfer their securities to a broker or financial institution for sale. When Treasury began offering marketable securities in TreasuryDirect, its electronic, online system, the SellDirect service was offered to investors in that system as well. Because SellDirect was inconsistent with the initial vision of the marketable retail program, Treasury specifically reserved the right to end the program at any time.

SellDirect volumes are low because most investors using the Legacy Treasury Direct and TreasuryDirect systems hold their securities to maturity. From Fiscal Year 2005 to Fiscal Year 2009, an annual average of 13,000 securities worth approximately $800 million were sold through SellDirect, less than 1.5 percent of holdings. Alternative services by brokers or financial institutions are available to conduct sales. As a cost-saving measure, Treasury is returning the Legacy Treasury Direct and TreasuryDirect systems to their initial vision of buy and hold to maturity by eliminating SellDirect. Investors will now need to transfer a marketable security to a broker or financial institution in order to effect a sale of the security before maturity.

Procedural Requirements

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

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

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

Paperwork Reduction Act (PRA). There is no new collection of information contained in this final rule that would be subject to the PRA, 44 U.S.C. 3501 *et seq.* Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The Office of Management and Budget already has approved all collections of information in 31 CFR Part 357 (OMB No. 1535–0068) and Part 363 (OMB No. 1535–0138).

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

List of Subjects

31 CFR Part 357

Banks, Banking, Bonds, Electronic funds transfers, Government securities, Reporting and recordkeeping requirements.

31 CFR Part 363

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

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

PART 357—REGULATIONS GOVERNING BOOK–ENTRY TREASURY BONDS, NOTES AND BILLS HELD IN TREASURY/RESERVE AUTOMATED DEBT ENTRY SYSTEM (TRADES) AND LEGACY TREASURY DIRECT

■ 1. The authority citation for part 357 continues to read as follows:

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

■ 2. Revise the heading for Part 357 to read as set forth above.

■ 3. Amend § 357.22 by removing paragraph (b) and redesignating paragraphs (c), (d), (e), and (f) as paragraphs (b), (c), (d), and (e).

PART 363—REGULATIONS GOVERNING SECURITIES HELD IN TREASURYDIRECT

■ 4. The authority citation for part 363 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3102, *et seq.;* 31 U.S.C. 3121, *et seq.*

§ 363.6 [Amended]

■ 5. Remove the definition of "Sell Direct" from § 363.6.

■ 6. Amend § 363.10 by adding paragraph (c) to read as follows:

§ 363.10 What is a TreasuryDirect account?

* * * * *

(c) *Closing an account.* If a TreasuryDirect primary account and all associated linked accounts have had no holdings and no activity for a period of two years, we reserve the right to close the account, along with all linked accounts.

§ 362 [Amended]

■ 7. Amend § 363.22 by removing the phrase "including a transfer for a Sell Direct transaction," from the second sentence in paragraph (a)(3)(ii).

§ 363.27 [Amended]

■ 8. Amend § 363.27 by removing the phrase ", and may request a Sell Direct transaction" from the second sentence in paragraph (e)(4).

§ 363.209 [Removed and reserved]

■ 9. Remove and reserve § 363.209.

§ 363.210 [Amended]

■ 10. Amend § 363.210 by removing the phrase "initiate a SellDirect transaction," from the second sentence and removing the fourth and fifth sentences.

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2010–31489 Filed 12–16–10; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN37

Payment for Inpatient and Outpatient Health Care Professional Services at Non-Departmental Facilities and Other Medical Charges Associated With Non-VA Outpatient Care

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document affirms as final, with changes, a proposed rule that updates the Department of Veterans Affairs (VA) medical regulations concerning the payment methodology used to calculate VA payments for inpatient and outpatient health care professional services and other medical services associated with non-VA outpatient care. The rule has been designed to ensure that it will not have adverse effects on access to care.

DATES: This final rule is effective February 15, 2011.

FOR FURTHER INFORMATION CONTACT: Holley Niethammer, Supervisory Policy Specialist, National Fee Program Office, Department of Veterans Affairs, 3773 Cherry Creek North Dr., Suite 450, Denver, CO 80209, telephone (303) 370–5062. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1703(a), "[w]hen [VA] facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Secretary, as authorized in [38 U.S.C. 1710], may contract with non-[VA] facilities in order to furnish" certain hospital care and medical services to veterans who qualify under 38 U.S.C. 1703. VA implemented this authority in 38 CFR 17.52. Also, under 38 U.S.C. 1728, VA may authorize payment for emergency care in a non-VA facility in limited situations, primarily where the care is needed for the treatment of a service-connected disability or related condition. Under that authority, as implemented in 38 CFR 17.120, VA reimburses either the veteran who made payments for hospital care or medical services, the person or organization making such expenditure on behalf of such veteran, or the hospital or other health facility furnishing the care or services if such care or services were provided in a medical emergency and VA or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable.

Payment methodology for health care professional services associated with outpatient and inpatient care that are payable under either 38 U.S.C. 1703 or 1728 is currently set forth in 38 CFR 17.56.

Current § 17.56(a) adopted the Medicare Participating Physician Fee Schedule for the payment of professional services. For services not covered by the Medicare Participating Physician Fee Schedule, VA pays the lesser of the actual amount billed or the amount calculated using the 75th percentile methodology set forth in current § 17.56(c) (or the usual and customary rate if there are fewer than 8 treatment occurrences for a procedure during the previous fiscal year). We cannot predict whether there will be 8 treatment occurrences during an upcoming fiscal year, or the precise charges of such treatment occurrences, because these depend upon the billing practices of the non-VA facilities involved. In the majority of these cases, the non-VA facilities' charges are far greater than the allowable Medicare charges for the same treatment. As a result, VA's expenditures can be unpredictable and, in some cases, can greatly exceed the costs VA would incur using the Medicare payment systems or fee schedules.

In a proposed rule published on February 18, 2010 (75 FR 7218), we proposed to amend § 17.56 to apply Medicare payment methodologies to all non-VA inpatient and outpatient health care professional services and other medical charges associated with non-VA outpatient care. We explained that such charges would include ancillary and facility costs such as those that are reimbursed using the following Medicare payment systems or fee schedules: Ambulatory Surgical Center Payment, Clinical Laboratory Fee Schedule, Home Health Prospective Payment System (PPS), Hospice, Hospital Outpatient PPS, and End Stage Renal Disease (ESRD) composite rate payment method (NOTE: Beginning January 1, 2011, Medicare will pay for

ESRD services based on the prospective bundled payment system, not the composite rate. We have revised this final rule to correctly utilize the prospective bundled payment system). We also proposed to revise the regulation to clarify how payments will be computed for inpatient and outpatient health care professional services at non-VA facilities and other medical charges associated with non-VA outpatient care. We concluded that using the Medicare payment systems and fee schedules will clearly help VA contain costs.

We received 18 comments on the proposed rule. All of the comments oppose at least one portion of the proposed rule. The proposed regulation governs multiple health service areas including but not limited to outpatient hospitals, ambulatory surgery centers, home health, ESRD, and laboratory services. The majority of comments concerned exclusively dialysis, thus VA's responses to the comments largely address only dialysis. The subject matter of most of the comments can be grouped into several categories, and we have organized our discussion of the comments accordingly.

We received no comments regarding the correction of the typographical error in 38 CFR 17.52(a). Prior versions of this regulation (codified at 38 CFR 17.50b(a)) included cross-references to 38 CFR 17.50c through f. Sections 17.50c, 17.50d and 17.50f have subsequently been recodified as 38 CFR 17.53, 17.54 and 17.55, respectively. 61 FR 21964 (1996). Additionally, since the most recent revision to this regulation, § 17.56 was added to the regulatory sequence. Therefore, we remove the reference in § 17.52(a) to "provisions of § 17.53 through f" and replace it with "provisions of §§ 17.53, 17.54, 17.55 and 17.56."

Challenges to VA's Legal Authority To Promulgate This Rule

Several commenters argued that VA lacks authority to establish by regulation rates to serve as default payment amounts in the absence of a negotiated payment amount, or in the context of individual authorizations for care. We disagree, but make clarifying changes to the regulation based on the comments. We will discuss these changes in reference to the comments before addressing our authority, because the clarifications themselves answer some of the comments.

Commenters expressed confusion between the preamble and the rule text regarding whether VA will enter into negotiated agreements if the agreed-upon rates are greater than the Medicare rate. In addition, commenters asked whether VA would be obligated to pay the negotiated amount in all contexts. We have clarified the regulatory text based on these comments. Depending upon agency need or prevailing market conditions, VA may negotiate specific rates with non-VA providers. If and when such contracts are awarded, VA will pay the negotiated contract rate for services within the contract's scope and terms. This negotiated rate could be greater than the Medicare rate.

In addition, nothing in the final rule authorizes VA to breach any contracts, including contracts which contain a negotiated rate. Some commenters expressed such a concern, as well as a concern that the rule would negate the payment terms of existing multi-Veterans Integrate Service Network (VISN) contracts or contracts negotiated pursuant to the Federal Acquisition Regulation (FAR) and the VA Acquisition Regulation (VAAR) for individual VISNs, and thus the rule represents a breach of contract and an unconstitutional taking under *United States* v. *Winstar Corp.,* 518 U.S. 839 (1996). Again, no such alteration to existing VISN or multi-VISN contracts would take place upon promulgation of this regulation. As the clarified hierarchy in the final rule more clearly establishes, contracts entered into pursuant to specific negotiation have precedence over the default rates, including the Medicare rate.

Finally, commenters indicated that the rule was unclear when it attempted to distinguish between a FAR contract and a VAAR contract. We agree that the proposed regulation text was confusing in this respect, and that this confusion may also have contributed to commenters' questions about the continuing authority to specifically negotiate rates with non-VA providers. We have removed the references to the FAR and VAAR because of this confusion. Nevertheless, as discussed below, the FAR and VAAR continue to be relevant to our authority to negotiate specific rates with specific providers, which we will pay under § 17.56(a)(1). We reassure the commenters that this regulation would not override or cancel out any contracts in existence upon promulgation of this final rule. Therefore, no breach of contract or constitutional/unconstitutional taking would occur. The modified regulatory language addresses the comments that expressed confusion about what payment mechanism VA will apply under a given circumstance.

We now address the specific challenges to VA's authority. Several commenters stated that VA does not have specific authority from Congress under 38 U.S.C. 1703 to promulgate this regulation, and therefore VA cannot set reimbursement rates or price controls. We disagree, and do not make any changes to the regulation based on this comment. Section 1703 gives VA the authority to contract with non-VA facilities to provide hospital care and medical services. This contracting authority is not limited to contracts which contain negotiated prices. For example, 38 CFR 17.52, which implements the authority granted by section 1703, allows for individual authorizations when demand is only for infrequent use. As discussed in more detail below, individual authorizations are essentially a price offer to the non-VA provider, who then accepts that offer by performing services for the VA patient. Thus, VA has always interpreted the contracting authority granted in section 1703 to include forms of contracts other than contracts containing negotiated prices. The commenters incorrectly assume that VA must have specific authority in 38 U.S.C. 1703 to include reimbursement rates in a regulation. However, VA has broad authority to issue regulations that are "necessary or appropriate to carry out the laws administered by the Department and are consistent with those laws." 38 U.S.C. 501(a).

Other commenters added that the FAR, VAAR, Competition in Contracting Act, Public Law 98–369, section 2701, and other Federal procurement laws and policies apply to all VA acquisitions made with appropriated funds unless explicitly exempted under 38 U.S.C. 8153, and stated that none of these provisions allow VA to set limitations on cost and require that VA negotiate contract prices. We disagree—none of these general contracting laws prohibits the contracting or payment provisions in the final rule. VA is authorized by the FAR, VAAR, and other Federal procurement laws and policies to enter into contracts to provide care to veterans through private providers. As noted above, our authority to enter contracts for this purpose is in fact specifically stated in 38 U.S.C. 1703 and 1728. These authorities—FAR, VAAR, and 38 U.S.C. 1703 and 1728—have long been the source of our authority to provide individual authorizations for care under 38 CFR 17.52. Moreover, these authorities do not prohibit VA's implementation of the specific contracting authority authorized in section 1703. Indeed, if these broader contracting laws prohibited the contracting arrangements described in the proposed rule, our arrangements

prior to the proposed revisions to § 17.56 would have been void; yet, the comments made no such assertion.

Thus, we have long-standing authority to engage in contracts and individual authorizations with non-VA providers. Inherent in VA's authority to enter into these contracts is our authority to set rate terms and conditions for those contracts. Some of these are specifically negotiated. Others, however, are governed by the specific amount-calculation mechanisms established in current § 17.56. Our proposed rule merely revised those calculation mechanisms, and made them applicable to a broader group of non-VA providers.

When VA offers to send a patient to a non-VA provider under the authority of § 17.56, and the non-VA provider accepts the patient and provides the service, a contract has been formed. In practice, these contract actions are ordered utilizing (1) VA Form 10–7078, Authorization and Invoice for Medical and Hospital Services, (2) VA Form 10–7079, Request for Outpatient Medical Services, or (3) VA Form 10–2570d, Dental Record Authorization and Invoice for Outpatient Service. The final rule merely indicates that the rate of payment for these contracts must conform to the regulation.

Under its acquisition protest authority, the Government Accountability Office (GAO) has found that similar pricing and contract arrangements were not unduly restrictive of competition. In a request for proposal (RFP), VA stated that the Medicare Fee Schedule rate in effect at the time and location of service would apply to prosthetics orders under the contract. As in the case of the proposed rule and this final rule, use of the Medicare pricing in the RFP was in response to a VA Office of Inspector General (OIG) report that found that past acquisitions resulted in inflated and noncompetitive pricing. An orthopedic services provider challenged the use of the Medicare pricing structure in the RFP because those rates allegedly did not provide adequate compensation for the services. The GAO found that VA properly exercised its discretion under the relevant statutory authority, 38 U.S.C. 8123. Section 8123 is very broad and gives VA the authority to "procure" prosthetic appliances and necessary services in whatever manner the Secretary deems proper, without regard to other provisions of law. Although 38 U.S.C. 8123 provides broad procurement authority without regard to other provisions of law, the GAO's holding did not rest solely on this basis. Rather, the GAO explained that the circumstances, particularly VA's broad grant of procurement authority, provided no basis for questioning the RFP's provisions. In particular, the GAO stated that "it is not unduly restrictive of competition for the agency to predesignate pricing in order to protect legitimate government interests." *See* Orthopedic Servs., Inc., B–247695, June 30, 1992, 92–1 CPD ¶ 547.

As mentioned above, a 2006 VA OIG report, No. 05–03037–107, described in the proposed rule, found that establishing payment rates is necessary to ensure consistent, predictable medical costs and control expenditures. In addition, unlike the RFP examined by the GAO, the Medicare prices prescribed by § 17.56(a)(2) are not ceilings per se, but rather the default price that must apply when no other rate has been negotiated. Thus, existing authority actually encourages the development of rates through regulation as a matter of consistent government practice and protection of the public fisc.

Notwithstanding our disagreement with the commenters that we lack authority to set rates via regulation, including for the individual authorizations that we have been providing before we proposed to revise § 17.56, the comments generally reflect that the proposed rule language was confusing. It did not sufficiently distinguish negotiated rates from the default rates that generally apply to individual authorizations. It also seemed to state that our authority for individual authorizations was something other than FAR/VAAR. As noted above, we have revised the final rule to eliminate references to the FAR and VAAR and to otherwise clarify the hierarchical payment structure that we stated in the proposed rule. These changes are not departures from our intent in the proposed rule text and we believe that they will eliminate the confusion and clarify the meaning and effect of the final rule.

Some commenters argued that Congress could not have intended to grant VA the authority to use Medicare rates under 38 U.S.C. 1703 because Congress explicitly authorized VA to set maximum payable rates in emergency situations under section 1725, but did not provide the same authorization in section 1703. In other words, the commenters state that the specific authority in section 1725 eliminates the possibility of implicit authority in section 1703.

There are two problems with this logic. First, as explained above, there is no need for a specific grant of authority in section 1703 because VA's contractual authority extends to VA's authority to pre-establish prices through regulation as a contractual "term" where specific rates are not otherwise negotiated. Second, the final rule does not set a maximum rate. The explicit authority in section 1725 to set maximum rates for emergency care episodes does not speak to whether VA may include in a regulation a default contractual rate for different, non-emergent services. Further, section 1725 applies only to emergent care rendered in non-VA facilities, a context in which pre-negotiated contracts are not practical. Thus, the explicit authority to set a maximum rate makes sense in this narrow context and should not be compared with the broader contracting authority in section 1703.

Related to challenges to VA's statutory authority, one commenter opined that § 17.56 is inconsistent with 38 CFR 17.52 and VA Directive 2007–025 because § 17.52 authorizes individual authorizations for medical services in non-VA facilities only when demand is for infrequent use and VA Directive 2007–025 states that dialysis should generally be authorized under a contract rather than fee for service. The rule is not inconsistent with 38 CFR 17.52 or VA Directive 2007–025. First, § 17.52 implements section 1703, which establishes that VA may contract with non-VA providers. Section 17.56 describes what payment methodology VA will apply in a given circumstance. As previously discussed, the inclusion of individual authorizations in § 17.52 demonstrates VA's broad interpretation of the word "contract" in section 1703. The fact that § 17.52 mentions individual authorizations does not make § 17.56 inconsistent for describing the payment rate that will apply in the absence of a negotiated contract. Second, in the context of dialysis services, VA's individual authorization authority applies because it is in fact infrequent that non-VA dialysis providers provide services to veterans under § 17.56. The veteran population that is served by these non-VA facilities is quite small when compared to the general population. In fact, some commenters indicated that they only had four total veteran dialysis patients annually. VA does not consider such usage to be "frequent." To the extent that these individual patients generally require repeated treatments, this is not the sort of "frequency" that we intended to govern through the § 17.52 reference to infrequent use—that regulation is clearly discussing the frequency of facility-wide use of non-VA providers

and not the use of non-VA providers to provide care to a particular individual.

Further, 38 CFR 17.56 is not inconsistent with the exhortation in VA Directive 2007–025 that dialysis care "should generally be authorized under a contract rather than on a fee for service basis." This language does not bar VA from using a means other than a long-term contract for the provision of dialysis care; it merely expresses non-binding agency guidance regarding the policies existing prior to this final rule. Moreover, the Directive is somewhat misleading, in that it suggests that individual authorizations under § 17.56 are not contracts. As previously explained, individual authorizations involve VA's offer via the appropriate referral form, and the provider's acceptance via delivery of services. Finally, if the VA Directive is at all inconsistent with our regulation, the regulation, which has been properly promulgated under the Administrative Procedure Act, and is therefore binding on VA and the public, clearly takes precedence. Hence, we do not make any changes based on these comments.

Comments That the Proposed Rule Did Not Comply With Executive Order 12866

Several comments raised economic concerns about the regulation. In particular, several commenters opined that the proposed rulemaking did not comply with Executive Order 12866. To the extent that the commenters challenge this rulemaking on Executive Order 12866 compliance grounds, we note that section 10 of the order explains that it "is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States." The Office of Management and Budget (OMB) is solely responsible for enforcing the order, and OMB approved the proposed rule as being in compliance with the order. Therefore, we make no changes based on these comments. However, to the extent that the comments citing Executive Order 12866 address economic or other substantive concerns about the rulemaking, we address them elsewhere in this document.

Economic Concerns Raised by Commenters

The majority of the 18 comments received in connection with this rulemaking concerned the payment rate for dialysis treatment, the impact of the rule on small dialysis providers, whether VA would adopt various adjustments made to the Medicare schedule for dialysis care, and whether VA should phase-in the proposed payment rate for dialysis treatment.

As discussed in the proposed rule, VA intends to reimburse providers using the applicable Medicare fee schedule or prospective payment system as a standalone reimbursement method. VA considers Medicare's fee schedules and prospective payment systems as independent "fair market value" reimbursement without any consideration to cost reporting. Included in these fee schedules and payment systems are several items described in some comments as "adjustments." Again, if the "adjustment" is part of the Medicare schedule or payment system, then VA will apply it. Additionally, if a Medicare schedule is implemented by the Centers for Medicare & Medicaid Services (CMS) gradually, such as through a "phase in" approach, then our rule would apply the payment amount due according to the phased-in schedule for the period in which the medical service was provided. The rule is clear in this respect. For example, under 42 CFR 413.239, which will be effective on January 1, 2011, Medicare has instituted a transition period during which treatment for ESRD provided from January 1, 2011, through December 31, 2013, will be either phased in at a "blended rate" that adjusts each calendar year or, at the provider's option, at a rate of 100 percent of the payment amount determined under the rate established under 42 CFR 413.215. See *Medicare Program; End-Stage Renal Disease Prospective Payment System,* 75 FR 49,030, 49,198 (Aug. 12, 2010). Thus, if a provider has opted with Medicare to be paid at the § 413.215 rate, that is the rate applicable to that provider and VA will pay for ESRD services using that rate. Providers who have not exercised that option will be paid at the phased-in "blended" rate. We are already developing appropriate procedures to adjust payment rates for ESRD service providers who exercise this option, and we will not have any difficulty identifying these providers and paying them at the appropriate rate. Indeed, this is exactly what is contemplated by the reference in § 17.56(a)(2)(i) to "[t]he applicable Medicare fee schedule or prospective payment system amount * * * for the period in which the service was provided".

Notwithstanding the transition period for ESRD implemented by CMS in its regulations, several commenters urged VA to separately phase-in its adoption of the Medicare fee schedule. The commenters suggested that a phase-in by VA would lessen the disruption caused by the transition contained in the Medicare ESRD rates. For the reasons discussed in the following sections, we do not believe that any phase-in beyond that contemplated by the Medicare rates themselves is appropriate or necessary.

Moreover, as explained in the proposed rule, VA will not include any post-schedule adjustments made by CMS, such as end-of-year adjustments. As we explained in the proposed rule, due to the relatively small numbers of veterans impacted compared with the size of the Medicare program, we believe these end-of-year cost adjustments have minimal impact and will be cost-prohibitive for VA to execute.

One commenter discussed the effect of this rule on medical schools, noting that VA often contracts with teaching hospitals and medical schools at rates exceeding Medicare or VA fee schedules due to considerations such as impact on training programs. A few commenters also asked how this rule would affect sharing agreements with non-VA facilities made pursuant to 38 U.S.C. 8153, which provides VA with enhanced sharing authority to contract for health care resources. One commenter also asked whether VA will continue to follow VA Directive 1663, which provides special rules and policies for implementing and managing sharing agreements under section 8153.

In response to the above comments, we note that VA will continue to follow Directive 1663. This final rule applies only to payments for non-VA health care services purchased under 38 U.S.C. 1703. As such, health care resources contracted for under 38 U.S.C. 8153 are not affected by this rule. We will continue to follow VA Directive 1663 for negotiating contracts with medical schools.

Several commenters stated that § 17.56 will have a significant impact on small dialysis providers. We are sympathetic to the needs of small health care providers and the potential effect of decreased VA payments on these providers. However, we also dispute at least some of the basis for the comment. In the proposed rule, we recognized that adopting the Medicare payment system for dialysis could lead to a 39 percent decrease in VA's overall outpatient dialysis facility expenditures. We recognize that this effect will be greater on smaller providers who receive VA funds. However, we also explained that the benefits of this savings to our nation's veterans and to the American people, as well as our adoption of the national "standard" rate (*i.e.,* the

Medicare rate) for government-reimbursed private health care, outweighed the potential impact on some small dialysis providers. So long as veterans continue to have access to care (see below), we believe that it would not be a responsible use of VA funds to continue to pay a rate higher than that paid by other Federal agencies simply to subsidize these providers or to address perceived financial performance issues in other lines of business. Concerns and comments about whether the rates adopted by CMS are adequate or appropriate as a general matter have been addressed by CMS in their final rulemaking. *See* 75 FR 49030 (Aug. 12, 2010). In addition, we have addressed throughout this final rule the adequacy and propriety of adopting those rates specifically for care provided to veterans.

Again, we are adopting Medicare rates as the uniform standard for Federal government payment for care purchased from private sector providers. Congress has established a number of processes for monitoring the adequacy of payment rates in Medicare and for providing input on potential updates and changes in Medicare, and providers with underlying concerns about Medicare's payment rates should address those concerns to CMS and other entities such as the Medicare Payment Advisory Commission (MedPAC). Further, Medicare's new prospective payment system for dialysis services, starting in 2011, is expected to recognize the unique needs of low-volume providers by including adjustments to the CMS schedule for low-volume providers. VA would implement this higher payment for low-volume providers as it is implemented by the Medicare payment system, including, as noted above, any phase-in of that payment system. Again, the final rule clearly states that VA will apply the rate required by that payment system.

In addition, our analysis in the proposed rule shows that VA is not a significant source of revenue for any providers. In fact, a majority of dialysis providers do not treat VA-referred patients. A 2008 CMS report to Congress on ESRD payments documents some 315,000 patients receiving chronic dialysis services paid for by CMS (A Design for a Bundled End Stage Renal Disease Prospective Payment System, *available at http://www.cms.gov/ESRDGeneralInformation/Downloads/ESRDReportToCongress.pdf).* In contrast, VA typically purchases these services for approximately 9,000 patients. This reinforces the conclusion that the number of VA-funded patients in the community represents only a small portion of the total number treated. In addition, it is unreasonable to expect VA to pay at a significantly higher rate than the rate at which CMS reimburses.

Commenters also stated that the current state of the economy, specifically unemployment, has led to a decrease in the number of privately insured dialysis patients, further magnifying the impact of additional change to the current VA payment structure (because private insurers pay more than the Medicare rate). Again, we recognize that this is a valid concern, but the solution is not higher rates of payment solely for treating our nation's veterans (so long as they continue to have access to care). VA's responsibility to our nation's veterans does not include a duty to address changes in the national economic climate. We also note that due to national health reform efforts, such as The Affordable Care Act, Public Law 111–148, the number of privately insured patients should, in fact, increase.

One comment stated that making contract negotiations contingent upon the contracted rates being lower than Medicare would render many providers economically unable to bid. Nothing in the final rule restricts negotiations of possible payment amounts. Moreover, we note that virtually every non-VA provider in the United States does accept Medicare patients and therefore does accept payment at the Medicare rate. One comment recommended changing the language in proposed § 17.56(a)(2)(iii)(A) to expressly state that the applicable "geographically adjusted" Medicare rate will apply. Because Medicare rates take into account the geographic location of the provided service, we decline to make this change.

Concerns Raised by Commenters Regarding Access to Care, Particularly to Dialysis Treatment

Several commenters asserted that the effect of this rule on low-volume dialysis providers will force them to refuse to accept VA patients, or will lead to the closure of entire low-volume dialysis facilities. Similarly, commenters stated that because the rule will cause non-VA dialysis providers to close and/or refuse VA patients, veterans will have fewer scheduling options. Comments were that fewer scheduling options will require veterans to schedule their care for different times and potentially require veterans to travel greater distances to receive care, which could be detrimental to their health. The commenters opined that their concerns will be magnified for rural veterans.

VA takes this concern seriously, and we are strongly committed to ensuring that this final rule does not diminish access to care for the nation's veterans, including those who suffer from kidney disease. For three reasons, we do not believe that the concern about diminished access is justified. First, our analysis of the effect of this rule on the national non-VA dialysis provider community does not support that concern. ESRD services are currently provided to Medicare patients by private providers at the Medicare rate, and there is no evidence that these providers will refuse to continue to provide ESRD services to veterans simply because the payment rate will now be the same as the rate for Medicare patients. On the contrary, the historical record suggests that payment of the Medicare rate has not led providers to deny care to Medicare patients. In its March 2010 report, *Report to the Congress: Medicare Payment Policy,* MedPAC found that most payment adequacy indicators for dialysis services are positive and that Medicare beneficiaries continue to have good access to care for dialysis services. (available at *http://www.medpac.gov/documents/Mar10_EntireReport.pdf*) In adopting Medicare's payment rates for dialysis, we expect that VA beneficiaries should similarly have good access to care. This conclusion is fortified by the fact that, under the Medicare program, CMS has instituted a transitional period for ESRD payments.

Second, we note that CMS has finalized a new bundled prospective payment system, which will be effective in 2011, and which will explicitly include adjustments based on different geographic regions and for low-volume providers. 75 FR 49030, 49198 (Aug. 12, 2010). When Medicare implements these adjustments, they will be applied under § 17.56 because they will be part of the Medicare fee schedule that will be adopted by this rule. Such adjustments should help to ensure that this final rule does not have adverse effects on access to care, including in the rural areas that have been mentioned by some commenters.

Third, and finally, all existing contracts will continue to be honored, and we retain the right to contract with specific providers at specialized rates. We will exercise our right to enter into contracts with providers, including at rates higher than the Medicare rates, if and when necessary to ensure that veterans, including veterans who live in rural areas, have access to quality care.

We reiterate that ESRD services are currently provided to Medicare patients by private providers at the Medicare rate, and there is no reason to believe these providers will refuse to continue to provide ESRD services to veterans simply because the payment rate will now be the same as the rate for Medicare patients. For all of the reasons discussed above, we do not believe that adopting the Medicare rates will jeopardize the ability of our nation's veterans to obtain necessary health care in general, or specifically for ESRD. We are prepared to take appropriate steps to address that concern if and when it arises.

Similarly, some commenters believe that the rule will cause a decline in the quality of care administered by private dialysis providers. Medicare patients represent the bulk of the country's dialysis patients, and we are simply adopting the same rates that will be paid by Medicare. Medicare's January 1, 2011 implementation of the prospective bundled payment system, which VA adopts in this final rule, includes a significant expansion in case-mix adjustments. 75 FR 49030 (Aug. 12, 2010). Because these case-mix adjustments are part of the Medicare payment system, VA will be including them in its use of the Medicare payment rates. There is no evidence to suggest that the majority of patients who receive services under the Medicare umbrella are expected to see a decline in quality of care. VA adopting this same payment rate should not decrease quality of care.

One commenter also indicated concern that the proposed rule will lead to an increase in the illegal practice of "split invoicing" or "balance billing," whereby private providers bill patients separately and on top of Medicare or VA payment schedules. By law, VA's payment represents payment in full; it is illegal for providers to "balance bill" or "split invoice" VA beneficiaries for an amount above VA's allowed charge. Anticipated violations of this law are not a valid basis for a policy determination; however, they may affect implementation or lead to greater oversight through procedural methods. VA will not allow the potential for illegal activity to prevent us from promulgating a valid rule that conforms to national health care policy. We make no changes based on this comment.

Comments That the Quality of VA Services Will Decline

Commenters indicated that because some dialysis providers may refuse VA patients, VA will be forced to take on more dialysis patients at its own Medical Centers. Commenters opined that this will overwhelm VA's facilities, resulting in a lower quality of care than what would be provided by non-VA providers. We make no changes based on these comments. For the reasons explained previously, we do not think that the payment changes will negatively impact access to care or that VA will be forced to take on more dialysis patients. Further, we do not expect this to impair veterans' access to non-VA dialysis services. We also disagree with the commenter's assertion that VA facilities would provide a lower quality of care relative to non-VA providers under the final rule.

Comments About VA's Billing Practices

Several commenters believe that VA is not prepared to adopt the Medicare reimbursement scheme set to take effect in 2011. They cite to a 2009 internal audit conducted by VA OIG that shows that VA has improperly reimbursed dialysis providers under its current Fee Based program, which according to the commenters is easier to administer than the proposed changes.

VA has taken action to improve our payment practices based in part on the results of the OIG audit. To assure we implement timely and accurate payment processing under this final rule, VA will follow its predecessors at CMS and the Department of Defense (DoD) (in the context of the TRICARE program), by hiring a third party with expertise to accurately price claims (VA will continue to pay after the third party pricing) under the Medicare payment system. This contractor will be responsible for determining the appropriate Medicare rate, including the contemplated changes to the dialysis rate that we expect to take effect in 2011. This should ensure that reimbursement is properly calculated, as both CMS and TRICARE have had success with this approach.

The use of contractors also should serve as a response to comments that we should document how we will ensure compliance with the final rule, including that providers receive accurate and timely payment under the final rule because CMS and TRICARE have successfully addressed such potential problems in this same manner.

In addition, because CMS had not yet published its final rule during the public comment period for VA's proposed rule, the commenters believed that VA could not adopt the new payment system with respect to the 2011 schedule changes. Since the submission of the comment, CMS published a final rule titled "Medicare Program; End-Stage Renal Disease Prospective Payment System," which amended 42 CFR parts 410, 413, and 414. 75 FR 49030 (Aug. 12, 2010). The rule adopts the Medicare fee schedule in effect on January 1, 2011, and thereafter; VA will be required under this rule to immediately adjust its fees to adopt the CMS prospective bundled payment system on the effective date of the rule. We make no changes to the rule based on this comment because the publication of the CMS final rule addresses the concerns presented by the commenter.

One commenter asserted that VA's claims process is more expensive and administratively burdensome than that of Medicare, and that the historical VA rates better cover these additional costs. Specifically, the commenter asserted that VA's preauthorization requirement, inconsistency in accepting electronic billing, payment processing delays, and inconsistency in making electronic payments all contribute to higher costs for providers. The commenter suggested that the proposed rule "would result in a reduction in provider reimbursement far in excess of the mere rate change from VA to Medicare" and requested that VA exclude laboratory services from the rule. We will not make any changes based upon these comments.

The purpose of this rulemaking is in part to facilitate standardization in Federal government payment for medical services. We disagree with the allegation that VA's requirement of treatment authorization for a non-VA provider to receive payment is burdensome to obtain, because VA's practice is to pre-authorize veterans, effectively removing any potential burden on providers. Regarding processing delays and the need for more consistency in electronic billing and payments, it is our view that the first step toward the efficiency the commenter seeks is to standardize as much as possible the amount being billed and paid by VA. We have carefully considered and rejected the commenter's suggestion that we continue the inefficiencies associated with current methodology while we nonetheless strive to become more efficient. Moreover, we note that VA is actively improving its billing and payment practices. VA is currently transitioning to an improved claims processing system, which should hasten payment of claims and enhance VA's electronic payment remittance and EFT capabilities. With this final rule, VA will actually have an even greater opportunity to reduce administrative costs by adopting a standardized payment methodology. This will allow VA to better identify and implement best practices developed by CMS and

other third-party payers. Accordingly, we intend that any additional cost currently associated with billing VA for providing care to veterans will be removed upon implementation of the final rule.

VA Should Exempt Certain Services or Otherwise Modify Its Adoption of the Medicare Rate

Some commenters stated that VA should exempt dialysis treatments and/or laboratory services from the adoption of the Medicare payment system. We make no changes based on these comments. Excluding any services from the rule is inconsistent with one of the goals of this rule, which is to align VA reimbursement with the government standard. Moreover, there is no evidence to support the comment that the proposed rule would create an administrative burden on laboratory service providers. Virtually all of these providers currently use the Medicare payment system to bill Medicare patients, and will be required to use the CMS prospective bundled payment system beginning on January 1, 2011. Because these providers must implement the new Medicare schedule, applying it to VA-referred veterans should not present an undue administrative burden.

Commenters also stated that VA should consider establishing a rate not tied to Medicare. Commenters suggested alternatives to the Medicare rate, such as allowing the negotiation of non-standard contracts in the event of special circumstances like transfers from VA facilities to non-VA facilities of medically complex patients; implementation of a coordinated-care plan like the Contract Care Coordination Recommendations of VA's Independent Budget, FY 2011; and a payment regime that would incentivize more participation by non-VA health care providers. We do not make any changes based on these comments. Again, one of the goals of this rule is to align our payment structure with the government standard. Adopting a different rate would defeat this purpose.

As to incentivizing participation by non-VA providers, VA retains its ability to negotiate contracts under this rule and may consider special circumstances like those that the comments raised, to the extent allowable under the FAR and VAAR contracting authorities. Similarly, VA has included care coordination requirements in some of its recent contracts with community health care providers, and continues to seek opportunities for improved coordination of care. These efforts are not precluded by this rule. We make no changes based on these comments.

Another comment was that VA should evaluate the cost of treating patients in its own centers and compare it to the Medicare rate. One commenter suggested that VA would incur greater costs if it were forced to accept more dialysis patients in house. As previously discussed, we reject the premise that the rule will cause decreased access to care. Another commenter asserted that the Medicare rate for dialysis is less than the amount that VA calculates as the cost of care at VA facilities. Any number of variables may affect the cost of providing care; therefore, it is not clear that costs of providing dialysis at VA facilities can be properly compared to costs of providing dialysis at non-VA facilities. In any event, this comparison is not relevant to our policy decision to pay non-VA providers at the national standard, Medicare rate. Moreover, as noted repeatedly in this notice, Medicare may adjust the rate payable for dialysis to address pricing accuracy.

Another comment was that VA should not implement the contemplated revisions to the rule until CMS has finished phasing in the new Medicare payment system for dialysis, which CMS has proposed to do over a 4-year period. We do not intend to wait until after Medicare's 4-year phase-in period to adopt the current CMS rates for purposes of establishing a national standard rate. If necessary, we will address any problems or issues uncovered by CMS during the 4-year period, particularly if these problems are unique to our veteran population or are not addressed by CMS. There is no need to wait until their phase-in is complete.

Comments That VA Relies Upon Erroneous and Inaccurate Facts

A commenter stated that VA has significantly misinterpreted the data that it relied upon in the proposed rule. As a result, the commenter believes that VA incorrectly determined that the impact on dialysis providers would be minimal, and VA has not adequately considered reasonable alternatives. Specifically, the commenter stated that VA erroneously proposed to pay for dialysis services using 2008 Medicare claims data that reflect the soon-to-be-outdated composite rate and payment rates for separately billable items.

We make no changes based on these comments. VA has correctly relied upon the data presented in the proposed rule to determine the number of veterans who receive dialysis treatment at non-VA facilities relative to the total population of dialysis patients receiving such care from private providers. We have addressed each alternative proposed in the comments, and have demonstrated VA's strategy to incorporate Medicare's 2011 pricing change for dialysis. In addition, VA cannot simulate the specific cost impact of Medicare's 2011 revision to the dialysis rate because Medicare has not yet implemented the prospective bundled payment system. Therefore, use of the 2008 Medicare claims data was proper as this was the most recent available data.

Another commenter stated that the smallest dialysis provider in New Hampshire received more than $200,000 in payments, so the claim in the proposed rule that 95 percent of vendors received less than $150,000 and 82 percent received less than $50,000 is incorrect. The data relied upon by VA for our statement in the proposed rule—which considered this specific facility—were for fiscal year 2008. We believe that the discrepancy between the commenter's calculation and VA's calculation is explained by the fact that (1) VA's calculation did not include costs for lab services and services purchased under competitive contracts, and (2) VA calculated by calendar year whereas the commenter calculated by fiscal year. Inclusion of these costs and calculation of total payments by calendar year (rather than fiscal year) account for the discrepancy between the commenter's records and VA's calculation that 95 percent of providers received less than $150,000 and 82 percent received less than $50,000.

In fact, using the commenter's own calculations actually supports our overall rationale in adopting this final rule. The commenter stated that in 2008 they provided a total of 6,501 dialysis treatments at an average cost of $264.85 per treatment. 5,417 treatments were for Medicare patients, 349 treatments were for Medicaid patients, 160 treatments were for veterans, and payment for the remaining 575 treatments were from unlisted sources. Based on the comment, the provider received payment from VA of over $200,000 for providing dialysis care costing approximately $42,376. This data supports the cost-saving rationale for use of the Medicare rate, and demonstrates that the Medicare rate will be sufficient to support the community of private dialysis providers. VA predicted a 39 percent decrease in the rate at which it reimburses providers for dialysis care, which would still reimburse this specific provider far more than the estimated $264.85 cost of care per patient. Thus, the commenter's own data shows that the proposed CMS

rates would be adequate, and that the commenter will continue to receive significant profits from treating VA patients.

A Commenter Requested That VA Define "Repricing Agent" To Clarify Which Payors Are Encompassed in the Term

We agree with the comment and have changed § 17.56(a)(2)(ii) to define a "repricing agent" as follows: "For the purposes of this section, repricing agent means a contractor that seeks to connect VA with discounted rates from non-VA providers as a result of existing contracts that the non-VA provider may have within the commercial health care industry."

Repricing is a program that allows VA to share in savings available in managed care networks by utilizing contracted rates currently available in the commercial industry and paying a contracted repricing agent a portion of the savings. The use of the repricing agent provides VA with access to economical community-based vendor contracts that provide cost avoidance for VA. Non-VA care claims submitted to VA for payment are sent to the repricing agent to determine if a lower rate can be utilized.

Comment That VA's Fee Schedules Should Be Readily Available to the Public

The final rule continues to provide, as one basis for calculating the payment amount, the "75th percentile" schedule used under § 17.56 prior to its revision by this rulemaking. A commenter requested that this fee schedule be made available to the general public. Currently, VA field offices each maintain a separate fee schedule and individual fee schedules are currently available to the public upon request. The Medicare fee schedules and prospective payment system rates are already available to the general public. However, the rates calculated using the 75th percentile method are calculated and applied at the local level, and can be obtained from local offices. Additionally, after the effective date of this final rule, VA will add complete and accurate information to the public on VHA's Web site. This should further address the commenter's concern.

Comment That VA Has Not Made Payments Consistent With the Maryland Waiver, and Should Reconcile Discrepancies

The proposed and final rule text clearly states that VA will comply with the terms of any Medicare waiver. To the extent that the commenter is concerned about VA's past performance, this is beyond the scope of this rulemaking.

Comments That VA Should Integrate Care With Non-VA Dialysis Providers, in Which Health Information From Non-VA Providers is Easily Exchanged With VA

We agree with the comment, but make no changes to the final rule. VA takes every opportunity to provide quality care to veterans and strives to assure those same veterans receive quality care from non-VA providers. VA is currently planning pilots for increased clinical information sharing with community providers, and this rule does not preclude VA from implementing electronic health information sharing policies.

Home Health Care and Hospice Care

As noted above, in the proposed rule, we indicated that the pricing methodology adopted by this rule would be used in establishing payment rates for all non-VA inpatient and outpatient health care professional services and other outpatient services, including hospice care and home health services. However, in reviewing implementation strategies and internal procedural practices related to the payment of hospice care and home health services through means other than a contract, we have encountered significant practical problems that prevent immediate implementation of this new methodology. These problems relate to separate administration of hospice care and home health services by the Veterans Health Administration's Office of Geriatrics and Extended Care, which uses separate methods for forming agreements for these services, and challenges regarding information technology systems necessary to move to the new Medicare rate, but do not relate to the actual payment amounts for these services. Such amounts would generally be unchanged by this rulemaking because the vast majority of these services are paid through a contractual mechanism (and are therefore exempted under § 17.56(a)(1)). However, we estimate that there may be about 100 providers who are not paid through a contractual mechanism and therefore who would have been affected by this rulemaking.

Given separate administration of hospice and home health services under separate VA guidance, we have determined that these providers did not receive adequate notice regarding the intended effect of the proposed rule or of the need for some delay in implementation of the rule so that VA may modify its systems. We will promulgate, as soon as possible, a proposed rule to make § 17.56, as revised by this notice, applicable to these providers. Therefore, we have added to paragraph (a) of the final rule an exception for these two services.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This document contains no provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). Non-VA health care providers currently bill VA using uniform billing forms CMS–1450, OMB Control No. 0938–0997, and CMS–1500, OMB Control No. 0938–0999. This practice will not be altered or amended.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires agencies to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals, Ambulatory Surgery Centers, and other providers subject to this rule are considered to be small entities, either by being nonprofit organizations or by meeting the Small Business Administration (SBA) definition of a small business, as codified in 13 CFR 121.201. Therefore, the Secretary has determined that this final rule would have a significant impact on a substantial number of small entities and therefore completed a final regulatory flexibility analysis, which is discussed in "Executive Order 12866 and Regulatory Flexibility Act."

Executive Order 12866 and Regulatory Flexibility Act

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health

and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it is a significant regulatory action under Executive Order 12866 because it is likely to result in a rule that may have an annual effect on the economy of $100 million or more.

VA followed OMB circular A–4 to the extent feasible in this analysis. The circular first calls for a discussion of the need for the regulation. The preamble above discusses the need for the regulation in more detail.

Need

Under 38 U.S.C. 1703(a), "[w]hen [VA] facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Secretary, as authorized in [38 U.S.C. 1710], may contract with non-[VA] facilities in order to furnish" certain hospital care and medical services to veterans who qualify under 38 U.S.C. 1703. Medicare is the largest U.S. Federal health care payer and is recognized as the Federal health care industry standard for reimbursement rates. Providers, particularly the medical facilities affected by this rule, are familiar with Medicare payment methodologies. Indeed, VA currently uses Medicare methodologies in connection with in-patient treatment and physician and non-physician professional services. Moreover, two separate audits by VA's Office of Inspector General concluded that clarification of VA's regulations governing payment of outpatient facility charges is necessary. *See* VA OIG Reports 08–02901–185 (2009) and 05–03037–107 (2006). As such, we believe the adoption of Medicare rates will help ensure consistent, predictable medical costs and will help control costs. Thus, we believe that adoption of this rate is important to both VA and the general public.

Impact

We received a number of comments objecting to the proposed rule due to a perceived adverse impact on small businesses, specifically low-volume dialysis providers. Commenters argued that due to the reduction in the rates dialysis providers currently charge VA and the Medicare rate that VA proposed to adopt, many providers will be forced to refuse care to veterans while a great deal of providers, particularly in rural areas will close down altogether. These comments are discussed in greater detail in the preamble above.

In general, the final rule will impact the following providers classified as small businesses: Freestanding emergency and ambulatory surgical centers with revenues less than $9.0 million, independent diagnostic centers with revenues less than $12.5 million, and hospitals and kidney dialysis centers with revenues less than $31.5 million. A precise estimate of the number of small entities that fall within the rule is not currently feasible. See the below "Benefits-Cost Analysis" discussion for additional information concerning the economic impact of this final rule.

Benefits-Cost Analysis

We received comments asserting that the benefits-cost analysis was inaccurate or too broad because it overlooked the potential adverse impact on certain low-volume dialysis providers, and disregarded the overall cost of providing dialysis treatment. VA contracted with an independent consultant to conduct and analyze the benefits-cost analysis in more detail. The VA's estimated total cost savings amount published in the proposed rule has been revised to show the slightly higher amount provided in the contractor's analysis. The comments regarding the benefits-cost analysis are addressed fully in the preamble above and in the Accounting Statement below.

Alternatives

We received a number of comments suggesting that VA use alternative pricing mechanisms for different geographic regions in order to provide more equitable payments to dialysis providers in rural areas. Several commenters suggested alternative approaches including a phase-in of the CMS fee schedule, geographically adjusted rates, and different rates for low-volume providers. We have addressed these comments in detail in the preamble above.

Approximately 1.6 percent of the total U.S. population are veterans who utilize the VA Health Care System. Of the total number of veterans who utilized the VHA Health Care System in fiscal year 2008, VHA preauthorized non-VA outpatient hospital services for approximately 5.4 percent of veterans, 2.5 percent used community hospital emergency rooms, 0.8 percent used freestanding ambulatory surgery centers, 0.7 percent used independent laboratories, and 0.1 percent were authorized care at end stage renal disease treatment centers at VA expense. We believe that the impact of veterans authorized non-VA health care services at VA expense in the local health care market is minimal, as illustrated in Table 1.

TABLE 1—PERCENT OF VETERANS UTILIZING VA HEALTH CARE SYSTEM

State	FY 2008 total population	FY 2008 total veteran users	Percent of total veteran users/total U.S. population
Alabama	4,692,977	94,426	2.0
Alaska	689,791	13,826	2.0
Arizona	6,630,722	114,126	1.7
Arkansas	2,910,777	80,831	2.8
California	37,873,407	369,346	1.0
Colorado	4,962,478	68,628	1.4
Connecticut	3,550,231	50,373	1.4

TABLE 1—PERCENT OF VETERANS UTILIZING VA HEALTH CARE SYSTEM—Continued

State	FY 2008 total population	FY 2008 total veteran users	Percent of total veteran users/total U.S. population
Delaware	885,956	13,099	1.5
District of Columbia	589,366	8,894	1.5
Florida	19,119,225	420,202	2.2
Georgia	9,863,250	139,428	1.4
Hawaii	1,312,372	18,706	1.4
Idaho	1,549,062	32,886	2.1
Illinois	13,177,638	168,982	1.3
Indiana	6,468,433	111,562	1.7
Iowa	3,042,015	66,833	2.2
Kansas	2,828,255	56,131	2.0
Kentucky	4,295,044	90,718	2.1
Louisiana	4,500,627	79,472	1.8
Maine	1,349,506	37,359	2.8
Maryland	5,743,662	70,754	1.2
Massachusetts	6,518,184	77,112	1.2
Michigan	10,314,853	119,290	1.2
Minnesota	5,357,700	95,409	1.8
Mississippi	2,986,953	65,369	2.2
Missouri	5,977,318	122,411	2.0
Montana	965,024	29,279	3.0
Nebraska	1,814,105	42,322	2.3
Nevada	2,730,425	53,423	2.0
New Hampshire	1,343,347	25,220	1.9
New Jersey	8,890,186	75,882	0.9
New Mexico	2,029,633	44,824	2.2
New York	19,554,879	225,452	1.2
North Carolina	9,231,191	166,138	1.8
North Dakota	652,934	16,954	2.6
Ohio	11,633,295	190,646	1.6
Oklahoma	3,672,886	79,735	2.2
Oregon	3,814,725	79,168	2.1
Pennsylvania	12,631,267	266,529	2.1
Rhode Island	1,078,084	19,174	1.8
South Carolina	4,479,461	98,624	2.2
South Dakota	809,862	28,291	3.5
Tennessee	6,244,163	114,393	1.8
Texas	24,627,546	371,259	1.5
Utah	2,677,229	29,042	1.1
Vermont	636,472	14,163	2.2
Virginia	7,899,205	114,076	1.4
Washington	6,628,203	91,233	1.4
West Virginia	1,836,864	56,541	3.1
Wisconsin	5,701,620	104,787	1.8
Wyoming	526,857	16,884	3.2
Totals	309,299,265	4,845,786	1.6

Table 1 above shows the relationship between the gross population of each state compared to veterans utilizing the VA health care system. It is clear that the veteran population utilizing VA health care services is fairly consistent by state. The FY 2008 Total Population (Table 1) was obtained from statistics published by the U.S. Census Bureau. The total veteran users, is the number of unique veterans who utilized the VA health care system during FY 2008 for all or a portion of their health care needs. This number was obtained from the National Center for Veterans Analysis and Statistics geographic data. The number includes veterans treated at VA medical centers, clinics, CBOCs, mobile clinics, and care purchased from other Federal facilities and from the private sector.

Based on the constant percentage we do not believe the final rule will have considerable impact on any one geographic region. As a result of this, we believe the reduced reimbursement rates for non-VA health care services will follow a similar pattern and not result in a considerable impact on any one geographic region. As such, we do not believe that there is a reasonable need for alternatives to adopting Medicare payment methodologies.

Finally, we do not believe that there is a significant risk to adopting the Medicare fee schedules or payment systems. Although it is theoretically possible that some providers may refuse to treat veterans due to lower reimbursement rates, those same providers are already accepting patients under Medicare and we do not believe that they will refuse to treat veterans. Moreover, the first payment option set forth in the final rule would be "[t]he amount negotiated by VA and the provider" consistent with Federal contracting principles. Because VA and providers retain the ability to negotiate a fee that is greater (or lower) than the Medicare rate, VA will be able to ensure that veterans in remote areas continue to have access to care should a particular facility refuse to accept Medicare rates. However, because Medicare is the Federal health care industry standard

payer, we do not believe that this will be a significant issue.

Accounting Statement

VA contracted with an independent contractor to conduct a more detailed analysis of the expected savings under the Medicare outpatient payment methodologies described in the proposed rule. As previously mentioned, VA's estimated dialysis savings have been revised from the proposed rule to reflect a more accurate analysis that was conducted by that independent contractor. VA has adopted the independent contractor's analysis and the details of the study are discussed in greater detail below. The use of the first person "we" below refers to work conducted by the contractor and work done by VA.

The analysis consists of the following:

- Clinical Lab services provided through VA purchased care to VA beneficiaries;
- Outpatient Dialysis/End Stage Renal Disease (ESRD) services provided to VA beneficiaries in non-VA facilities;
- Ambulatory Surgery Center (ASC) facility charges for VA purchased care; and
- Hospital Outpatient Department (HOPD) and emergency room (ER) facility charges for VA purchased care.

Clinical Lab Services

We identified all clinical lab services provided through VA purchased care to VA beneficiaries in the first 6 months of calendar year 2008. We selected this period because the data was sufficiently complete. We then edited the data by removing outliers (claims paid under $1 or over $500) and eliminated a very small number of claims that were unable to map to zip codes or that had more than one unit of service on a line item. We also excluded claims that were paid under contracts with clinical labs or with certain managed care providers.

To estimate the impact of using Medicare's clinical lab fee schedule, we focused on the 100 clinical lab services (by CPT code) with the highest aggregate non-VA (purchased care) allowed amounts. These 100 codes accounted for about 86.5 percent of all non-VA clinical lab service costs. We calculated the impact of paying these non-VA clinical lab claims using Medicare's fee schedule as the maximum allowable charge. In calculating the impact of Medicare pricing, we excluded a small number of the top 100 CPT codes that are not on Medicare's lab fee schedule because Medicare pays these services using the Medicare physician fee schedule. We also excluded clinical labs at Maryland hospitals and critical access hospitals because they are not subject to the Medicare lab fee schedule. We also excluded physician claims marked with a modifier of 26. Our estimates accounted for Medicare's higher payments for clinical lab services at sole community hospitals. We also used the unique Medicare carrier rates for lab services where appropriate in individual locations.

We found that in 2008, VA paid an average of almost $49 per line item for clinical lab services for the top 100 VA purchased care clinical lab services. Under Medicare pricing, VA would pay an average of $11.47 for these claims. This represents a cost reduction of approximately 75 percent. We calculated a cost reduction of $53 million when we extrapolated the results of our analysis of the top 100 codes for the first 6 months of CY 2008 to all VA clinical lab services in CY 2008.

We did some further analysis of the 15 clinical lab codes with the highest VA purchased care volumes and found that these 15 clinical lab codes accounted for about one-half of the VA's payments for clinical lab services in the first 6 months of CY 2008. The cost reductions for these 15 codes ranged from 63 percent to 85 percent, which indicates that the allowed amounts under Medicare's pricing would be equal to 15–37 percent of the current VA allowed amounts. This indicates that the impact of using the Medicare clinical lab schedule will lead to a relatively homogeneous reduction in clinical lab payments.

IMPACT OF MEDICARE PRICING ON VA CLINICAL LAB CLAIMS, 2008

Payments under VA current method	Payments under Medicare pricing	Cost reduction	Cost reduction as a percentage of VA payments
$71.4M	$18.1M	$53.3M	74.6%

Outpatient Dialysis/End Stage Renal Disease (ESRD)

We identified outpatient dialysis services provided to VA beneficiaries in non-VA facilities in the first 6 months of calendar year 2008. We selected this period because the data was sufficiently complete. We focused on a subset of dialysis procedure codes and injectible drug codes that together accounted for the vast bulk of outpatient dialysis facility charges for care purchased by the VA. We edited the data to remove outliers (claims with very high or low paid amounts per unit of service). We eliminated the small number of dialysis procedure claims that had more than one unit of service. For dialysis drug claims, on the other hand, we eliminated claims that had only one unit of service because these injectible drugs are normally administered as multiple units of service. We also excluded claims that the VA pays through purchased care contracts.

We then calculated the impact of paying these non-VA dialysis claims using Medicare's dialysis facility pricing methods to set the maximum allowable charge (based on Medicare's composite rate for dialysis procedures and Medicare prices for the separately payable injectible drugs). For dialysis procedure claims, the available claims data does not include the patient case-mix data necessary to calculate the exact composite rate amount for each VA claim. However, a recent CMS analysis indicated that Medicare's national average composite rate payment was approximately $156 per dialysis session in 2007.[1] We assumed the same national average rate would be a reasonable estimate for VA except we increased the average rate to $157 to allow for modest inflation to 2008. For each specific claim, we then adjusted the national average amount using Medicare's geographic wage index adjustment for ESRD dialysis facility charges. For the injectible drug claims, we used Medicare's prices. For each claim, we then compared the original amount paid by VA to the price Medicare would pay, and from this comparison we kept the lesser amount as the final amount VA would pay for a given claim (the Medicare price would set the maximum charge for that claim, but in some cases the local VA facility might already have

[1] CMS, "Medicare Programs; End-Stage Renal Disease Prospective Payment System; Proposed Rule", **Federal Register**, Sept. 29, 2009, p. 49940.

negotiated a lower rate than the Medicare rate).

For the claims in our analysis, we found that with Medicare pricing the VA's outpatient dialysis facility expenditures would decrease by 39 percent. When extended to the universe of outpatient dialysis facility services for VA in 2008, we calculate a cost reduction of $68 million. The cost reductions for the dialysis procedures ranged from 21–35 percent for the three most common dialysis codes and the savings on injectible drugs ranged from 48–69 percent for the three most common codes. These estimated cost reductions may represent an upper-bound estimate because, although we do not anticipate any particular need to enter into contracts at rates higher than the Medicare rates to ensure access to services, the cost savings could be lower if that were required.

IMPACT OF MEDICARE PRICING ON VA FEE BASIS OUTPATIENT DIALYSIS FACILITY CLAIMS, 2008

Payments under VA current method	Payments under Medicare pricing	Cost reduction	Cost reduction as a percentage of VA payments
$175.9M	$107.7M	$68.2M	38.8%

Ambulatory Surgery Center (ASC)

We identified all Ambulatory Surgery Center (ASC) facility charges for VA purchased care in the first 6 months of calendar year 2008. We selected this period because the data was sufficiently complete. We then edited the data to remove claims from ASCs for clinical lab services and medical services (CPT codes with a value greater than 90000) because they are not paid using Medicare's ASC payment system. We also edited the VA purchased care claims data to eliminate physician services which would be paid using Medicare's physician fee schedule, based on CPT code modifiers and specialty codes. We also excluded claims that were paid under contracts with ASCs or with certain managed care providers.

To estimate the impact of paying these ASC claims using Medicare's ASC payment system we excluded ASC facility charges for surgeries that are not paid in ASCs by Medicare because they are considered "inpatient only" services.

Under its current pricing policies, we found that in 2008, the VA paid an average of about $431 in ASC facility charges to non-VA facilities for each ASC surgery. Under Medicare pricing, the VA would pay an average of $383. This represents a cost reduction of approximately 11 percent. When extended to the universe of ASC charges for VA purchased care in 2008, we calculated an aggregate cost reduction of $1 million.

IMPACT OF MEDICARE PRICING ON NON-VA ASC FACILITY CHARGES, 2008

Payments under VA current method	Payments under Medicare pricing	Cost reduction	Cost reduction as a percentage of VA payments
$11.0M	$9.7M	$1.3M	11.2%

We also focused on the facility charges for the 15 highest-volume surgeries done in purchased care for VA beneficiaries. We found that these 15 surgery codes accounted for almost 60 percent of the VA's payments for purchased care ASC charges in the first 6 months of CY 2009. The percentage changes under Medicare pricing for these 15 codes ranged from a reduction of 30 percent to an increase of 44 percent. Thus, using Medicare's pricing would result in some codes being paid more and some being paid less.

Hospital Outpatient Department (HOPD)

We identified all hospital outpatient department (HOPD) and emergency room (ER) facility charges for VA purchased care in the first 6 months of calendar year 2008. We then edited the data to remove claims from hospitals for clinical lab services, physical therapy services, and other services not paid using Medicare's Hospital Outpatient Prospective Payment System (OPPS). We also edited the VA purchased care claims data to eliminate physician services which would already be paid using Medicare's physician fee schedule, based on CPT code modifiers. We excluded claims with an extreme number of units or allowed amounts. We also excluded claims that were paid under contracts with hospitals or with certain managed care providers.

Under its current pricing policies, we found that in 2008, the VA paid an average of about $76 in hospital outpatient department and emergency room facility charges to non-VA facilities for each HOPD/ER service. Under Medicare OPPS pricing, the VA would pay an average of $51. This represents a cost reduction of approximately 33 percent. When extended to the universe of HOPD/ER charges for VA purchased care in 2008, we calculated an aggregate cost reduction of $62 million.

IMPACT OF MEDICARE PRICING ON NON-VA HOPD/ER FACILITY CHARGES

Payments under VA current method	Payments under Medicare OPPS pricing	Cost reduction	Cost reduction as a percentage of VA payments
$188.2M	$125.7M	$62.5M	33.2%

We also focused on the facility charges for the 15 procedures with the highest aggregate level of expenditures done in purchased care for VA beneficiaries. We found that these 15 codes accounted for almost one-third of the VA's payments for purchased care HOPD/ER charges in the first 6 months of CY 2009. Under Medicare OPPS

pricing for these 15 codes, 4 would receive increases of 10 percent or more and 4 would have decreases of 60 percent or more. Thus, using Medicare's pricing would result in some codes being paid more and some being paid less.

In examining the impact of OPPS among the top 15 codes, we found that two types of codes would have the greatest percentage reduction in their payments: Radiology codes and supplies (most routine supplies are bundled into the OPPS payments and are not paid separately). We analyzed the percentage reduction in payments for four broad types of HOPD services and found that payments for radiology would decrease by 42 percent and payments for the "other" category of services, which includes supplies, HCPCS codes, and drugs, would decrease by 85 percent. On the other hand, payments for medical services (including ER facility charges) would decrease by 5 percent and payment for surgeries would increase by almost 50 percent.

IMPACT OF OPPS BY TYPE OF SERVICE

Type of HOPD service	Percentage of current allowed amounts	Percentage change in allowed amounts under OPPS
Surgery	15	+47
Medical (includes ER)	18	−5
Radiology/Pathology	42	−42
Other (supplies, HCPCS, drugs)	25	−85
Total	100	−33

To project this analysis through FY15 (Table 1, below), we applied trend assumptions to the FY08 estimates. For both the Current Policy costs and the costs under Medicare pricing, we first applied assumed trends in the annual number of users for fee-basis care, which were supplied by the VA's National Fee Program Office. For long-run inflation per user, we applied separate trend assumptions to the Current Policy costs and the costs under Medicare pricing. For the Current Policy costs, we assumed long-run inflation per user of 7 percent per year. For the costs under Medicare pricing, we assumed long-run inflation per user of 2.5 percent per year.

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Table 1

($ in Millions)			FY08	FY09	FY10	FY11	FY12	FY13	FYY14	FY15
Assumed Annual Trends										
	Current Policy (Except for Hospice and Home Health, for which VA Already Uses Medicare Rates)									
		Fee Users		1.050	1.021	1.025	1.024	1.031	1.009	1.007
		Long-Run Inflation		1.070	1.070	1.070	1.070	1.070	1.070	1.070
		Total Trend		1.123	1.093	1.096	1.095	1.104	1.080	1.078
	Medicare Pricing									
		Fee Users		1.050	1.021	1.025	1.024	1.031	1.009	1.007
		Long-Run Inflation		1.025	1.025	1.025	1.025	1.025	1.025	1.025
		Total Trend		1.076	1.047	1.050	1.049	1.057	1.035	1.032
Clinical Lab										
	Current Policy		$71.4	$80.2	$87.6	$96.1	$105.3	$116.2	$125.5	$135.2
	Medicare Pricing		$18.1	$19.5	$20.4	$21.4	$22.5	$23.8	$24.6	$25.4
	Cost Impact		**-$53.3**	**-$60.7**	**-$67.2**	**-$74.7**	**-$82.8**	**-$92.4**	**-$100.9**	**-$109.8**
ESRD										
	Current Policy		$175.9	$197.6	$215.9	$236.7	$259.3	$286.2	$309.1	$333.0
	Medicare Pricing		$107.7	$115.9	$121.3	$127.4	$133.7	$141.3	$146.2	$150.9
	Cost Impact		**-$68.2**	**-$81.7**	**-$94.6**	**-$109.3**	**-$125.6**	**-$144.8**	**-$162.8**	**-$182.1**
ASC										
	Current Policy		$11.0	$12.4	$13.5	$14.8	$16.2	$17.9	$19.3	$20.8
	Medicare Pricing		$9.7	$10.4	$10.9	$11.5	$12.0	$12.7	$13.2	$13.6
	Cost Impact		**-$1.3**	**-$1.9**	**-$2.6**	**-$3.3**	**-$4.2**	**-$5.2**	**-$6.2**	**-$7.2**
HOPD (for services that would be subject to OPPS)										
	Current Policy		$167.6	$188.2	$205.7	$225.5	$247.0	$272.6	$294.4	$317.3
	Medicare Pricing		$116.8	$125.7	$131.6	$138.2	$145.0	$153.3	$158.6	$163.8
	Cost Impact		**-$50.7**	**-$62.5**	**-$74.1**	**-$87.3**	**-$102.0**	**-$119.3**	**-$135.8**	**-$153.5**
Total of All 4 Types of Services										
	Current Policy		$425.9	$478.3	$522.7	$573.1	$627.8	$692.8	$748.3	$806.3
	Medicare Pricing		$252.3	$271.5	$284.2	$298.5	$313.2	$331.2	$342.6	$353.7
	Cost Impact		**-$173.5**	**-$206.8**	**-$238.5**	**-$274.6**	**-$314.5**	**-$361.7**	**-$405.7**	**-$452.7**

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The resulting cost savings projections are presented in Table 2 below.

TABLE 2

FY	Estimated annual savings resulting from adoption of Medicare pricing standards for payment of out-patient services
2011	$274,600,000
2012	314,500,000
2013	361,700,000
2014	405,700,000
2015	452,700,000
Total	1,809,200,000

Reporting, Recordkeeping, and Other Compliance Requirements

This rule does not impose any reporting or recordkeeping requirements within the meaning of the Paperwork Reduction Act.

Identification of Duplicative, Overlapping, or Conflicting Federal Rules

There are no duplicative, overlapping, or conflicting Federal rules identified with this rule.

Congressional Review Act

Under the Congressional Review Act, a major rule may not take effect until at least 60 days after submission to Congress of a report regarding the rule. A major rule is one that would have an annual effect on the economy of $100 million or more or have certain other impacts. This final rule is a major rule under the Congressional Review Act.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers and titles are 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; and 64.011, Veterans Dental Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on December 3, 2010, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Government programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Dated: December 12, 2010.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

■ For the reasons set forth in the preamble, VA amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

■ 2. Revise paragraph (a) introductory text of § 17.52 to read as follows:

§ 17.52 Hospital care and medical services in non-VA facilities.

(a) When VA facilities or other government facilities are not capable of furnishing economical hospital care or medical services because of geographic inaccessibility or are not capable of furnishing care or services required, VA may contract with non-VA facilities for care in accordance with the provisions of this section. When demand is only for infrequent use, individual authorizations may be used. Care in public or private facilities, however, subject to the provisions of §§ 17.53, 17.54, 17.55 and 17.56, will only be authorized, whether under a contract or an individual authorization, for—

* * * * *

■ 3. Revise § 17.56 to read as follows:

§ 17.56 VA payment for inpatient and outpatient health care professional services at non-departmental facilities and other medical charges associated with non-VA outpatient care.

(a) Except for health care professional services provided in the state of Alaska (see paragraph (b) of this section) and except for non-contractual payments for home health services and hospice care, VA will determine the amounts paid under §§ 17.52 or 17.120 for health care professional services, and all other medical services associated with non-VA outpatient care, using the applicable method in this section:

(1) If a specific amount has been negotiated with a specific provider, VA will pay that amount.

(2) If an amount has not been negotiated under paragraph (a)(1) of this section, VA will pay the lowest of the following amounts:

(i) The applicable Medicare fee schedule or prospective payment system amount ("Medicare rate") for the period in which the service was provided (without any changes based on the subsequent development of information under Medicare authorities), subject to the following:

(A) In the event of a Medicare waiver, the payment amount will be calculated in accordance with such waiver.

(B) In the absence of a Medicare rate or Medicare waiver, payment will be the VA Fee Schedule amount for the period in which the service was provided. The VA Fee Schedule amount is determined by the authorizing VA medical facility, which ranks all billings (if the facility has had at least eight billings) from non-VA facilities under the corresponding procedure code during the previous fiscal year, with billings ranked from the highest to the lowest. The VA Fee Schedule amount is the charge falling at the 75th percentile. If the authorizing facility has not had at least eight such billings, then this paragraph does not apply.

(ii) The amount negotiated by a repricing agent if the provider is participating within the repricing agent's network and VA has a contract with that repricing agent. For the purposes of this section, *repricing agent* means a contractor that seeks to connect VA with discounted rates from non-VA providers as a result of existing contracts that the non-VA provider may have within the commercial health care industry.

(iii) The amount that the provider bills the general public for the same service.

(b) For physician and non-physician professional services rendered in Alaska, VA will pay for services in accordance with a fee schedule that uses the Health Insurance Portability and Accountability Act mandated national standard coding sets. VA will pay a specific amount for each service for which there is a corresponding code. Under the VA Alaska Fee Schedule, the amount paid in Alaska for each code will be 90 percent of the average amount VA actually paid in Alaska for the same services in Fiscal Year (FY) 2003. For services that VA provided less than eight times in Alaska in FY 2003, for services represented by codes established after FY 2003, and for unit-based codes prior to FY 2004, VA will take the Centers for Medicare and Medicaid Services' rate for each code and multiply it times the average percentage paid by VA in Alaska for Centers for Medicare and Medicaid Services-like codes. VA will increase the amounts on the VA Alaska Fee Schedule annually in accordance with the published national Medicare Economic Index (MEI). For those years where the annual average is a negative percentage, the fee schedule will remain the same as the previous year. Payment for non-VA health care professional services in Alaska shall be the lesser of the amount billed or the amount calculated under this subpart.

(c) Payments made by VA to a non-VA facility or provider under this section shall be considered payment in full. Accordingly, the facility or provider or agent for the facility or provider may not impose any additional charge for any services for which payment is made by VA.

(d) In a case where a veteran has paid for emergency treatment for which VA may reimburse the veteran under § 17.120, VA will reimburse the amount that the veteran actually paid. Any amounts due to the provider but unpaid by the veteran will be reimbursed to the provider under paragraphs (a) and (b) of this section.

(Authority: 38 U.S.C. 1703, 1728)

[FR Doc. 2010–31629 Filed 12–16–10; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 232

Conduct on Postal Property

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The U.S. Postal Service is updating its regulations concerning Conduct on Postal Property (COPP) to correct or eliminate outdated citations, obviate the need for continuous updates of such citations by harmonizing the regulations with federal law, and make certain other minor, editorial revisions.

DATES: *Effective date:* December 17, 2010.

FOR FURTHER INFORMATION CONTACT: Christy Noel, Attorney, U.S. Postal Service, 202–268–3484.

SUPPLEMENTARY INFORMATION: The current rules governing Conduct on Postal Property contain a number of outdated or confusing references to non-postal statutes, and in some cases do not

appear to harmonize clearly with Federal law. As discussed in more detail below, this final rule is intended to remedy those shortcomings, as well as make certain minor editorial revisions to the COPP regulations set forth in 39 CFR 232.1.

1. *Paragraph (f) Gambling*: The prohibition of lottery ticket sales contains an exception for Randolph-Sheppard vendors. This exception is amended to replace obsolete citations to Postal Service regulations with the statutory basis for the exception contained in the Randolph-Sheppard Act Amendments of 1974. Subsection (a)(5) of 20 U.S.C. 107a requires that blind vendors licensed to conduct vending operations on federal property be permitted to sell tickets "for any lottery authorized by State law and conducted by an agency of a State". This amendment harmonizes Postal Service regulations with the Randolph-Sheppard Act by citing 20 U.S.C. 107a (a)(5) as the statutory basis for the exception.

2. *Paragraph (m) Nondiscrimination*: The nondiscrimination provision is amended to remove inappropriate references to employment policy. The Postal Service has determined that facilities regulations governing public access to and use of Postal Service property are not the appropriate venue for articulating employment policy. This amendment is necessary to eliminate potential conflict or redundancy with regard to employment regulations, and to correct the scope of the nondiscrimination provision of the COPP regulations, which governs the use of Postal Service facilities "of a public nature".

3. *Paragraph (o) Depositing Literature*: The exception to the prohibition against depositing literature for posting of notices by U.S. Government-related organizations is amended to correct an outdated citation to title 36 of the United States Code. This amendment is necessary for consistency with title 36, which was revised in 1998 without substantive change (Pub. L. 105–225, section 501, 112 Stat. 1253). The amended regulation updates the statutory definition for U.S. Government-related organizations such as the Inaugural Committee, which is currently defined in 36 U.S.C. 501.

4. *Paragraph (p) Penalties and other law:* The penalty provision is amended to incorporate the procedures for a sentence of a fine under title 18 of the United States Code. This amendment is necessary for consistency with title 18, which authorizes the Postal Service to promulgate regulations for the administration and protection of property under its charge and control and of any persons on such property. 18 U.S.C. 3061. The Postal Accountability and Enhancement Act (Pub. L. 109–435, section 1001, 120 Stat. 3198) contains a penalty provision for violations of such regulations, codified at 18 U.S.C. 3061(c). This penalty provision provides that "a person violating a regulation prescribed under this subsection [authorizing Postal Service promulgation of regulations for the protection of its property and persons on such property] shall be fined under [title 18]." 18 U.S.C. 3061(c)(4)(B). Title 18 sets forth procedures for sentences of a fine for defendants found guilty of a criminal offense. 18 U.S.C. 3571. This amendment harmonizes Postal Service regulations with the Postal Accountability and Enhancement Act by citing 18 U.S.C. 3571 as the statutory basis for the penalty provision of the regulations.

List of Subjects in 39 CFR Part 232

Authority designations (Government agencies), Crime, Federal buildings and facilities, Government property, Law enforcement officers, Postal Service, Security measures.

■ In view of the considerations discussed above, the Postal Service adopts the following amendments to 39 CFR Part 232:

PART 232—[Amended]

■ 1. The authority citation for Part 232 is revised to read as follows:

Authority: 18 U.S.C. 13, 3061, 3571; 21 U.S.C. 802, 844; 39 U.S.C. 401, 403(b)(3), 404(a)(7), 1201(2).

■ 2. In § 232.1, paragraphs (f), (m), (o)(3), and (p)(2) are revised to read as follows:

§ 232.1 Conduct on postal property.

* * * * *

(f) *Gambling.* Participating in games for money or other personal property, the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of lottery tickets, is prohibited on postal premises. In accordance with 20 U.S.C. 107a(a)(5), this prohibition does not apply to the vending or exchange of State Lottery tickets at vending facilities operated by licensed blind persons where such lotteries are authorized by state law.

* * * * *

(m) *Nondiscrimination.* There must be no discrimination by segregation or otherwise against any person or persons because of race, color, religion, national origin, sex, or disability, in furnishing, or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided on postal property.

* * * * *

(o) * * *

(3) Posting of notices by U.S. Government-related organizations, such as the Inaugural Committee as defined in 36 U.S.C. 501.

(p) * * *

(2) Whoever shall be found guilty of violating the rules and regulations in this section while on property under the charge and control of the Postal Service is subject to a fine as provided in 18 U.S.C. 3571 or imprisonment of not more than 30 days, or both. Nothing contained in these rules and regulations shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to any area in which the property is situated.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2010–31775 Filed 12–16–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2010–0859; FRL -9240–2]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units, Negative Declaration and Withdrawal of EPA Plan Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the Commonwealth of Virginia's negative declaration and request for EPA withdrawal of its section 111(d)/129 plan (the plan) approval for HMIWI units.

DATES: This rule is effective February 15, 2011 without further notice, unless EPA receives adverse written comment by January 18, 2011. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2010–0859 by one of the following methods:

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

B. *E-mail:* E-mail: *wilkie.walter@epa.gov.*

C. *Mail:* EPA–R03–OAR–2010–0859, Walter K. Wilkie, Associate Director, Air Protection Division, Office of Air Monitoring and Analysis, Mailcode 3AP40, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2010–0859. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "Aanonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., at (215) 814–2190, or by e-mail at *topsale.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Commonwealth of Virginia HMIWI plan and related State rule were approved by EPA in the September 10, 2004 edition of the **Federal Register** and codified in 40 CFR Part 62, subpart VV. (69 FR 54756). An EPA correction notice, relating to the original notice **SUMMARY**, was published in the November 16, 2005 edition of the **Federal Register**. Since that time, all three designated incinerator facilities in the plan inventory have been dismantled, according to the Commonwealth of Virginia, Department of Environmental Quality (VADEQ). On October 6, 2009, EPA promulgated revised HMIWI emission guidelines under 40 CFR Part 60, subpart Ce, that triggered the need for revised State plans. As a result, on September 13, 2010, the VADEQ requested EPA's approval of its negative declaration and plan withdrawal request. The submitted negative declaration contains the name of each designated facility that permanently shutdown, and the year it was dismantled.

II. Final Action

EPA is approving the Commonwealth of Virginia's negative declaration and request for EPA withdrawal of its plan approval for HMIWI units. VADEQ has determined that there are now no designated facilities, subject to subpart Ce requirements, in its air pollution control jurisdiction. EPA accepts that determination. Accordingly, EPA is amending part 62 to reflect approval of the VADEQ September 13, 2010 negative declaration and request for EPA withdrawal of the HMIWI plan approval. However, if an affected Virginia HMIWI unit is discovered in the future, all the requirements of the Federal Plan (including revisions or amendments), part 62, subpart HHH, will be applicable to the affected unit.

III. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves 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). This rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal standard.

In reviewing section 111(d)/129 plan submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS),

EPA has no authority to disapprove a 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 15, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth of Virginia section 111(d)/129 negative declaration and request for EPA withdrawal of the HMIWI plan approval may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: December 2, 2010.

W.C. Early,

Acting Regional Administrator, Region III.

■ 40 CFR Part 62, Subpart VV, is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart VV—Virginia

■ 2. Section 62.11625 is amended by revising the section heading, designating the existing paragraph as (a) and adding paragraph (b) to read as follows:

§ 62.11625 Identification of plan—negative declaration.

* * * * *

(b) On September 13, 2010, the Commonwealth of Virginia, Department of Environmental Protection, submitted a negative declaration, and request for withdrawal of EPA's plan approval under paragraph (a).

■ 3. Section 62.11626 is removed.

■ 4. Section 62.11627 is revised to read as follows:

§ 62.11627 Effective date.

The effective date of the negative declaration and EPA withdrawal of the plan approval is February 15, 2011.

[FR Doc. 2010–31741 Filed 12–16–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 268, and 302

[EPA–HQ–RCRA–2009–0310, FRL–9239–8]

RIN 2050–AG55

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Saccharin and Its Salts From the Lists of Hazardous Constituents, Hazardous Wastes, and Hazardous Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is amending its regulations under the Resource Conservation and Recovery Act (RCRA) to remove saccharin and its salts from the lists of hazardous constituents and commercial chemical products which are hazardous wastes when discarded or intended to be discarded. EPA is also amending the regulations under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to remove saccharin and its salts from the list of hazardous substances. This final rule is in response to a petition submitted to EPA by the Calorie Control Council (CCC) to remove saccharin and its salts from the above lists. EPA is granting CCC's petition based on a review of the evaluations conducted by key public health agencies concerning the carcinogenic and other potential toxicological effects of saccharin and its salts, as well as EPA's own assessment of the waste generation and management information for saccharin and its salts. This review/assessment demonstrates that saccharin and its salts do not meet the criteria in the hazardous waste regulations for remaining on EPA's lists of hazardous constituents, hazardous wastes, and hazardous substances.

DATES: This final rule is effective on January 18, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–RCRA–2009–0310. All documents in the docket are listed in the *http://www.regulations.gov* index. Certain material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OSWER Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. The Public Meeting Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the OSWER Docket and the Public Reading Room is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: For general information, review our Web site at *http://www.epa.gov/epaoswer/hazwaste.* For information on specific aspects of the rule, contact Narendra Chaudhari of the Office of Resource Conservation and Recovery (5304P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 703–308–0454; e-mail address: *chaudhari.narendra@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Who is potentially affected by this final rule?

This final rule could directly affect businesses that generate or manage

unused commercial products that contain saccharin or its salts. Specifically, the wastes affected by this final rule are unused commercial chemical products, manufacturing chemical intermediates, off-specification material, container residues, and spill residues that contain saccharin or its salts in a pure or technical grade form, or as the sole active ingredient and are listed as EPA Hazardous Waste No. U202 (see 40 CFR 261.33(f)). These wastes will no longer be subject to the U202 listing, provided the States adopt and seek authorization for this final rule. This action may also affect entities that need to respond to releases of these wastes as CERCLA hazardous substances, since saccharin and its salts will no longer be CERCLA hazardous substances. Persons in charge of vessels or facilities from which saccharin or its salts are released will no longer be required to immediately notify the National Response Center of the release under section 103 of CERCLA and will not be subject to the liability provisions under section 107 of CERCLA. The table below provides a guide for readers regarding entities that likely would be directly or indirectly affected by this action, based on the information available from the 2007 Biennial Report.[1]

INDUSTRY SECTORS POTENTIALLY AFFECTED BY THE FINAL RULE

NAICS code	Industry description for NAICS code
31193	Flavoring Syrup and Concentrate Manufacturing.
312111	Soft Drink Manufacturing.
325199	All Other Basic Organic Chemical Manufacturing [manufacturers of saccharin].
32541	Pharmaceutical and Medicine Manufacturing.
325411	Medicinal and Botanical Manufacturing.
325412	Pharmaceutical Preparation Manufacturing.
32562	Toilet Preparation Manufacturing.[2]
49311	General Warehousing and Storage.
5417	Scientific Research and Development Services.
54171	Research and Development in the Physical, Engineering, and Life Sciences.
61131	Colleges, Universities, and Professional Schools.

This action, however, may affect other entities not listed in the table. To determine whether your facility is affected by this action, you should examine 40 CFR parts 261, 268 and 302 carefully, along with the final regulatory language amending Chapter I of the Code of Federal Regulations (CFR). This language is found at the end of this **Federal Register** notice. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.

Preamble Outline

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II. List of Abbreviations and Acronyms
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A. Evaluation of Toxicological Information for Saccharin and Its Salts To Assess the Petition
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F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. Statutory Authority

These regulations are being promulgated under the authority of sections 1006, 2002(a), 3001 and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended, by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924, 6924(y), and 6938. These statutes combined are commonly referred to as the "Resource Conservation and Recovery Act" (RCRA) and will be referred to as such for the remainder of this action.

Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9602, as amended, is the authority under which the CERCLA aspects of this rule are promulgated.

II. List of Abbreviations and Acronyms

BRS Biennial Reporting System
CCC Calorie Control Council
CERCLA Comprehensive Environmental Response, Compensation, and Liability Act
CFR Code of Federal Regulations
EPA Environmental Protection Agency
EPCRA Emergency Planning and Community Right-to-Know Act
FDA Food and Drug Administration
HSWA Hazardous and Solid Waste Amendments of 1984

[1] EPA, in partnership with the States, biennially collects information regarding the generation, management, and final disposition of hazardous wastes regulated under RCRA. See the 2007 Biennial Report on the EPA Web site *http://www.epa.gov/epawaste/inforesources/data/index.htm*.

[2] Saccharin and its salts are used in personal-care products, such as mouthwash, dental cleaners, and lipstick, which come under Toilet Preparation Manufacturing (NAICS Code 32562).

IARC International Agency for Research on Cancer
LD_{50} Lethal Dose 50%
LDRs Land Disposal Restrictions
NAICS North American Industrial Classification System
NOEL No Effect Level
NTP National Toxicology Program
OMB Office of Management and Budget
ROC Report on Carcinogens
RQ Reportable Quantity

III. Summary of This Action

In this notice, EPA is finalizing regulations to remove saccharin and its salts from the lists of hazardous constituents (40 CFR part 261, Appendix VIII) and hazardous wastes (40 CFR 261.33 (f)) under RCRA and from the list of hazardous substances (40 CFR 302.4) under CERCLA. These final regulations are substantively the same as those that EPA proposed on April 22, 2010 (75 FR 20942).[3] This final rule is in response to a petition submitted to EPA by the Calorie Control Council (CCC),[4] under 40 CFR 260.20, to remove saccharin and its salts from its lists of hazardous constituents and hazardous wastes. In the same petition, CCC also requested removal of saccharin and its salts from the list of hazardous substances. EPA is granting CCC's petition based on a review of the evaluations conducted by key public health agencies concerning the carcinogenic and other potential toxicological effects of saccharin and its salts, as well as EPA's own assessment of the waste generation and management information for saccharin and its salts. This review/assessment demonstrates that saccharin and its salts do not meet the criteria in the hazardous waste regulations for remaining on EPA's lists of hazardous constituents, hazardous wastes, and hazardous substances.

IV. Summary of the Proposed Action

On April 22, 2010, EPA issued a proposed rule (75 FR 20942) that would grant a petition submitted by CCC to remove saccharin and its salts from the lists of hazardous constituents (40 CFR part 261, Appendix VIII), hazardous wastes (40 CFR 261.33(f)), and hazardous substances (40 CFR 302.4). Under § 260.20, any person may petition the EPA Administrator to modify or revoke any provision in parts 260 through 266, 267, 268, and 273 of 40 CFR. The CCC argued in its petition (which is included in the docket for this final rule) that the current scientific evidence, as viewed by key public health agencies, such as the National Toxicology Program (NTP) and the International Agency for Research on Cancer (IARC), does not support classifying saccharin as a potential human carcinogen, which was EPA's original and only basis for placing saccharin and its salts on its lists of hazardous constituents, hazardous wastes, and hazardous substances. EPA's evaluation of this petition considered the original basis for the listing, NTP's and IARC's more recent conclusions about the risk of carcinogenicity of saccharin and its salts, as well as other factors or criteria required for making a listing determination. Based on this evaluation, EPA determined that saccharin and its salts do not present a significant risk to human health or the environment. Therefore, EPA proposed to grant CCC's petition by proposing to remove saccharin and its salts from the lists of hazardous constituents (40 CFR part 261, Appendix VIII), hazardous wastes (40 CFR 261.33(f)), and hazardous substances (40 CFR 302.4).

V. EPA's Evaluation of the Petition Based on the Available Toxicological Information and Waste Generation and Management Information for Saccharin and Its Salts

Saccharin is a white crystalline powder which is about 300 times sweeter than sucrose. It is typically available commercially either in the acid form (saccharin) or as salts (sodium saccharin or calcium saccharin). The use of the name saccharin has been applied to all three forms of this chemical. The chemical name for saccharin and its salts is "1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide & salts." Saccharin and its salts are used primarily as non-nutritive sweeteners. The most common uses are in diet soft drinks, as a table-top sweetener, and in products, such as juices, sweets, chewing gum and jellies. They are also used in cosmetics (*e.g.,* toothpaste, mouthwash, and lipstick), pharmaceuticals (*e.g.,* for coatings on pills), and electroplating (*e.g.,* as a brightener in nickel-plating baths).

As discussed in the proposed rule, EPA listed saccharin and its salts on the lists of hazardous constituents (40 CFR part 261, Appendix VIII), hazardous wastes (40 CFR 261.33(f)), and hazardous substances (40 CFR 302.4) based solely upon the evidence that it is a potential human carcinogen (75 FR 20945, April 22, 2010). EPA's evaluation of CCC's petition includes consideration of the original basis for the listings in light of the most recent scientific evidence about the risk of carcinogenicity of saccharin and its salts. However, EPA has also evaluated the petitioner's requests against the listing criteria and factors that would need to be considered under the regulations.

A. Evaluation of Toxicological Information for Saccharin and Its Salts To Assess the Petition

There have been numerous scientific studies conducted over the past several decades for the purpose of determining the toxicological effects, in particular carcinogenic effects, from the use of saccharin and its salts. The NTP and IARC have recently re-evaluated the available scientific information on saccharin and its salts relevant to its carcinogenic and other toxicological effects. In 1996, CCC submitted a nomination to (or petitioned) the NTP to consider removing saccharin from its Report on Carcinogens (ROC) "based upon mechanistic data related to development of urinary bladder cancers in rats." NTP re-evaluated the available scientific information for saccharin and published its decision on CCC's petition in 2000, as part of its 9th ROC. In 1999, IARC published the results of its latest re-evaluation of the available scientific information for saccharin and its salts. The evaluations on the carcinogenicity and other toxicological effects of saccharin and its salts by NTP and IARC are summarized below. See the "NTP Report on Carcinogens Background Document for Saccharin" (which will now be referred to as NTP's Background Document) and part of the IARC Monographs Volume 73 concerning saccharin and its salts, which are included in the docket for this rulemaking. EPA believes it is appropriate to accept the saccharin evaluations performed by NTP and IARC. The NTP decision to delist saccharin from the ROC included scientific peer reviews, as well as public comment. IARC's evaluation on the carcinogenicity of saccharin and its salts provides additional support in EPA's assessment of CCC's petition.

1. Evaluation of Information on the Carcinogenicity of Saccharin and Its Salts by NTP and IARC

NTP initially listed saccharin as "reasonably anticipated to be a human carcinogen" in its 2nd ROC, published in 1981, based on sufficient evidence, at that time, of carcinogenicity in experimental animals. Specifically, the listing was based on increased

[3] The regulations proposed by EPA on April 22, 2010 did not remove the chemical name of saccharin and its salts (1, 2-Benzisothiazol-3(2H)-one, 1, 1-dioxide, & salts) from 40 CFR 302.4. The final regulatory text corrects that inadvertent omission.

[4] To examine CCC's complete petition, see the docket for this final rule.

incidence of bladder tumors in experimental animals, especially male rats, when they were fed sodium saccharin. However, saccharin was removed, or delisted, by NTP in its 9th ROC, published in 2000. The delisting decision for saccharin was made on the basis of a formal review process adopted by NTP, which included two Federal and one non-governmental scientific peer review and public comment and review.

In the ROC and its background document, NTP summarized its evaluation supporting the decision to remove saccharin as "reasonably anticipated to be a human carcinogen" as follows:

"There is evidence of the carcinogenicity of saccharin in rats but less convincing evidence in mice. Mechanistic studies indicate that the observed urinary bladder cancers in rat studies are related to urinary pH, osmolality, volume, presence of precipitate and urothelial damage with attendant hyperplasia following dietary concentrations of 3% or higher with inconsistent findings at lower dietary concentrations. The factors thought to contribute to tumor induction by sodium saccharin in rats would not be expected to occur in humans. The mouse data are inconsistent and require verification by additional studies. Results of several epidemiology studies indicate no clear association between saccharin consumption and urinary bladder cancer. Although it is impossible to absolutely conclude that it poses no threat to human health, sodium saccharin is not reasonably anticipated to be a human carcinogen under conditions of general usage as an artificial sweetener."

The available epidemiology studies, according to NTP, mostly examined associations between urinary bladder cancer and artificial sweeteners, rather than saccharin *per se.* The time trend data for bladder cancer from these studies were thought to be essentially noninformative with no clear indication that the increased use of saccharin or artificial sweeteners, beginning in the 1940's, was associated with any general increase in bladder cancer when controlled for confounding factors, mainly smoking. NTP's decision to delist saccharin, as stated in the ROC, was as follows:

"Saccharin will be delisted from the Report on Carcinogens, because the rodent cancer data are not sufficient to meet the current criteria to list this chemical as reasonably anticipated to be a human carcinogen. This is based on the perception that the observed bladder tumors in rats arise by mechanisms not relevant to humans, and the lack of data in humans suggesting a carcinogenic hazard."

IARC first evaluated saccharin in 1980 and concluded the following:

"There is sufficient evidence that saccharin alone, given at high doses, produces tumours of the urinary tract in male rats * * *" (IARC, 1980).

In 1999, IARC presented its last re-evaluation, taking into consideration all new data on saccharin and its salts. It found that, based on a review of human studies on the carcinogenicity of artificial sweeteners, that there is "no consistent pattern of dose-response relationship between use of artificial sweeteners and cancers of the urinary bladder or lower urinary tract is apparent in the available literature." The animal studies in rats with sodium saccharin did show urinary bladder tumors in the 2-generation studies. However, the incidence of bladder tumors was significant only at higher doses (greater than 3% of the diet). Based on this re-evaluation, IARC concluded the following:

"There is inadequate evidence in humans for the carcinogenicity of saccharin salts used as sweeteners."

"There is sufficient evidence in experimental animals for the carcinogenicity of sodium saccharin."

"There is inadequate evidence in experimental animals for the carcinogenicity of saccharin (acid form) and calcium saccharin."

In making its overall evaluation of the carcinogenic risk from saccharin and its salts, IARC stated the following:

"In making its evaluation, the Working Group concluded that sodium saccharin produces urothelial bladder tumours in rats by a non-DNA-reactive mechanism that involves the formation of urinary calcium phosphate-containing precipitate, cytotoxicity and enhanced cell proliferation. This mechanism is not relevant to humans because of critical interspecies differences in urine composition."

"Saccharin and its salts are not classifiable as to their carcinogenicity to humans (Group 3)."

2. Evaluation of Information on Other Toxicological Effects of Saccharin and Its Salts by NTP and IARC

In addition to the evaluation of information on saccharin's carcinogenicity, NTP's Background Document and IARC's 1999 re-evaluation (as presented in IARC Monograph Volume 73) included information and analysis on other toxicological effects of saccharin and its salts. Specifically, saccharin, in the form of sodium saccharin, has generally been tested in rats by feeding the rats diets containing specified amounts of sodium saccharin. It has not been found to be acutely toxic in rats based on the criterion for listing hazardous wastes under § 261.11(a)(2). The LD_{50} values for sodium saccharin by oral administration in rats ranged from 14 g/kg (14,000 mg/kg) to 17 g/kg (17,000 mg/kg) of body weight, which is significantly higher than the oral LD_{50} value for rats of less than 50 mg/kg specified under the listing criterion. A 2-generation feeding study in rats that were given 1% to 7.5% sodium saccharin in their diet indicated that a 1% dietary level (500 mg/kg of body weight) of sodium saccharin represented a no-effect level (NOEL). There was also no significant increase in the incidence of urinary bladder tumors at the 3% dietary level of sodium saccharin. Generally, the studies on mutagenicity, genotoxicity, developmental and reproductive toxicity using saccharin and sodium saccharin have shown negative results. For more detailed information and analysis on other toxicological effects of saccharin and its salts, see NTP's Background Document and IARC's 1999 re-evaluation in the docket for this final rule.

B. Evaluation of Waste Generation and Management Information for Saccharin and Its Salts To Assess the Petition

1. Quantity and Types of Wastes Generated

Saccharin and its salts are listed hazardous wastes, if the waste arises from the discard of commercial chemical products, manufacturing chemical intermediates, off-specification material, container residues or spill residues (EPA Hazardous Waste No. U202 in 40 CFR 261.33(f)). The U-waste code applies only if the chemical is present in a pure or technical grade form, or is the sole active ingredient in the chemical formulation; in addition, the chemical must be unused.

The U202 listing is narrow and does not apply to other discarded materials that merely contain saccharin or its salts, e.g., discarded products that contain saccharin as a sweetening agent. Nor does the listing apply to manufacturing process wastes that may contain saccharin or its salts, except for unused or off-specification saccharin or its salts that are discarded. Therefore, U202 is primarily generated by companies that manufacture saccharin or its salts, use saccharin or its salts in product formulations (*e.g.,* soft drinks, cosmetics, pharmaceuticals), and by companies that are discarding small quantities of unused or off-specification saccharin or its salts, such as some laboratories.

Facilities are required by EPA to report the amount of hazardous waste, including U202 generated biennially (every two years) as part of the Biennial

Report System, or BRS. Based on the information available from the BRS for the years 2001, 2003, 2005, and 2007, generators reported a total of 123 specific wastes listed as U202 during this time period (some generators reported multiple U202 wastes over the years in question). The total amount of U202 waste generated over this time period was 20 tons for all industries/NAIC Codes; for 2007, there were 4.1 tons of U202 reported for 29 separate wastes.

Most of the U202 wastes appear to be discarded unused or off specification material and "lab packs," which package hazardous items for shipping and disposal. A limited number of other wastes are also reported, including contaminated debris/soil, organic and aqueous liquids, and other unidentified material. Although wastes were reported as "generated" by hazardous waste treatment, storage, and disposal facilities, the BRS data indicate that nearly all of these wastes were not generated on-site, but rather were received from off-site for storage/packing and subsequent transfer for treatment or disposal. To avoid counting these wastes twice (i.e., the reported wastes from the generator and again from the waste facility packing/transferring the waste), one can subtract out the amounts of waste reported by hazardous waste collection and treatment facilities. Removing the U202 wastes generated at these hazardous waste handling facilities from the 20 tons reported for all industries/NAIC Codes noted previously gives a total of 14.7 tons generated from 2001 through 2007; similarly, removing the double counting in the 2007 data from the 4.1 tons of U202 reported for all NAIC Codes gives 2.9 tons for 2007 alone. Therefore, the total quantity of U202 generated is quite small compared to the total volume of hazardous waste generated, both on an annual basis and over the course of four reporting years.[5]

2. Factors Considered for Waste Listing

Saccharin and its salts were listed as hazardous waste under the criterion for listing given in 40 CFR 261.11(a)(3). Under this criterion, the Agency can list a waste if it contains any of the toxic constituents identified in 40 CFR part 261, Appendix VIII and, after considering a number of factors, the Agency concludes that the waste poses a "substantial present or potential hazard to human health or the environment" when improperly managed. The nature of the toxicity of a chemical contained in a waste is one of the factors to be considered in listing a waste as "toxic" (see § 261.11(a)(3)(i)). The Agency cited toxicity as the "decisive" factor in listing commercial chemical products under § 261.33(f), because the waste is typically the chemical itself (see EPA's Background Document for § 261.33, April 1981). Saccharin and its salts were listed as toxic constituents on Appendix VIII of part 261 and subsequently identified as hazardous wastes in § 261.33(f) based solely on their potential for carcinogenic effect in humans. Therefore, if the toxicological basis for listing saccharin and its salts on Appendix VIII of part 261 is removed, then the basis for listing in § 261.33(f) no longer exists.

Other factors considered in listing a waste under § 261.11(a)(3) are related to the potential of the chemical to migrate if improperly managed, and include the chemical's persistence and accumulation potential. However, these other factors are not critical in a listing evaluation for commercial chemical products containing saccharin and its salts, because the low toxicity of these chemicals revealed in scientific studies, including a lack of potential carcinogenic effect in humans, means that any risk from a plausible management scenario (e. g., disposal in a landfill) would not be sufficient to cause a substantial present or potential hazard to human health or the environment. In addition, the quantity of waste generated from the discard of saccharin and its salts by individual facilities and on a nationwide basis (§ 261.11(a)(3)(viii)) is relatively small, as described previously, which further reduces any potential hazard that might arise from disposal of the waste. The generators are distributed across the nation, located in 42 different counties according to BRS data, reducing the likelihood of significant co-disposal in the same landfill.

Additionally, one of the other factors for EPA to consider is action taken by other governmental agencies and regulatory programs (§ 261.11(a)(3)(x)). These actions also demonstrate that saccharin and its salts do not present a substantial hazard to human health or the environment. These actions include: (1) The determinations by NTP and IARC that saccharin is not a potential human carcinogen, as discussed previously; (2) the State of California's removal of saccharin and its salts from its list of chemicals known to cause cancer or reproductive toxicity (under its Safe Drinking Water and Toxic Enforcement Act of 1986, known as "proposition 65");[6] and (3) the FDA's approval of a variety of uses of saccharin in food, cosmetics, and drugs, and the elimination of the warning label on food containing saccharin.[7] Saccharin and its salts continue to be used widely as a non-nutritive sweetener in food products and are also used in products, such as toothpaste, mouthwash, chewing gum, confections, and pharmaceuticals.

Furthermore, as noted previously in section V.A.2., the information reviewed indicates that saccharin and its salts are not acutely toxic, and as such, they would not meet the criterion for listing hazardous wastes under § 261.11(a)(2). Moreover, saccharin and its salts do not meet the criterion under § 261.11(a)(1), because saccharin and its salts are not expected to exhibit any of the characteristics of hazardous waste, i.e., ignitability, corrosivity, reactivity, and toxicity, as described in 40 CFR 261.21 through 261.24.

Finally, the Agency needed to consider only one factor in listing saccharin and its salts as hazardous substances under CERCLA. Under the statutory provisions of section 101(14)(C) of CERCLA, a hazardous waste that exhibits one or more of the hazardous waste characteristics or specifically is listed as a hazardous waste under RCRA becomes a hazardous substance under CERCLA.[8] As a result, saccharin and its salts were listed in 40 CFR 302.4 and designated as hazardous substances under section 102(a) of CERCLA. The Agency no longer has an independent basis upon which to retain saccharin and its salts as CERCLA hazardous substances and is taking action to remove saccharin and its salts

[5] For comparison, BRS shows that approximately 47 million tons of hazardous waste was generated in 2007 (*see http://www.epa.gov/osw/inforesources/data/br07/national07.pdf*). Also in 2007, approximately 137 million tons of municipal waste went to landfills and other disposal (*see http://www.epa.gov/epawaste/nonhaz/municipal/msw99.htm*).

[6] California EPA, Office of Environmental Health Hazard Assessment, Notice to Interested Parties for Chemical Delisted Effective April 6, 2001 and Notice to Interested Parties for Chemical Delisted Effective January 17, 2003 (available in the docket for this proposed rulemaking).

[7] Section 517, Title V, Appendix A, Consolidated Appropriations Act of 2001 (Pub. L. 106–554, 114 Stat. 2763), repealed 21 U.S.C. 343(o), the saccharin warning statement requirement.

[8] In addition, hazardous substances include: (1) Any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act; (2) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act; (3) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act; (4) any hazardous air pollutant listed under section 112 of the Clean Air Act; and (5) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. Saccharin and its salts are not included on any of these lists.

from the list of CERCLA hazardous substances.

VI. Response to Comments and Rationale for the Final Rule

A. Response to Comments

EPA received comments from the CCC and the New York State Department of Environmental Conservation (NYSDEC) in response to the proposed rule. The CCC supported EPA's proposal, which responded to CCC's April 30, 2003 petition, to remove saccharin and its salts from the lists of hazardous constituents, hazardous wastes and hazardous substances. In its comments, CCC stated that the current scientific evidence for saccharin and EPA's own assessment supports the Agency's proposed decision to remove saccharin and its salts from its lists. NYSDEC's comments do not present any concerns about EPA's proposal to remove saccharin and its salts from its lists. Instead, NYSDEC's comments request clarification regarding the regulatory status of a discarded unused chemical product containing multiple ingredients (*i.e.,* saccharin-containing nicotine gum) under 40 CFR 261.33. Since EPA's proposal was for removing saccharin and its salts from its lists, the Agency does not consider NYSDEC's comments to be within the scope of the rule and therefore, not relevant to its decision on finalizing the proposal. The entire comments submitted by CCC and NYSDEC in response to the proposed rule are available in the docket for this rulemaking.

B. EPA's Rationale for Granting the Petition

In summary, the comments on the proposed rule were either supportive or requested clarification on an issue that is not relevant to EPA's proposed decision; the Agency received no comments that disagreed with EPA's proposal to remove saccharin and its salts from the lists of hazardous constituents (40 CFR part 261, Appendix VIII), hazardous wastes (40 CFR 261.33(f)), and hazardous substances (40 CFR 302.4). EPA believes that saccharin and its salts, based on the results of the latest reviews of the available scientific information performed by NTP and IARC, do not pose a present or potential risk of causing toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. This is because saccharin and its salts: (1) Are not found to be highly toxic in scientific studies; (2) are not reasonably expected to have carcinogenic effects in humans and carcinogenic effects in experimental animals (i.e., rats) have been observed mainly at higher doses (greater than 3% of the diet) and effect mechanisms that are not relevant to humans; and (3) are not reasonably expected to be mutagenic or teratogenic. Therefore, there is no basis for retaining saccharin and its salts as a hazardous constituent listed on Appendix VIII of Part 261.

EPA also believes that saccharin and its salts, based on a review of the evaluations conducted by NTP and IARC concerning the carcinogenic and other potential toxicological effects of saccharin and its salts, as well as EPA's own assessment of waste generation and management information for saccharin and its salts, do not meet the criteria for listing as hazardous wastes under 40 CFR 261.11. This is because saccharin and its salts: (1) Are not known to exhibit any of the characteristics of hazardous wastes identified in 40 CFR 261.21 through 261.24; (2) are not found to be acutely toxic in studies with animals; (3) are not found to be highly toxic in non-acute (longer-term) scientific studies; (4) are not discarded annually in a quantity which could reasonably be considered to pose a "substantial present or potential hazard to human health or the environment" when improperly treated, stored, transported, or disposed of, or otherwise managed; and (5) are not considered hazardous by other government agencies and regulatory programs. Therefore, there is no basis for retaining the listing for saccharin and its salts as a hazardous waste under 40 CFR 261.33(f).

EPA's listing of saccharin and its salts as hazardous substances under CERCLA (40 CFR 302.4) was based solely upon these substances being listed as U202 hazardous wastes under RCRA (40 CFR 261.33(f)). Therefore, since the Agency is removing saccharin and its salts as U202 listed hazardous wastes and saccharin and its salts are not designated or listed as hazardous substances on any of the other environmental statutes identified in section 101(14) of CERCLA that defines the term "hazardous substance," there exists no independent basis for retaining saccharin and its salts on CERCLA's list of hazardous substances (40 CFR 302.4). Based on the above conclusions, EPA has decided to finalize the proposed rule granting CCC's petition without any substantive changes.

VII. Status of Land Disposal Restrictions for U202 Listed Wastes

As discussed in the previous section, the Agency is removing saccharin and its salts from the list of unused commercial chemical products, manufacturing chemical intermediates, off-specification material, container residues, and spill residues which are hazardous wastes when discarded or intended to be discarded (40 CFR 261.33(f)). These chemicals are specifically listed as RCRA Hazardous Waste No. U202 under 40 CFR 261.33(f). The regulations under 40 CFR part 268, prohibit the land disposal of RCRA hazardous waste unless they meet a certain level or have been treated by a technology specified by EPA prior to land disposal. See the table "Treatment Standards for Hazardous Wastes" in § 268.40. The land disposal restrictions (LDRs) only apply to solid wastes that are RCRA hazardous wastes. Because saccharin and its salts are being removed from the list of hazardous wastes based on this final rule, they would not be subject to the LDRs. Therefore, EPA is also removing saccharin and its salts from the table "Treatment Standards for Hazardous Wastes" in § 268.40.

VIII. State Authorization

A. Applicability of the Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize a qualified State to administer and enforce a hazardous waste program within the State in lieu of the Federal program, and to issue and enforce permits in the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for State authorization are found at 40 CFR part 271.

Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in that State, since only the State was authorized to issue RCRA permits. When new, more stringent Federal requirements were promulgated, the State is obligated to enact equivalent authorities within specified timeframes. However, the new Federal requirements do not take effect in an authorized State until the State adopted the Federal requirements as State law.

In contrast, under RCRA section 3006(g), (42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to HSWA authority take effect in authorized States at the same time that they take effect in

unauthorized States. Although authorized States still are required to update their hazardous waste programs to remain equivalent to the Federal program, EPA is directed by the statute to implement the requirements and prohibitions in authorized States, including the issuance of new permits implementing those requirements, until EPA authorizes the State to do so.

Authorized States are required to modify their programs only when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program. See also 40 CFR 271.1(i). Therefore, authorized States may, but are not required to adopt Federal regulations, both HSWA or non-HSWA, that are considered less stringent than previous Federal requirements.

B. Effect on State Authorization

This rule is promulgated pursuant to non-HSWA authority. The changes included in this rule are less stringent than the current Federal requirements. Therefore, States will not be required to adopt and seek authorization for these changes. EPA will implement the changes in this rule only in those States which are not authorized for the RCRA program. Nevertheless, EPA believes that this rule has considerable merit, and the Agency thus strongly encourages States to amend their programs and become Federally-authorized to implement this rule.

IX. CERCLA Designation and List of Hazardous Substances and Reportable Quantities

Section 101(14) of CERCLA defines the term "hazardous substance" as those substances designated or listed under several other environmental statutes and those substances designated by EPA as hazardous under CERCLA section 102(a). In particular, CERCLA section 101(14)(C) incorporates by reference any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act. CERCLA section 102(a) authorizes EPA to designate as hazardous those substances that, when released into the environment, may present substantial danger to the public health, welfare or the environment, and to establish the reportable quantity (RQ) for all CERCLA hazardous substances. CERCLA section 102(b) sets a RQ of one pound (statutory RQ) for hazardous substances, except those for which RQs have been established pursuant to section 311(b)(4) of the Clean Water Act (CWA). A list of CERCLA hazardous substances with their corresponding RQs is provided in Table 302.4 at 40 CFR part 302. CERCLA section 103 requires any person who releases a CERCLA hazardous substance in an amount equal to or greater than its RQ to report the release immediately to the National Response Center.

On April 4, 1985, EPA issued a final rule, "Notification Requirements, Reportable Quantity Adjustments; Final Rule and Proposed Rule" (see 50 FR 13456). The final rule retained the statutory RQ of one pound for saccharin and its salts with a note that the final RQ is subject to change when the assessment of potential carcinogenicity and/or chronic toxicity is completed.

On March 16, 1987, EPA proposed to adjust the statutory RQ for saccharin and its salts to 100 pounds (45.5 kg) (see 52 FR 8140), which EPA finalized on August 14, 1989 (see 54 *FR* 33418). Saccharin and its salts, at the time of RQ adjustment, were classified as weight of evidence Group C,[9] potency Group 3 [10] substances and received a "low" hazard ranking.

In this rule, the Agency is removing saccharin and its salts [11] from the list of CERCLA hazardous substances in conjunction with the removal of saccharin and its salts from the list of hazardous constituents (40 CFR part 261, Appendix VIII) and the list of commercial chemical products deemed hazardous waste (40 CFR 261.33(f)). With removal of the RCRA hazardous waste listing, the Agency does not have an independent basis upon which to retain saccharin and its salts as CERCLA hazardous substances. That is, the Agency's designation of saccharin and its salts under section 102(a) was based solely upon its inclusion as a hazardous substance under section 101(14)(C) of CERCLA.

X. Relationship to Other Rules

This action is not intended, and should not be inferred, to affect the status of saccharin and its salts under any statute or program other than RCRA and CERCLA. The granting of CCC's petition does not remove saccharin from the EPCRA section 313 list, which requires annual reporting of environmental releases of toxic chemicals.

XI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). In fact, EPA expects that the total annual respondent burden from this final rule would result in a net reduction in national annual paperwork burden to the affected facilities because of elimination of hazardous waste, and CERCLA hazardous substance reporting requirements. EPA also expects this rule to result in net annual cost savings to these same facilities from reduced waste management costs, by the expected shift of waste management from RCRA Subtitle C hazardous waste management, to RCRA Subtitle D nonhazardous waste management.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not

[9] Group C (possible human carcinogen) includes hazardous substances with "limited" evidence of carcinogenicity in animals and "inadequate evidence," "no data," or "no evidence" from human epidemiologic studies.

[10] Group 3—"low" hazard category. RQ levels are assigned to the hazard rankings as follows: high (one pound RQ), medium (10 pound RQ), and low (100 pound RQ).

[11] The Agency is also removing the chemical name for saccharin and its salts, 1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts which appears as a separate entry on the list of CERCLA hazardous substances.

have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the final rule on small entities" (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on small entities subject to the rule.

This action is designed to lower the cost of waste management for affected entities, by removing saccharin and its salts from the lists of hazardous constituents and commercial chemical products which are hazardous wastes when discarded or intended to be discarded under RCRA and from the list of hazardous substances under CERCLA. We have therefore concluded that today's final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. This is because this final rule imposes no enforceable duty on any State, local, or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule primarily affects generators of certain hazardous wastes from the discard of unused commercial products that contain saccharin and its salts. There are no State and local government bodies that incur direct compliance costs by this rulemaking. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This final rule does not significantly or uniquely affect the communities of Indian tribal governments, nor would it impose substantial direct compliance costs on them. Thus, Executive Order 13175 does not apply to this rule.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 *FR* 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

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) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. Our goal is to ensure that all citizens live in clean and sustainable communities. In response to Executive Order 12898, and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

The Agency's assessment, based on the small quantity of saccharin and its salts that are estimated to be discarded by affected facilities and their relatively low toxicity, is that there is no significant risk to human health or the environment from managing saccharin and its salts in nonhazardous waste landfills (the plausible management scenario). As noted previously in section V.B.2., the facilities that generate these small quantities of waste are distributed across the nation, which makes it unlikely that any one segment of the population would be impacted disproportionately from management of this nonhazardous waste.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule 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 action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective on January 18, 2011.

List of Subjects

40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 302

Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and record keeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 13, 2010.

Lisa P. Jackson,

Administrator.

■ For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

§ 261.33 [Amended]

■ 2. Section 261.33 is amended by removing the entries for the U202 hazardous waste in the table under paragraph (f).

Appendix VIII [Amended]

■ 3. Appendix VIII to part 261 is amended by removing the entries for "Saccharin" and "Saccharin salts" from the table "Hazardous Constituents."

PART 268—LAND DISPOSAL RESTRICTIONS

■ 4. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

§ 268.40 [Amended]

■ 5. Section 268.40 is amended by removing the entry for waste code U202 from the table "Treatment Standards for Hazardous Wastes."

Appendix VII [Amended]

■ 6. Appendix VII to part 268 is amended by removing the entry for waste code U202 from Table 1, "Effective Dates of Surface Disposed Wastes (Non-Soil and Debris) Regulated in the LDRs—Comprehensive List."

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

■ 7. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

§ 302.4 [Amended]

■ 8. Section 302.4 is amended as follows:

■ a. By removing the entry for "1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts" from Table 302.4.

■ b. By removing the entry for "Saccharin, & salts" from Table 302.4.

■ c. By removing the entry for "81072 Saccharin, & salts. 1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts" from Appendix A to § 302.4.

[FR Doc. 2010–31773 Filed 12–16–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action

under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL) Modified	Communities affected
Butler County, Ohio, and Incorporated Areas Docket No.: FEMA–B–1075			
Dicks Creek	Approximately 500 feet upstream of Main Street	+631	City of Middletown, City of Monroe, Unincorporated Areas of Butler County.
	Approximately 1,270 feet upstream of Cincinnati-Dayton Road.	+660	
Elk Creek	Approximately 0.7 mile downstream of Howe Road	+648	City of Trenton.
	Approximately 0.5 mile downstream of Howe Road	+654	
Four Mile Creek	Approximately 0.7 mile upstream of Seven Mile Avenue	+600	Village of New Miami.
	Approximately 0.8 mile upstream of Seven Mile Avenue	+601	
Four Mile Creek	Approximately 1,250 feet upstream of Bonham Road	+796	City of Oxford.
GM Ditch	At the confluence with Pleasant Run	+596	City of Fairfield.
	Approximately 1,200 feet upstream of Symmes Road	+605	
Great Miami River	Approximately 1.4 mile upstream of the confluence with Gregory Creek.	+626	City of Trenton.
Great Miami River	Approximately 0.5 mile downstream of State Route 73	+637	City of Middletown.
	Approximately 1.5 mile upstream of State Route 4	+661	
Jackson Ditch	Approximately 1,000 feet downstream of Wehr Road	+627	Unincorporated Areas of Butler County.
	Approximately 1,840 feet upstream of Trenton Road	+649	
Jackson Ditch East Fork	At the confluence of Jackson Ditch East Branch of East Fork with Jackson Ditch East Fork.	+701	Unincorporated Areas of Butler County.
	Approximately 110 feet upstream of Howe Road	+750	
Jackson Ditch East Fork	At the confluence with Jackson Ditch	+651	City of Trenton, Unincorporated Areas of Butler County.
	Approximately 80 feet upstream of Howe Road	+756	
Jackson Ditch West Fork	At the confluence with Jackson Ditch	+651	Unincorporated Areas of Butler County.
	Approximately 130 feet upstream of Howe Road	+807	
Mill Creek	Just downstream of Seward Road	+606	City of Hamilton.
	Approximately 190 feet upstream of Seward Road	+609	
Millers Creek	Approximately 500 feet downstream of the railroad	+652	City of Middletown.
	Approximately 400 feet downstream of Cincinnati-Dayton Road.	+654	
Pleasant Run	Just upstream of Groh Lane	+566	City of Fairfield.
	Just downstream of East River Road	+584	
	Just upstream of Niles Road	+598	
	Just upstream of John Gray Road	+665	
Pleasant Run Branch No. 4	At the confluence with Pleasant Run	+610	City of Fairfield.
	Just upstream of Resor Road	+634	
Shakers Creek	At the confluence with Dick Creek	+650	City of Middletown.
	Just downstream of Cincinnati-Dayton Road	+654	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

ADDRESSES

City of Fairfield

Maps are available for inspection at 5350 Pleasant Avenue, Fairfield, OH 45014.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL) Modified	Communities affected
City of Hamilton Maps are available for inspection at 20 High Street, Hamilton, OH 45011.			
City of Middletown Maps are available for inspection at 1 Donham Plaza, Middletown, OH 45042.			
City of Monroe Maps are available for inspection at 233 South Main Street, Monroe, OH 45050.			
City of Oxford Maps are available for inspection at 101 East High Street, Oxford, OH 45056.			
City of Trenton Maps are available for inspection at 11 East State Street, Trenton, OH 45067.			
Unincorporated Areas of Butler County Maps are available for inspection at 130 High Street, 3rd Floor, Hamilton, OH 45011.			
Village of New Miami Maps are available for inspection at 268 Whitaker Avenue, Hamilton, OH 45011.			

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: December 10, 2010.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2010–31666 Filed 12–16–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 45

[Docket No. USCG–1998–4623]

RIN 1625–AA17

Limited Service Domestic Voyage Load Lines for River Barges on Lake Michigan, Delay of Effective Date

AGENCY: Coast Guard, DHS.

ACTION: Notice of delay of effective date and reopening of the comment period.

SUMMARY: The Coast Guard announces that it is delaying the effective date of certain revisions in 46 CFR part 45 as amended by the final rule published in the November 18, 2010, **Federal Register** (75 FR 70595), and soliciting comments on those amendments.

DATES: *Effective Date.* This action is effective December 20, 2010. The effective date of revisions to 46 CFR Table 45.171, § 45.187, and § 45.191(a), as revised in the final rule published in the November 18, 2010, **Federal Register** (75 FR 70595) is delayed until June 15, 2011. All other provisions of the final rule are effective on December 20, 2010.

Comment Period. Comments must be received at the address provided below no later than January 18, 2011. Comments are limited to the subject matter described below.

ADDRESSES: You may submit comments identified by docket number USCG–1998–4623 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–1998–4623 and are 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. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–1998–4623 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Thomas Jordan, Office of Design and Engineering Standards, Naval Architecture Division (CG–5212), Coast Guard; telephone 202–372–1370, e-mail *Thomas.D.Jordan@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On November 18, 2010, the Coast Guard published a final rule (75 FR 70595) regarding special load line regimes for certain river barges operating on Lake Michigan. This rule finalized interim regulations that have been in effect since 2002, with some changes. The final regulations are scheduled to go into effect on December 20, 2010. For reasons explained herein, we are extending the effective date of the revised weather restrictions (found in 46 CFR Table 45.171, § 45.187, and § 45.191(a) of the final rule) for 6 months and requesting public comment on that provision.

United States vessels operating on Lake Michigan are normally required to have a load line assignment. River barges do not typically qualify for load line assignment because their hull construction is not robust enough for unrestricted operations on the Great

Lakes. However, we have established special load line regimes whereby certain river barges may operate on select Great Lakes routes under limited conditions. These are conditional exemptions: The barges are exempted from the normal Great Lakes load line requirement only if they comply with the specified provisions for the route. On all routes, the tows are restricted to not more than 5 nautical miles from shore. And because river barges are not as robustly constructed as vessels designed for Great Lakes service, certain weather restrictions pertain to the routes in order to ensure the safety of the tow. It is up to the tow master to review the weather forecast and interpret it against the particular weather restrictions for the route.

In reviewing marine weather forecast services for the routes, the National Weather Service (NWS) Nearshore Marine Forecasts for Lake Michigan were identified as providing localized forecasts for the specific waters covered by the exemption routes. The Nearshore forecast waters are a 5-mile wide corridor along the Lake shoreline. This corridor is further divided into coastwise zones: There are five zones between Milwaukee and Calumet, two zones between Calumet and Burns Harbor, and seven zones beyond Burns Harbor to Muskegon. The Nearshore forecast takes into account wind direction and speed for these zones, and the resulting wave conditions expected over the forecast period.

In addition to geographic coverage, the general "Small Craft Advisory" (SCA) threshold conditions for the Great Lakes are sustained winds or gusts between 22 and 33 knots inclusive, and/or seas or waves greater than 4 feet. Small Craft Advisories may also be issued when lake ice exists that could be hazardous to small boats.

Although river barges are not customary small craft, the SCA threshold conditions align closely with the weather limits for the routes that have been in effect with the interim regulations. While the SCA wind range is higher than the interim regulation's wind limits, the compensating factor is that the effects of the winds are analyzed for wave conditions in the Nearshore zones, as opposed to an open Lake forecast. We believe that this will lead to more-accurate wave forecasts within the Nearshore waters actually transited by the tows.

In this regard, we believe that the use of the SCA is also a reasonable clarification of the "fair weather conditions" for the Burns Harbor route, since the zone forecast similarly considers the effect of wind direction on wave heights along that route.

For these reasons, the final rule substituted SCA conditions as the limiting weather criteria for all routes because they align closely with the interim weather limitations, and offer the benefit of simplifying and clarifying the weather restrictions without adversely affecting any operations. Since publishing the final rule, however, the Coast Guard has received several comments from operators contending that the use of SCA criteria would reduce the number of operational days on the Burns Harbor route. Therefore, in order to provide operators with an opportunity to comment specifically on that issue, the Coast Guard is delaying the implementation of the SCA weather criteria and reopening the comment period. Meanwhile, the weather limitations that are in the present regulations, as summarized in original Table 45.171, will remain in effect during the delay period. All other revisions in the final rule enter into force on December 20, 2010.

Request for Public Comment

The Coast Guard is soliciting public comment on the weather limitations for these routes. Comments are particularly requested in regard to the following issues:

- Suitability of the Nearshore SCA for the limiting weather conditions.
- Alternative limiting conditions if SCA conditions are considered excessive or otherwise inappropriate.

We are also interested in comments regarding operator practices and interpretation of the "fair weather" requirement for the Burns Harbor route found in the interim regulations.

This notice is issued under authority of 5 U.S.C. 553.

Dated: December 13, 2010.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2010–31699 Filed 12–16–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

RIN 0648–XZ20

Fraser River Sockeye Salmon Fisheries; Inseason Orders

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

ACTION: Temporary orders; inseason orders; request for comments.

SUMMARY: NMFS publishes Fraser River salmon inseason orders to regulate salmon fisheries in U.S. waters. The orders were issued by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and subsequently approved and issued by NMFS during the 2010 salmon fisheries within the U.S. Fraser River Panel Area. These orders established fishing dates, times, and areas for the gear types of U.S. treaty Indian and all citizen fisheries during the period the Panel exercised jurisdiction over these fisheries.

DATES: The effective dates for the inseason orders are set out in this document under the heading Inseason Orders. Comments will be accepted through January 3, 2011.

ADDRESSES: You may submit comments, identified by 0648–XZ20 by any one of the following methods:

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

Fax: 206–526–6736.

Mail: NMFS NWR, 7600 Sand Point Way, NE., Seattle, WA 98115.

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

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

FOR FURTHER INFORMATION CONTACT: Peggy Busby, by phone at 206–526–4323, *peggy.busby@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Treaty between the Government of the United States of America and the Government of Canada concerning Pacific Salmon was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631–3644.

Under authority of the Act, Federal regulations at 50 CFR part 300, subpart F provide a framework for the

implementation of certain regulations of the Commission and inseason orders of the Commission's Fraser River Panel for U.S. sockeye salmon fisheries in the Fraser River Panel Area.

The regulations close the U.S. portion of the Fraser River Panel Area to U.S. sockeye salmon fishing unless opened by Panel orders that are given effect by inseason regulations published by NMFS. During the fishing season, NMFS may issue regulations that establish fishing times and areas consistent with the Commission agreements and inseason orders of the Panel. Such orders must be consistent with domestic legal obligations and are issued by Regional Administrator, Northwest Region, NMFS. Official notification of these inseason actions is provided by two telephone hotline numbers described at 50 CFR 300.97(b)(1) and in 75 FR 24482 (May 5, 2010). The inseason orders are published in the **Federal Register** as soon as practicable after they are issued. Due to the frequency with which inseason orders are issued, publication of individual orders is impractical. Therefore, the 2010 orders are being published in this single document to avoid fragmentation.

Inseason Orders

The following inseason orders were adopted by the Panel and issued for U.S. fisheries by NMFS during the 2010 fishing season. Each of the following inseason actions was effective upon announcement on telephone hotline numbers as specified at 50 CFR 300.97(b)(1) and in 75 FR 24482 (May 5, 2010); those dates and times are listed herein. The times listed are local times, and the areas designated are Puget Sound Management and Catch Reporting Areas as defined in the Washington State Administrative Code at Chapter 220–22.

Order Number 2010–01: Issued 12:30 p.m., July 27, 2010

Treaty Indian Fisheries:

Areas 4B, 5 and 6C: Open to drift gillnets from 12 noon, Thursday, July 29, 2010 to 12 noon, Saturday, July 31, 2010.

Order Number 2010–02: Issued 1 p.m., July 30, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Opening extended for drift gillnets from 12 noon, Saturday, July 31, 2010 to 12 noon, Wednesday, August 4, 2010.

Order Number 2010–03: Issued 1 p.m., August 3, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Opening extended for drift gillnets from 12 noon, Wednesday, August 4, 2010 to 12 noon, Saturday, August 7.

Areas 6, 7 and 7A: Open to net fishing from 5 a.m., Friday, August 6, 2010 to 5 a.m., Sunday, August 8, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open to purse seines from 5 a.m. to 9 p.m., Sunday, August 8, 2010.

Areas 7 and 7A: Open to reefnets from 5 a.m. to 9 p.m., Sunday, August 8, 2010.

Areas 7 and 7A: Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Sunday, August 8, 2010.

Order Number 2010–04: Issued 1:30 p.m., August 6, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Opening extended for drift gillnets from 12 noon, Saturday, August 7, 2010 to 12 noon, Tuesday, August 10, 2010.

Order Number 2010–05: Issued 2 p.m., August 15, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Open to drift gillnets from 6 p.m., Sunday, August 15, 2010 to 12 noon, Wednesday, August 18, 2010.

Areas 6, 7, and 7A: Open to net fishing from 5 a.m., Wednesday, August 18, 2010, to 9 p.m., Wednesday, August 18, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open to purse seines from 8 a.m., Tuesday, August 17, 2010, to 4 p.m., Tuesday, August 17, 2010.

Areas 7 and 7A: Open to reefnets from 8 a.m., Tuesday, August 17, 2010, to 4 p.m., Tuesday, August 17, 2010.

Areas 7 and 7A: Open to gillnets from 3 p.m., Tuesday, August 17, 2010, to 11 p.m., Tuesday, August 17, 2010.

Order Number 2010–06: Issued 1:30 p.m., August 17, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Opening extended for drift gillnets from 12 noon, Wednesday, August 18, 2010, to 12 noon, Friday, August 20, 2010.

Areas 6, 7, and 7A: Opening extended for net fishing from 9 p.m., Wednesday, August 18, 2010, to 9 a.m., Thursday, August 19, 2010.

Order Number 2010–07: Issued 2 p.m., August 20, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Open to drift gillnets from 3 p.m., Friday, August 20, 2010, to 12 noon, Wednesday, August 25, 2010.

Areas 6, 7, and 7A: Open to net fishing from 5 a.m., Sunday, August 22, 2010, to 9 a.m., Wednesday, August 25, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open to purse seines from 11 a.m. to 5 p.m., Saturday, August 21, 2010, in the area southerly and easterly of a straight line drawn from Iwersen's Dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the province of British Columbia.

Areas 7 and 7A: Open to reefnets from 5 a.m. to 9 p.m., Saturday, August 21, 2010.

Areas 7 and 7A: Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Saturday, August 21, 2010.

Order Number 2010–08: Issued 1:30 p.m., August 24, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Extended for drift gillnets from 12 noon, Wednesday, August 25, 2010 to 12 noon, Saturday, August 28, 2010.

Areas 6, 7, and 7A: Open to net fishing from 5 a.m., Thursday, August 26, 2010, to 9 a.m., Sunday, August 29, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open to purse seines from 5 a.m. to 9 p.m., Wednesday, August 25, 2010.

Areas 7 and 7A: Open to reefnets from 5 a.m. to 9 p.m., Wednesday, August 25, 2010, and from 5 a.m. to 9 p.m., Thursday, August 26, 2010.

Areas 7 and 7A: Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Wednesday, August 25, 2010.

Order Number 2010–09: Issued 12:30 p.m., August 27, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 noon, Saturday, August 28, 2010, through 12 noon, Wednesday, September 1, 2010.

Areas 6, 7, and 7A: Extend for net fishing from 9 a.m., Sunday, August 29, 2010, through 9 a.m., Monday, August 30, 2010. Open to net fishing from 5 a.m., Tuesday, August 31, 2010, through 9 a.m., Wednesday, September 1, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open to purse seines from 5 a.m. to 9 p.m., Monday, August 30, 2010.

Areas 7 and 7A: Open to reefnets from 5 a.m. to 9 p.m., Monday, August 30, 2010, and from 5 a.m. to 9 p.m., Tuesday, August 31, 2010.

Areas 7 and 7A: Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Monday, August 30, 2010.

Order Number 2010–10: Issued 12:30 p.m., August 31, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 noon, Wednesday, September 1, 2010, through 12 noon, Saturday, September 4, 2010.

Areas 6, 7, and 7A: Extend for net fishing from 9 a.m., Wednesday, September 1, 2010 through 9 a.m., Friday, September 3, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open to purse seines from 9 a.m. through 9 p.m., Friday, September 3, 2010, in the area southerly and easterly of a straight line drawn from Iwersen's dock on Point Roberts in the State of Washington to the Georgina Point Light at the entrance to Active Pass in the Province of British Columbia.

Areas 7 and 7A: Open to reefnets from 5 a.m. to 9 p.m., Friday, September 3, 2010.

Areas 7 and 7A: Open to gillnets from 8 a.m. to 11:59 p.m. (midnight), Friday, September 3, 2010.

Order Number 2010–11: Issued 12 noon, September 3, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 noon, Saturday, September 4, 2010, through 12 noon, Wednesday, September 8, 2010.

Areas 6, 7, and 7A: Open for net fishing from 5 a.m., Saturday, September 4, 2010, through 9 a.m., Wednesday, September 8, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open to reefnets daily from 5 a.m. to 9 p.m., from Saturday, September 4, 2010, through Tuesday, September 7, 2010.

Order Number 2010–12: Issued 2 p.m., September 7, 2010

Treaty Indian Fisheries:

Areas 4B, 5, and 6C: Extend for drift gillnets from 12 noon, Wednesday, September 8, 2010, through 11:59 p.m. (midnight), Saturday, September 11, 2010.

Areas 6, 7, and 7A: Open for net fishing from 5 a.m., Thursday, September 9, 2010, through 9 a.m., Saturday, September 11, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open to purse seines from 5 a.m. through 9 p.m., Wednesday, September 8, 2010.

Areas 7 and 7A: Open to reefnets daily from 5 a.m. to 9 p.m., from Wednesday, September 8, 2010, through Friday, September 10, 2010.

Areas 7 and 7A: Open to gillnets from 8:15 a.m. to 11:59 p.m. (midnight), Wednesday, September 8, 2010.

Order Number 2010–13: Issued 12 noon, September 10, 2010

Treaty Indian Fisheries:

Areas 6, 7, and 7A: Extend for net fishing through 9 a.m., Tuesday, September 14, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Extend for reefnets daily, from 5 a.m. to 9 p.m., through Friday, September 17, 2010.

Order Number 2010–14: Issued 12 noon, September 14, 2010

Treaty Indian Fisheries:

Areas 6, 7, and 7A: Open for net fishing from 5 a.m., Thursday, September 16, 2010, through 11:59 p.m. (midnight), Saturday, September 18, 2010.

All Citizen Fisheries:

Areas 7 and 7A: Open for reefnets from 5 a.m. to 9 p.m., Saturday, September 18, 2010.

Classification

The Assistant Administrator for Fisheries NOAA (AA), finds that good cause exists for the inseason orders to be issued without affording the public prior notice and opportunity for comment under 5 U.S.C. 553(b)(B) as such prior notice and opportunity for comments is impracticable and contrary to the public interest. Prior notice and opportunity for public comment is impracticable because NMFS has insufficient time to allow for prior notice and opportunity for public comment between the time the stock abundance information is available to determine how much fishing can be allowed and the time the fishery must open and close in order to harvest the appropriate amount of fish while they are available.

The AA also finds good cause to waive the 30-day delay in the effective date, required under 5 U.S.C. 553(d)(3), of the inseason orders. A delay in the effective date of the inseason orders would not allow fishers appropriately controlled access to the available fish at that time they are available.

This action is authorized by 50 CFR 300.97, and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 3636(b).

Dated: December 14, 2010.

Brian W. Parker,

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

[FR Doc. 2010–31757 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 75, No. 242
Friday, December 17, 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 201

[Doc. No. AMS–LS–08–0002]

RIN 0581–AC74

Federal Seed Act Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: AMS is proposing to revise the Federal Seed Act (FSA) regulations. The changes would amend the list of prohibited noxious-weed seeds to reflect the recent addition of four species, deletion of two species, and nomenclature change of four species listed in the Federal Noxious Weed Act (FNWA); update the seed labeling regulations; update the seed testing regulations; update the noxious-weed seed tolerances; update the seed certification regulations; and correct several minor errors, including updating the nomenclature of kinds regulated under the FSA. The list of noxious-weed seeds would be amended to help prevent the spread of these highly destructive weeds. Updating the labeling regulations and noxious-weed seed tolerances would prevent potential conflicts with State regulations, reflect currently used terms, and reflect current industry practices. Updating the seed testing and seed certification regulations would incorporate the latest in seed testing and seed certification knowledge and prevent potential conflicts with State regulations.

DATES: Comments must be received by February 15, 2011 to be assured of consideration. A public hearing will be held January 21, 2011 at 10 a.m. at the address listed below.

ADDRESSES: Interested persons are invited to submit comments on this proposal. Comments may be submitted electronically at *http://www.regulations.gov.* Comments may also be sent to Richard C. Payne, Chief, Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054–2193 by mail or by fax to (704) 852–4109.

All comments should reference the docket number (Doc. No. AMS–LS–08–0002), the date, and page number of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Comments will be available for public inspection during regular business hours at the above address or via the Internet at *http://www.regulations.gov.*

Additionally, a public hearing will be held on January 21, 2011, at 10 a.m. in Room 68 at the Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054–2193. Interested parties will be allowed to present views concerning the proposal.

FOR FURTHER INFORMATION CONTACT: Richard C. Payne, Chief, Seed Regulatory and Testing Branch, Livestock and Seed Program, AMS, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054–2193; telephone (704) 810–8884; fax (704) 852–4109; e-mail *richard.payne@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

The proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. There are no administrative procedures that must be exhausted prior to judicial challenge to the provision of this rule.

Regulatory Flexibility Act and Paperwork Reduction Act

AMS has certified that this action will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). Many small entities ship seed in interstate commerce. There are about 3,095 interstate shippers. Small agricultural service firms, which include interstate shippers, are defined by the Small Business Administration as those whose annual receipts are less than $7,000,000 (13 CFR 121.201). We estimate that about 90 percent of the interstate shippers are small entities.

Shippers, including small entities, usually test and subsequently package and label seed to comply with both the FSA and State seed laws. This is possible because the testing requirements of the State laws are similar or the same as those of the FSA. Therefore, a single test provides information necessary to comply with both State seed laws and the FSA. The changes proposed by AMS to the seed testing and seed certification regulations would reconcile State and Federal seed testing and seed certification procedures. Moreover, using similar or the same testing procedures will reduce the burden on small entities shipping seed in interstate commerce because a test used for interstate commerce could also be used in intrastate commerce.

Adding four species to the list of seeds that are noxious in seed shipped in interstate commerce would not significantly impact small entities by adding additional costs for seed testing, because all seed must currently be examined for 93 noxious-weed seeds listed in the FSA regulations and those listed in the State laws to be compliant with the FSA. (The FSA requires that seed shipped in interstate commerce comply with the noxious-weed seed requirements of that State into which the seed is shipped.) Therefore, any examination required by this proposal would be in conjunction with examination that already occurs for State noxious-weed seeds. Updating the noxious-weed seed tolerances to be uniform with those required by State laws will make FSA and State regulatory action uniform and not increase the burden on small entities shipping seed in interstate commerce.

The proposed change removal of the exemption in the FSA regulations for labeling freshly harvested Kentucky bluegrass seed and sugar beet seed shipped in interstate commerce during July, August, and September for germination would not add additional costs for seed testing because this testing and subsequent labeling is

required by State seed laws and regulations. Also, much of the seed handled by small entities is already tested by their suppliers. There will be no effect on the competitive position of small entities in relation to larger entities since both will have to comply with the same regulations.

This rule would not impose any additional reporting or recordkeeping requirements. Such requirements are currently approved by OMB under Control No. 0581–0026.

Executive Order 13132

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13132, Federalism. USDA has determined that this rule conforms to the Federalism principles set forth in the Executive Order, and that this rule does not have Federalism implications.

Background

The FSA, Title II (7 U.S.C. 1571–1575) regulates agricultural and vegetable planting seeds in interstate commerce. Agricultural and vegetable seeds shipped in interstate commerce must be labeled with certain quality information. The labeling information and any advertisements pertaining to the seed must be truthful.

Terms Defined

This proposed rule would revise and update the nomenclature of many of the kinds of agricultural and vegetable seeds listed in §§ 201.2(h) and 201.2(i) to conform to current usage on the International Code of Botanical Nomenclature. It would also add "bunching onion" and "radicchio" as acceptable synonyms for "Welch onion" and "chicory," respectively, in § 201.2(i). "Bunching onion" and "radicchio" are commonly used and accepted kind names by companies selling and labeling seed.

Noxious-Weed Seeds

Under the Federal Noxious Weed Act (FNWA) of 1974 (7 U.S.C. 2801–2814) the Secretary has identified certain noxious weeds that are prohibited movement into or through the United States. AMS is proposing to amend § 201.16(b) of the FSA regulations to designate seeds of four additional species of noxious weeds listed under the FNWA as noxious in agricultural and vegetable seed shipped in interstate commerce under the FSA. In addition, AMS proposes to amend the FSA regulations to remove two species no longer cited in the FNWA and revise the nomenclature of four species to be consistent with the nomenclature in the FNWA. The USDA, Animal and Plant Health Inspection Service (APHIS) enforces both the FNWA and Title III, the Foreign Commerce provisions of the FSA. However, the FNWA does not apply to seeds for planting which are subject to the FSA and does not apply to any noxious weed seeds which may contaminate seed subject to the provisions of the FSA. Thus, AMS cannot currently take regulatory action when seeds of the four species classified as noxious under the FNWA are found in planting seed. Therefore, by recognizing them as noxious weeds under the FSA, AMS can act in an orderly way to prevent their spread on those rare occasions that they are found in planting seeds. Noxious weeds which are not listed under the FSA may still be restricted under the FSA in some cases. Each State has a list of weed seeds that are noxious in planting seed. Weed seeds that are designated noxious by each State are also noxious under the FSA when present in seed shipped into that State.

Seed Testing

The proposed rule would update the FSA seed testing regulations to include testing to reflect improvements in seed testing technology and the current standards of usage within the industry as outlined below. The Association of Official Seed Analysts (AOSA) has already adopted these changes in their "Rules for Testing Seed," the testing rules used by most State and commercial seed analysts. Including these changes in the FSA regulations would eliminate potential conflicts between the testing rules used in interstate commerce and those used by the States. This would eliminate the need to do separate tests to ensure that seed labeling complies with both Federal and State laws. It will also facilitate seed trade and reduce cost to the seed industry and to seed buyers.

Proposed changes to §§ 201.48(g) and 201.51(b) specify a change in the FSA regulations for determining pure seed and inert matter for 18 grass seed kinds. The change would require pure seed of these 18 kinds to have a caryopsis at least one-third the length of the palea. The change would also require seeds of these 18 grass kinds to be classified as inert matter if the caryopsis development is less than one-third the length of the palea. Currently, all seeds of these 18 grass kinds are considered pure seed if the caryopsis has some degree of endosperm development.

Noxious-Weed Seed Tolerances

The proposed rule would update the FSA seed testing regulations to reflect improvements in the noxious-weed seed tolerances using modern statistical applications. The AOSA has already adopted these changes in their "Rules for Testing Seed," the rules used by most State and commercial seed analysts. Including these changes would eliminate potential conflicts between FSA and State regulatory action.

Seed Certification

This proposed rule would also update the certified seed regulations. Sections 201.74 and 201.75 would be amended to permit the option of printing the lot number, kind, and variety name (if certified to variety) on the seed container in a position to be viewed in conjunction with the official certification label. A sentence in §§ 201.74 and 201.75, pertaining to small containers of seed, would be deleted because these containers are covered in the amendment. The Association of Official Seed Certifying Agencies (AOSCA), the organization that develops rules for use by its members to certify seed for varietal purity, has already amended its rules to allow the option of printing certain required labeling information on seed containers outside the confines of the certification label. This proposed rule would reflect that change in the AOSCA rules and current industry practices. In addition, this option would allow seed companies to realize a financial savings by purchasing seed bags with preprinted certification labels in large quantities and add the required information pertinent to each seed lot.

Seed Labeling

We are proposing to add the term "(Environmental Protection Agency Toxicity Category I)" after references to "mercurials and similarly toxic substances" in §§ 201.31a(c)(1), 201.31a(c)(2), and 201.31a(d).

The current FSA regulations refer to the most toxic class of chemical seed treatments as "mercurials and similarly toxic substances." However, mercury-based compounds are no longer used by the seed industry for treating seeds. Further, the current classification by the Environmental Protection Agency (EPA) of the most toxic chemical compounds used as seed treatments is "Toxicity Category I." Chemicals of this toxicity, sold in bulk for treating seed, are required by EPA to be labeled as Toxicity Category I compounds. Therefore, adding the term "(Environmental Protection Agency Toxicity Category I)" to the FSA regulations would clarify the labeling requirements for seed treated with the most toxic class of chemical compounds

used by the seed industry, reduce the possibility of mislabeling chemically treated seed shipped in interstate commerce, and provide consistency with classification terms used by EPA.

AMS is proposing to update § 201.20 by removing the exemption from labeling freshly harvested Kentucky bluegrass and sugar beet seed sold in July, August, and September for germination. Germination labeling is required for all other kinds of seeds regulated by the FSA. This exemption is no longer needed because current industry practice is to label all kinds of seed for germination prior to shipment and sale. Since State seed laws require labeling of all seed for germination, removing this exemption would eliminate conflict between the FSA regulations and State seed labeling requirements.

List of Subjects in 7 CFR Part 201

Certified seed, Definitions, Inspections, Labeling, Purity analysis, Sampling.

For reasons set forth in the preamble, it is proposed that 7 CFR part 201 be amended as follows:

PART 201—FEDERAL SEED ACT REGULATIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 7 U.S.C. 1592.

§ 201.2 [Amended]

2. Section 201.2 is amended by:

A. In the introductory text, removing the words "§§ 201.1 through 201.159" and adding the words "this part" in its place.

B. In paragraph (f), removing the word "act" and adding the word "Act" in its place, and by removing the words "§§ 201.1 through 201.159" and adding the words "this part" in their place.

C. In paragraph (h), removing the terms "Agrotricum—*x Agrotriticum Ciferri and Giacom.*", "Alfalfa—Medicago sativa L.", "Alfilaria—Erodium cicutarium (L.) L'Her.", "Bahiagrass—Paspalum notatum Fluegge", "Barley—Hordeum vulgare L.", "Bean, adzuki—*Vigna angularis* (Willd.) Ohwi and Ohashi", "Bean, field—*Phaseolus vulgaris* L.", "Bean, mung—*Vigna radiata* (L.) Wilczek", "Bentgrass, creeping—*Agrostis stolonifera* L. var. *palustris* (Huds) Farw.", "Bermudagrass, giant—*Cynodon dactylon* (L.) Pers. var. *Aridus* Harlan and de Wet", "Bluegrass, Nevada—*Poa secunda* J.S. Presl", "Bluestem, big—*Andropogon gerardii* Vitm. var. *gerardii*", "Bluestem, yellow—Bothriochloa ischaemum (L.) Keng", "Brome, meadow—*Bromus biebersteninii* Roem. and Schult.", "Brome, smooth—*Bromus inermis* Leyss.", "Corn, field—*Zea mays* L.", "Corn, pop—Zea mays L.", "Crambe—Crambe abyssinica R.E. Fries", "Crotalaria, slenderleaf—*Crotalaria brevidens* Benth. var. *intermedia* (Kotschy) Polh.", "Crotalaria, striped or smooth—Crotalaria pallida Ait.", "Crownvetch—Coronilla varia L.", "Dichondra—Dichondra repens Forst. and Forst. f.", "Emmer—Triticum dicoccon Schrank", "Fescue, chewings—Festuca rubra L. subsp. commutata Gaud.", "Fescue, hair—*Festuca tenuifolia* Sibth.", "Fescue, hard—*Festuca brevipila* Tracey", "Fescue, sheep—*Festuca ovina* L. var. *ovina*", "Grama, blue—*Bouteloua gracilis* (Kunth) Steud.", "Hardinggrass—*Phalaris stenoptera* Hack.", "Hemp—*Cannabis sativa* L.", "Kudzu—*Pueraria montana* (Lour.) Merr. var. *lobata* (Willd.) Maesen and S. Almeida", "Lentil—Lens culinaris Medik.", "Lespedeza, sericea or Chinese—*Lespedeza cuneata*", "Lespedeza, striate—*Kummerowia striata* (Thunb.) Schindler", "Lovegrass, sand—*Eragrostis trichodes* (Nutt.) Wood", "Millet, foxtail—*Setaria italica* (L.) P. Beauv.", "Millet, Japanese—*Echinochloa frumentacea* Link", "Millet, proso—*Panicum miliaceum* L.", "Molassesgrass—*Melinis minutiflora* Beauv.", "Mustard, black—*Brassica nigra* (L.) Koch", "Mustard, India—*Brassica juncea* (L.) Czernj. and Coss.", "Mustard, white—*Sinapis alba* L.", "Oat—*Avena byzantina* C. Koch, *A. sativa* L., *A. nuda* L.", "Oatgrass, tall—*Arrhenatherum elatius* (L.) J.S. Presl and K.B. Presl", "Panicgrass, green—*Panicum maxicum* Jacq. var. *trichoglume* Robyns", "Pea, field—*Pisum sativum* L." "Rape, annual—*Brassica napus* L. var. *annua* Koch", "Rape, bird—*Brassica rapa* L. subsp. *rapa*", "Rape, turnip—*Brassica rapa* L. subsp. *silvestris* (Lam.) Janchen", "Rape, winter—*Brassica napus* L. var. *biennis* (Schubl. and Mart.) Reichb.", "Rescuegrass—*Bromus catharticus* Vahl", "Ricegrass, Indian—*Oryzopsis hymenoides* (Roem. and Schult.) Ricker", "Rye—*Secale cereale* L.", "Rye, mountain—*Secale strictum* (K.B. Presl) K.B. Presl subsp. *strictum*", "Ryegrass, Wimmera—*Lolium rigidum* Gaud.", "Sorghum-sudangrass—*Sorghum* × *drummondii* (Steud.) Millsp. and Chase", "Spelt—*Triticum spelta* L.", "Sudangrass—*Sorghum* × *drummondii* (Steud.) Millsp. and Chase", "Timothy, turf—*Phleum bertolonii* DC.", "Trefoil, big—*Lotus uliginosus* Schk.", "Triticale—x *Triticosecale* Wittm. (*Secale* x *Triticum*)", "Veldtgrass—*Ehrharta calycina* J.E. Smith", "Wheat, common—*Triticum aestivum* L.", "Wheat, club—*Triticum compactum* Host", "Wheat, durum—*Triticum durum* Desf.", "Wheat, Polish—*Triticum polonicum* L.", "Wheat, poulard—*Triticum turgidum* L.", "Wheatgrass, beardless—*Pseudoroegneria spicata* (Pursh) A. Love", "Wheatgrass, intermediate—*Elytrigia intermedia* (Host) Nevski subsp. *intermedia*", "Wheatgrass, pubescent—*Elytrigia intermedia* (Host) Nevski subsp. *intermedia*", "Wheatgrass, Siberian—*Agropyron fragile* (Roth) Candargy subsp. *sibiricum* (Willd.) Meld.", "Wheatgrass, slender—*Elymus trachycaulus* (Link) Shinn.", "Wheatgrass, streambank—*Elymus lanceolatus* (Scribn. and J.G. Smith) Gould subsp. *lanceolatus.*", "Wheatgrass, tall—*Elytrigia elongata* (Host) Nevski", "Wheatgrass, western—*Pascopyrum smithii* (Rydb.) A. Love", and "Wildrye, basin—*Leymus cinereus* (Scribn. & Merr.) A. Love".

D. In paragraph (h), adding the terms "Agrotricum—*x Agrotriticum* Cif. & Giacom.", "Alfalfa—Medicago sativa L. subsp. sativa", "Alfilaria—Erodium cicutarium (L.) L'Hér.", "Bahiagrass—Paspalum notatum Flüggé", "Barley—*Hordeum vulgare* L. subsp. *vulgare*", "Bean, adzuki—*Vigna angularis* (Willd.) Ohwi & H. Ohashi var. *angularis*", "Bean, field—*Phaseolus vulgaris* L. var. *vulgaris*", "Bean, mung—*Vigna radiata* (L.) R. Wilczek var. *radiata*", "Bentgrass, creeping—*Agrostis stolonifera* L.", "Bermudagrass, giant—*Cynodon dactylon* (L.) Pers. var. *aridus* J.R. Harlan & de Wet", "Bluegrass, Nevada—*Poa secunda* J. Presl", "Bluestem, big—*Andropogon gerardii* Vitman", "Bluestem, yellow—*Bothriochloa ischaemum* (L.) Keng var. *ischaemum*", "Brome, meadow—*Bromus biebersteinii* Roem. & Schult.", "Brome, smooth—*Bromus inermis* Leyss. subsp. *inermis*", "Corn, field—Zea mays L. subsp. mays", "Corn, pop—Zea mays L. subsp. mays", "Crambe—Crambe abyssinica R.E. Fr.", "Crotalaria, slenderleaf—Crotalaria brevidens Benth. var. intermedia (Kotschy) Polhill", "Crotalaria, striped or smooth—Crotalaria pallida Aiton", "Crownvetch—*Securigera varia* (L.) Lassen", "Dichondra—Dichondra repens J.R. Forst. & G. Forst.", "Emmer—Triticum turgidum L. subsp. dicoccon (Schrank) Thell.", "Fescue, Chewing's—Festuca rubra L. subsp. commutata Gaudin", "Fescue, hair—*Festuca filiformis* Pourr.", "Fescue, hard—*Festuca trachyphylla* (Hack.) Krajina", "Fescue, sheep—*Festuca ovina* L.", "Grama, blue—*Bouteloua gracilis*

(Kunth) Griffiths", "Hardinggrass—*Phalaris aquatica* L.", "Hemp—*Cannabis sativa* L. subsp. *sativa*", "*Kudzu—Pueraria montana (Lour.) Merr. var. lobata (Willd.) Sanjappa & Predeep*", "Lentil—*Lens culinaris* Medik. subsp. *culinaris*", "Lespedeza, sericea or Chinese—*Lespedeza cuneata* (Dum. Cours.) G. Don", "Lespedeza, striate—*Kummerowia striata* (Thunb.) Schindl.", "Lovegrass, sand—*Eragrostis trichodes* (Nutt.) Alph. Wood", "Millet, foxtail—*Setaria italica* (L.) P. Beauv. subsp. *italica*", "Millet, Japanese—*Echinochloa esculenta* (A. Braun) H. Scholz", "Millet, proso—*Panicum miliaceum* L. subsp. *miliaceum*", "Molassesgrass—*Melinis minutiflora* P. Beauv.", "Mustard, black—*Brassica nigra* (L.) W.D.J. Koch", "Mustard, India—*Brassica juncea* (L.) Czern. var. *juncea*", "Mustard, white—*Sinapis alba* L. subsp. *alba*", "Oat—*Avena byzantina* K. Koch, *A. sativa* L., *A. nuda* L.", "Oatgrass, tall—*Arrhenatherum elatius* (L.) J. Presl & C. Presl subsp. *elatius*", "Panicgrass, green—*Panicum maximum* Jacq.", "Pea, field—*Pisum sativum* L. var. *arvense* (L.) Poir.", "Rape, annual—*Brassica napus* L. var. *napus*", "Rape, bird—*Brassica rapa* L. subsp. *campestris* (L.) A.R. Clapham", "Rape, turnip—*Brassica rapa* L. subsp. *campestris* (L.) A.R. Clapham and subsp. *oleifera* (DC.) Metzg.", "Rape, winter—*Brassica napus* L. var. *napus*", "Rescuegrass—*Bromus catharticus* Vahl var. *catharticus*", "Ricegrass, Indian—*Achnatherum hymenoides* (Roem. & Schult.) Barkworth", "Rye—*Secale cereale* L. subsp. *cereale*", "Rye, mountain—*Secale strictum* (C. Presl) C. Presl subsp. *strictum*", "Ryegrass, Wimmera—*Lolium rigidum* Gaudin", "Sorghum-sudangrass—*Sorghum* × *drummondii* (Steud.) Millsp. & Chase", "Spelt—*Triticum aestivum* L. subsp. *spelta* (L.) Thell.", "Sudangrass—*Sorghum* × *drummondii* (Steud.) Millsp. & Chase", "Timothy, turf—*Phleum nodosum* L.", "Trefoil, big—*Lotus uliginosus* Schkuhr", "Triticale—x *Triticosecale* A. Camus (*Secale* × *Triticum*)", "Veldtgrass—*Ehrharta calycina* Sm.", "Wheat, common—*Triticum aestivum* L. subsp. *aestivum*", "Wheat, club—*Triticum aestivum* L. subsp. *compactum* (Host) Mackey", "Wheat, durum—*Triticum turgidum* L. subsp. *durum* (Desf.) Husn.", "Wheat, Polish—*Triticum turgidum* L. subsp. *polonicum* (L.) Thell.", "Wheat, poulard—*Triticum turgidum* L. subsp. *turgidum*", "Wheatgrass, beardless—*Pseudoroegneria spicata* (Pursh) Á. Löve", "Wheatgrass, intermediate—*Thinopyrum intermedium* (Host) Barkworth & D.R. Dewey subsp. *intermedium*", "Wheatgrass, pubescent—*Thinopyrum intermedium* (Host) Barkworth & D.R. Dewey subsp. *barbulatum* (Schur) Barkworth & D.R. Dewey", "Wheatgrass, Siberian—*Agropyron fragile* (Roth) P. Candargy", "Wheatgrass, slender—*Elymus trachycaulus* (Link) Shinners subsp. *trachycaulus*", "Wheatgrass, streambank—*Elymus lanceolatus* (Scribn. & J.G. Sm.) Gould subsp. *riparius* (Scribn. & J.G. Sm.) Barkworth", "Wheatgrass, tall—*Thinopyrum elongatum* (Host) D.R. Dewey", "Wheatgrass, western—*Pascopyrum smithii* (Rydb.) Barkworth & D.R. Dewey", and "Wildrye, basin—*Leymus cinereus* (Scribn. & Merr.) Á. Löve".

E. In paragraph (i), removing the terms "Artichoke—*Cynara cardunculus* L. subsp. *cardunculus*", "Asparagus—*Asparagus officinalis* Baker", "Bean, garden—*Phaseolus vulgaris* L.", "Bean, lima—*Phaseolus lunatus* L.", "Broadbean—*Vicia faba* L.", "Broccoli—*Brassica oleracea* L. var. *botrytis* L.", "Brussels sprouts—*Brassica oleracea* L. var. *gemmifera* DC.", "Cardoon—*Cynara cardunculus* L. subsp. *cardunculus*", "Celeriac—*Apium graveolens* L. var. *rapaceum* (Mill.) Gaud.", "Chard, Swiss—*Beta vulgaris* L. subsp. cicla (L.) Koch", "Citron—Citrullus lanatus (Thunb.) Matsum. and Nakai var. *citroides* (Bailey) Mansf.", "Collards—*Brassica oleracea* L. var. *acephala* DC.", "Corn, sweet—*Zea mays* L.", "Cornsalad—*Valerianella locusta* (L.) Laterrade", Cress, water—*Rorippa nasturtium-aquaticum* (L.) Hayek", Dandelion—*Taraxacum officinale* Wigg.", "Endive—*Cichorium endivia* L.", "Gherkin, West India—*Cucumis anguria* L.", "Kale—*Brassica oleracea* L. var. *acephala* DC.", "Kale, Chinese—*Brassica oleracea* L. var. *alboglabra* (Bailey) Musil", "Kale, Siberian—*Brassica napus* L. var. *pabularia* (DC.) Reichb.", "Melon—*Cucumis melo* L.", "Mustard, India—*Brassica juncea* (L.) Czernj. and Coss.", "Mustard, spinach—*Brassica perviridis* (Bailey) Bailey", "Onion—*Allium cepa* L.", "Parsnip—*Pastinaca sativa* L.", "Pea—*Pisum sativum* L.", "Pumpkin—*Cucurbita pepo* L., C. *moschata* (Duchesne) Poiret, and C. *maxima* Duchesne", "Rhubarb—*Rheum* rhabarbarum L.", "Rutabaga—*Brassica napus* L. var. *napobrassica* (L.) Reichb.", "Spinach, New Zealand—*Tetragonia tetragonoides* (Pall.) Ktze.", "Squash—*Cucurbita pepo* L., C. *moschata* (Duchesne) Poiret, and C. *maxima* Duchesne", and "Watermelon—*Citrullus lanatus* (Thunb.) Matsum. and Nakai var. *lanatus*".

F. In paragraph (i), adding the terms "Artichoke—*Cynara cardunculus* L.", "Asparagus—*Asparagus officinalis* L.", "Bean, garden—*Phaseolus vulgaris* L. var. *vulgaris*", "Bean, Lima—*Phaseolus lunatus* L.", "Broadbean—*Vicia faba* L. var. *faba*", "Broccoli—*Brassica oleracea* L. var. *italica* Plenck", "Brussels sprouts—*Brassica oleracea* L. var. *gemmifera* Zenker", "Cardoon—*Cynara cardunculus* L.", "Celeriac—*Apium graveolens* L. var. *rapaceum* (Mill.) Gaudin", "Chard, Swiss—*Beta vulgaris* L. subsp. *vulgaris*", "Citron melon—*Citrullus lanatus* (Thunb.) Matsum. & Nakai var. *citroides* (L.H. Bailey) Mansf.", "Collards—*Brassica oleracea* L. var. *viridis* L.", "Corn, sweet—*Zea mays* L. subsp. *mays*", "Cornsalad—*Valerianella locusta* (L.) Laterr.", "Cress, water—*Nasturtium officinale* R. Br.", "Dandelion—*Taraxacum officinale* F.H. Wigg.", "Endive—*Cichorium endivia* L. subsp. *endivia*", "Gherkin, West India—*Cucumis anguria* L. var. *anguria*", "Kale—*Brassica oleracea* L. var. *viridis* L.", "Kale, Chinese—*Brassica oleracea* L. var. *alboglabra* (L.H. Bailey) Musil", "Kale, Siberian—*Brassica napus* L. var. *pabularia* (DC.) Rchb.", "Melon—*Cucumis melo* L. subsp. *melo*", "Mustard, India—*Brassica juncea* (L.) Czern.", "Mustard, spinach—*Brassica rapa* var. *perviridis* L.H. Bailey", "Onion—*Allium cepa* L. var. *cepa*", "Onion, bunching (see Onion, Welsh)", "Parsnip—*Pastinaca sativa* L. subsp. *sativa*", "Pea—*Pisum sativum* L. subsp. *sativum*", "Pumpkin—*Cucurbita pepo* L., C. *moschata* Duchesne, and C. *maxima* Duchesne", "Radicchio (see Chicory)", "Rhubarb—*Rheum* × *hybridum* Murray", "Rutabaga—*Brassica napus* L. var. *napobrassica* (L.) Rchb.", "Spinach, New Zealand—*Tetragonia tetragonoides* (Pall.) Kuntze", "Squash—*Cucurbita pepo* L., C. *moschata* Duchesne, and C. *maxima* Duchesne", and "Watermelon—*Citrullus lanatus* (Thunb.) Matsum. & Nakai var. *lanatus*".

G. In paragraph (w), removing the words "noxious weed" and adding the words "noxious-weeds" in their place every time they appear.

H. In paragraph (z), removing the word "*Processing*" and adding the word "*Conditioning*" in its place, and removing in the first sentence the word "processing" and adding the word "conditioning" in its place.

§ 201.16 [Amended]

3. Section 201.16, in paragraph (b), is amended by removing the terms "*Borreria alata* (Aubl.)DC.", "*Carthamus oxyacanthus* M.Bieb ", "*Digitaria abyssinica* Stapf. (=*D. scalarum* (Schweinf.)", "*Ipomoea triloba* L.", "*Orobanche* spp.", "*Rottboellia cochinchinensis* (Lour.) Clayton (=*R.exaltata* (L.) L.f.)" and adding in alphabetical order the terms "*Carthamus*

oxyacantha M. Bieb", "*Digitaria scalarum* (Schweinfurth) Chiovenda", "*Homeria* spp.", "*oxyacantha*", "*Rottboellia cochinchinensis* (Lour.) Clayton", "*Senecio inaequidens* DC.", "*Senecio madagascariensis* Poir.", "*Solanum tampicense* Dunal" and "*Spermacoce alata* (Aublet) de Candolle".

4. Section 201.20 is revised to read as follows:

§ 201.20 Germination.

The label shall show the percentage of germination for each kind or kind and variety or kind and type of kind and hybrid of agricultural seed present in excess of 5 percent or shown in the labeling to be present in a proportion of 5 percent or less.

§ 201.31a [Amended]

5. Section 201.31a is amended by adding the words "(Environmental Protection Agency Toxicity Category I)" after the word "substance" in paragraph (c)(1) and after the word "substances" in paragraph (c)(2) introductory text.

§ 201.41 [Amended]

6. In § 201.41, paragraph (a), the word "less" is removed and the word "fewer" is added in its place.

7. In § 201.48, the introductory text of paragraph (g) is amended by adding a new second sentence to read as follows:

§ 201.48 Kind or variety considered pure seed.

* * * * *

(g) * * * Seed units of smooth brome, fairway crested wheatgrass, standard crested wheatgrass, tall wheatgrass, intermediate wheatgrass, pubescent wheatgrass, western wheatgrass, fescues (*Festuca* spp.), and ryegrasses (*Lolium* spp.) if the caryopses are at least one-third the length of the palea; the caryopsis is measured from the base of the rachilla. * * *

* * * * *

8. Section 201.51 is amended by adding paragraph (a)(9) to read as follows:

§ 201.51 Inert matter.

* * * * *

(a) * * *

(9) Immature florets of smooth brome, fairway crested wheatgrass, standard crested wheatgrass, tall wheatgrass, intermediate wheatgrass, pubescent wheatgrass, western wheatgrass, fescues (*Festuca* spp.), and ryegrasses (*Lolium* spp.) in which the caryopses are less than one-third the length of the palea; the caryopsis is measured from the base of the rachilla.

* * * * *

9. Section 201.65 is revised to read as follows:

§ 201.65 Noxious-weed seeds in interstate commerce.

Tolerances for rates of occurrence of noxious-weed seeds shall be recognized and shall be applied to the number of noxious-weed seeds found by analysis in the quantity of seed specified for noxious-weed seed determinations in § 201.46, except as provided in § 201.16(b). Rates per pound or ounce must be converted to the equivalent number of seeds found in § 201.46, Table 1, Minimum weight for noxious-weed seed examination (grams). Some tolerances are listed in the following table. The number found as represented by the label or test (Column X) will be considered within tolerance if not more than the corresponding numbers in Column Y are found by analysis in the administration of the Act. For numbers of seed greater than those in the table, a tolerance based on a degree of certainty of 5 percent (P = 0.05) can be calculated by the formula, $Y = X + 1.65\sqrt{X} + 0.03$, where X is the number of seeds represented by the label or test and Y is the maximum number within tolerance.

Number represented by label or test (X)	Maximum number within tolerances (Y)	Number represented by label or test (X)	Maximum number within tolerances (Y)	Number represented by label or test (X)	Maximum number within tolerances (Y)
0	2	34	43	68	81
1	2	35	44	69	82
2	4	36	45	70	83
3	5	37	46	71	84
4	7	38	47	72	85
5	8	39	49	73	86
6	9	40	50	74	87
7	11	41	51	75	89
8	12	42	52	76	90
9	13	43	53	77	91
10	14	44	54	78	92
11	16	45	55	79	93
12	17	46	56	80	94
13	18	47	58	81	95
14	19	48	59	82	96
15	21	49	60	83	97
16	22	50	61	84	98
17	23	51	62	85	99
18	24	52	63	86	101
19	25	53	64	87	102
20	27	54	65	88	103
21	28	55	67	89	104
22	29	56	68	90	105
23	30	57	69	91	106
24	31	58	70	92	107
25	32	59	71	93	108
26	34	60	72	94	109
27	35	61	73	95	110
28	36	62	74	96	111
29	37	63	75	97	112
30	38	64	76	98	114
31	39	65	78	99	115

Number represented by label or test (X)	Maximum number within tolerances (Y)	Number represented by label or test (X)	Maximum number within tolerances (Y)	Number represented by label or test (X)	Maximum number within tolerances (Y)
32	41	66	79	100	116
33	42	67	80	.....	.....

10. In § 201.74, paragraph (a) is amended by removing the last sentence, and paragraph (c) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 201.74 Labeling of all classes of certified seed.

* * * * *

(c) * * * The seed lot number or other identification number, the kind, and variety name (if certified to variety) shall appear on the official label and/or directly on the container in a position to be viewed in conjunction with the official certification label.

* * * * *

11. In § 201.75, paragraph (c), the last sentence is revised to read as follows:

§ 201.75 Interagency certification.

* * * * *

(c) * * * The seed lot number or other identification number, the kind, and variety name (if certified to variety) shall appear on the official label and/or directly on the container in a position to be viewed in conjunction with the official certification label.

Dated: December 10, 2010.

Robert C. Keeney,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–31573 Filed 12–16–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1185; Directorate Identifier 2009–NE–24–AD]

RIN 2120–AA64

Airworthiness Directives; Honeywell International LTS101 Series Turboshaft Engines and LTP101 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This supplemental NPRM revises an earlier proposed airworthiness directive (AD), for Honeywell International LTS101–600A series and LTS101–700D–2 turboshaft engines, and LTP101–600A–1A and LTP101–700A–1A turboprop engines with power turbine blades, part number (P/N) 4–141–084–06, installed. That proposed AD would have required removing power turbine blades, P/N 4–141–084–06 from service, using a drawdown schedule specified in that proposed AD. That proposal was prompted by reports of fatigue cracks in the airfoil of the power turbine blade. This action revises the proposed rule by expanding and clarifying the applicability to include more engine models and power turbine blade P/Ns that could have the unsafe condition, and by clarifying the applicability by specifying power turbine rotor P/Ns instead of the blade P/Ns. The actions specified by this proposed AD are intended to prevent fracture of the power turbine blade airfoil, which could result in sudden loss of engine power and prevent continued safe flight or safe landing.

DATES: We must receive any comments on this proposed AD by February 15, 2011.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

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

Contact Honeywell International Inc., P.O. Box 52181, Phoenix, AZ 85072–2181; telephone (800) 601–3099 (U.S.A.) or (602) 365–3099 (International); or go to: *https://portal.honeywell.com/wps/portal/aero,* for a copy of the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; e-mail: *robert.baitoo@faa.gov;* telephone (562) 627–5245; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2009–1185; Directorate Identifier 2009–NE–24–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

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

Discussion

The FAA proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an AD, applicable to Honeywell International LTS101–600A series and LTS101–700D–2 turboshaft engines, and LTP101–600A–1A and LTP101–700A–1A turboprop engines. We published the proposed AD in the **Federal Register** on December 21, 2009 (74 FR 67829). That action proposed to require removing power turbine blades, P/N 4–141–084–06, from service using a specific drawdown schedule. That NPRM was prompted by reports of fatigue cracks in the airfoil of the power turbine blade. That condition, if not corrected, could result in fracture of the power turbine blade airfoil, which could result in sudden loss of engine power.

Since we issued that NPRM, Honeywell International Inc. informed us that power turbine blades, P/N 4–141–084–03, could also have the unsafe condition. Those blades are used in power turbine rotors P/Ns 4–141–290–02 and 4–141–290–16. Based on the information we received from Honeywell International Inc., we also determined that specifying the applicability by power turbine rotors P/N is clearer than by specifying the blade P/N.

Comments

We provided the public the opportunity to participate in the development of that proposed AD. We have considered the comments received on the original NPRM.

Proposed AD Should Apply to Engines on Multi-Engine Helicopters

One commenter, the National Transportation Safety Board (NTSB) asks us to consider adding to the applicability of the proposed AD, engines that also use the affected P/N turbine rotor blade, and are installed on multi-engine helicopters. The NTSB states that loss of power in one of the two engines is a safety issue.

We agree with the NTSB that the fracture of a power turbine airfoil of an LTS101 series turboshaft engine installed on a twin-engine helicopter is a safety issue. We added Honeywell International Inc. LTS101–650B–1, LTS101–650C–3, LTS101–650C–3A, LTS101–750B–1, LTS101–750B–2, LTS101–750C–1, and LTS101–850B–2 turboshaft engines that are installed on twin-engine helicopters to the applicability of the proposed AD. We also added to the applicability, paragraph (g), and Table 1 of the proposed AD, Honeywell International Inc. LTP101–600A–1A and LTP101–700A–1A turboprop engines that use the same blades.

The NTSB also requested that we reduce the drawdown schedule for the affected blades to remove the at risk power turbine rotor blades sooner.

We don't agree. Our risk assessment for the unsafe condition doesn't justify accelerating the drawdown schedules.

Editorial Changes to Table 1 and Table 1 of the Proposed AD

We changed Table 1 and Table 2 in the proposed AD to eliminate arbitrary step changes.

Since these changes expand the scope of the originally proposed rule, we determined that reopening the comment period is appropriate.

FAA's Determination of an Unsafe Condition and Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Honeywell International Inc. LTS101–600A–2, –3, –3A, LTS101–700D–2, LTS101–650B–1, LTS101–650C–3, LTS101–650C–3A, LTS101–750B–1, LTS101–750B–2, LTS101–750C–1, and LTS101–850B–2 turboshaft engines; and LTP101–600A–1A and LTP101–700A–1A turboprop engines of the same type design, the proposed AD would require removing from service, power turbine rotors, P/Ns 4–141–290–01, –02, –03, –05, –06, –11, –12, –13, –14, or –16, using the compliance drawdown schedule specified in Table 1, and Table 2 of this AD.

Costs of Compliance

We estimate that this proposed AD would affect 240 engines installed on aircraft of U.S. registry. We also estimate that it would take about 30 work-hours per engine to perform the proposed actions, and that the average labor rate is $85 per work-hour. Required parts would cost about $70,000 per engine. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $17,412,000.

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Honeywell International Inc. (Formerly AlliedSignal, Textron Lycoming): Docket No. FAA–2009–1185; Directorate Identifier 2009–NE–24–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by February 15, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Honeywell International LTS101–600A–2, –3, –3A, LTS101–700D–2, LTS101–650B–1, LTS101–650C–3, LTS101–650C–3A, LTS101–750B–1, LTS101–750B–2, LTS101–750C–1, and LTS101–850B–2 turboshaft engines; and LTP101–600A–1A and LTP101–700A–1A turboprop engines with power turbine rotor, part number (P/N) 4–141–290–01, –02, –03, –05, –06, –11, –12, –13, –14, or –16, installed. These engines are installed on, but not limited to, Eurocopter AS350 and BK117 series and Bell 222 series helicopters; and Page Thrush, Air Tractor AT–302, and Pacific Aero 08–600, Piaggio P166 DL3, and Riley International R421 airplanes.

Unsafe Condition

(d) This AD results from reports of fatigue cracks in the airfoil of the power turbine blade. We are issuing this AD to prevent fracture of the power turbine blade airfoil, which could result in sudden loss of engine power and prevent continued safe flight or safe landing.

Compliance

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

(f) For engines with power turbine rotors, P/Ns 4–141–290–11, –12, –13, and –14, marked with "ORI T41881," on the aft hub in the vicinity of the P/N, no further action is required.

Removing Power Turbine Rotors From LTS101–600A–2, –3, –3A, and LTS101–700D–2 Turboshaft Engines and LTP101–600A–1A and LTP101–700A–1A Turboprop Engines

(g) For LTS101–600A–2, –3, –3A, and LTS101–700D–2 turboshaft engines and LTP101–600A–1A and LTP101–700A–1A turboprop engines, remove power turbine rotors, P/Ns 4–141–290–01, –02, –03, –05, –06, –11, –12, –13, –14, or –16, using the cycles specified in Table 1 of this AD:

TABLE 1—DRAWDOWN CYCLES FOR LTS101–600A–2, –3, –3A, AND LTS101–700D–2 TURBOSHAFT ENGINES AND LTP101–600A–1A AND LTP101–700A–1A TURBOPROP ENGINES

If power turbine rotor time on the effective date of this AD is * * *	Then remove the power turbine rotor from the engine * * *
(1) Fewer than 5,000 cycles-since-new (CSN)	Between 5,000 and 5,500 CSN.
(2) 5,000 to 7,899 CSN	Within 500 cycles-in-service (CIS) after the effective date of this AD or before exceeding 8,000 CSN, whichever occurs first.
(3) 7,900 to 9,999 CSN	Within 100 CIS after the effective date of this AD or before exceeding 10,050 CSN, whichever occurs first.
(4) 10,000 or more CSN	Within 50 CIS after the effective date of this AD.

Removing Power Turbine Rotors From LTS101–650B–1, –650C–3,—650C–3A, –750B–1, –2, –750C–1, and –850B–2 Engines

(h) Remove power turbine rotors, P/Ns 4–141–290–01, –02 –03, –05, –06, –11, –12, –13, –14, or –16, using the cycles specified in Table 2 of this AD:

TABLE 2—DRAWDOWN CYCLES FOR LTS101–650B–1, –650C–3,–650C–3A, –750B–1, –2, –750C–1, AND –850B–2 ENGINES

If power turbine rotor time on the effective date of this AD is * * *	Then remove the power turbine rotor from the engine * * *
(1) Fewer than 5,500 CSN	Between 5,000 and 7,200 CSN.
(2) 5,500 to 7,999 CSN	Within 1,700 CIS after the effective date of this AD or before exceeding 8,950 CSN, whichever occurs first.
(3) 8,000 to 9,999 CSN	Within 950 CIS after the effective date of this AD or before exceeding 10,400 CSN, whichever occurs first.
(4) 10,000 or more CSN	Within 400 CIS after the effective date of this AD.

Alternative Methods of Compliance

(i) The Manager, Los Angles Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) Contact Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; e-mail: *robert.baitoo@faa.gov;* telephone (562) 627–5245; fax (562) 627–5210, for more information about this AD.

(k) Honeywell International Inc. Service Bulletins LT 101–71–00–0252 and LTS101–71–00–0253, pertain to the subject of this AD. Contact Honeywell International Inc., P.O. Box 52181, Phoenix, AZ 85072–2181; telephone (800) 601–3099 (U.S.A.) or (602) 365–3099 (International); or go to: *https://portal.honeywell.com/wps/portal/aero,* for a copy of this service information.

Issued in Burlington, Massachusetts, on December 13, 2010.

Thomas A. Boudreau,

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

[FR Doc. 2010–31782 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 641

RIN 1205–AB60

Senior Community Service Employment Program; Notice of Proposed Rulemaking, Additional Indicator on Volunteer Work; Correction

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects an expiration date cited in the Notice of Proposed Rulemaking (NPRM) of the Senior Community Service Employment Program (SCSEP), Additional Indicator on Volunteer Work that was published on November 23, 2010. The NPRM updates the SCSEP regulations to add an indicator to measure the number of exiting participants who enter volunteer work. The relevant Office of Management and Budget (OMB) Control Number for SCSEP's approved information collection is 1205–0040. The NPRM stated that the expiration date for 1205–0040 was October 31, 2010. However, that date is incorrect. The information collection is now pending with OMB, as the Department has requested a 3-year extension on the expiration of the approval date for it. Therefore 1205–0040 remains current on a month-by-month basis until OMB acts on the current information

collection extension request. For more information on this request, see *http://www.reginfo.gov.*

DATES: This correction is effective December 17, 2010.

FOR FURTHER INFORMATION CONTACT: For information on this correction, contact Thomas M. Dowd, Administrator, Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5641, Washington, DC 20210. Telephone: (202) 693–3700 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule FR Doc. 2010–29424 (75 FR 71514), beginning on page 71514 in the issue of November 23, 2010, make the following correction in the **SUPPLEMENTARY INFORMATION** section. On page 71517, in the 2nd column, in the 8th line, delete the sentence: "The approval expires October 31, 2010." Replace that sentence with "The approval for 1205–0040 remains current on a month-by-month basis until OMB acts on the currently pending information collection extension request. For more information on this request, see *http://www.reginfo.gov.*"

Signed in Washington, DC, this 13th day of December 2010.

Jane Oates,

Assistant Secretary, Employment and Training Administration, Labor.

[FR Doc. 2010–31680 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–149335–08; RIN 1545–BI57]

Sales-Based Royalties and Vendor Allowances

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the capitalization and allocation of royalties that are incurred only upon the sale of property produced or property acquired for resale (sales-based royalties). This document also contains proposed regulations on adjusting the cost of merchandise inventory for an allowance, discount, or price rebate based on merchandise sales (sales-based vendor allowances). The regulations modify the simplified production method and the simplified resale method of allocating capitalized costs between ending inventory and cost of goods sold. The regulations affect taxpayers that incur capitalizable sales-based royalties and earn sales-based vendor allowances.

DATES: Written or electronic comments and a request for a public hearing must be received by March 17, 2011.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–149335–08), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–149335–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–149335–08).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John Roman Faron, (202) 622–4930 (not a toll-free number); concerning submission of comments or a request for a public hearing, Richard Hurst at *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to 26 CFR part 1 relating to the allocation under section 263A of the Internal Revenue Code (Code) of certain sales-based royalties. Sales-based royalties are royalty costs that become due only upon the sale of property. Thus, the fact of the liability arises, and the royalty is incurred within the meaning of section 461, only upon sale.

This document also contains proposed amendments to 26 CFR part 1 relating to the determination of cost of goods in inventory under section 471 when a taxpayer receives a sales-based vendor allowance. Sales-based vendor allowances are allowances, discounts, or price rebates that a reseller receives, earns, or otherwise becomes entitled to based on the resale of a vendor's merchandise to a third party.

Capitalization and Allocation of Sales-Based Royalties Under Section 263A

Section 263A requires taxpayers to capitalize the direct costs and indirect costs that are properly allocable to (1) real or tangible personal property the taxpayer produces, and (2) real property or personal property described in section 1221(a)(1) that the taxpayer acquires for resale. Taxpayers must allocate costs required to be capitalized under section 263A to property produced or acquired for resale during the taxable year using a cost allocation method described in the regulations. A taxpayer generally determines whether the cost of goods is included in cost of goods sold or in ending inventory using a cost flow assumption (for example, first-in, first-out or last-in, first-out). However, as explained later in this preamble, a taxpayer may use a simplified method to allocate costs required to be capitalized under section 263A between cost of goods sold and ending inventory.

Section 1.263A–1(e)(3)(i) defines indirect costs as all costs other than direct material costs and direct labor costs (in the case of property produced) or acquisition costs (in the case of property acquired for resale). Indirect costs are properly allocable to property produced or acquired for resale when the costs directly benefit or are incurred by reason of the performance of production or resale activities.

Section 1.263A–1(e)(3)(ii) provides a non-exclusive list of indirect costs that must be capitalized to the extent they are properly allocable to property produced or property acquired for resale. These costs include licensing and franchise costs incurred in securing the contractual right to use a trademark, corporate plan, manufacturing procedure, special recipe, or other similar right associated with property produced or property acquired for resale. Section 1.263A–1(e)(3)(ii)(U). Thus, royalty costs, including sales-based royalty costs, incurred in securing the contractual right to use a trademark, corporate plan, manufacturing procedure, special recipe, or other similar right associated with property produced or property acquired for resale, are indirect costs that are properly allocable to the property produced or acquired for resale to the extent the costs directly benefit or are incurred by reason of production or resale activities. *See,* for example, *Plastic Engineering & Technical Services, Inc.* v. *Commissioner,* TC Memo. 2001–324; but *see Robinson Knife Manufacturing Company, Inc.* v. *Commissioner,* No. 09–1496–ag, 2010 WL 986532 (2d Cir. March 19, 2010).

Section 1.263A–1(f) provides various "facts-and-circumstances" cost allocation methods that taxpayers may use to allocate direct and indirect costs

to units of property produced or acquired for resale. The facts-and-circumstances methods allocate costs based on a relationship between the costs incurred and the units of property produced or acquired for resale.

In lieu of a facts-and-circumstances allocation method, taxpayers may use the simplified methods provided in § 1.263A–2(b) (the simplified production method) or § 1.263A–3(d) (the simplified resale method) to allocate costs to eligible property produced or eligible property acquired for resale. The simplified methods differ from facts-and-circumstances methods in that they allocate a pool of capitalizable costs (additional section 263A costs) between ending inventory and cost of goods sold using a defined ratio rather than allocating specific costs to particular goods. Additional section 263A costs are defined in § 1.263A–1(d)(3) as the costs, other than interest, that were not capitalized under the taxpayer's method of accounting immediately prior to the effective date of section 263A, but that are required to be capitalized under section 263A. Under the simplified methods, taxpayers allocate additional section 263A costs between ending inventory and cost of goods sold using a formula that includes all additional section 263A costs incurred during the taxable year (including capitalizable sales-based royalties, if any).

Section 471 Inventory Rules Related to Sales-Based Vendor Allowances

Section 471 provides that inventories must be taken on the basis the Secretary prescribes as conforming to the best accounting practice in the trade or business and as most clearly reflecting income.

Section 1.471–2(c) permits merchants and manufacturers to value inventories at either (1) cost, or (2) cost or market, whichever is lower. Under § 1.471–3(b), the cost of merchandise purchased by taxpayers in general is the invoice price less trade or other discounts.

Section 1.471–8 allows a retail merchant to use the retail inventory method to arrive at an approximate cost of goods in ending inventory. This cost is determined by multiplying the aggregate selling prices of the goods in ending inventory by the ratio of (1) the cost of the goods in beginning inventory plus the cost of goods purchased during the year, to (2) the retail selling prices of the goods in beginning inventory plus the retail selling prices of inventory purchased during the year, with proper adjustments to the selling prices for mark-ups and mark-downs. However, retail selling prices are not adjusted for temporary mark-downs. Rev. Rul. 79–115 (1979–1 CB 185), *see* § 601.601(d)(2).

Explanation of Provisions

1. Capitalization and Allocation of Sales-Based Royalties Under Section 263A

The proposed regulations clarify that sales-based royalties, like other royalties, may be capitalizable to property a taxpayer produces or acquires for resale, but also provide that sales-based royalties required to be capitalized are allocable only to property that a taxpayer has sold.

In *Robinson Knife,* the Court of Appeals for the Second Circuit held that royalties for the right to use certain trademarks in manufacturing kitchen tools were not allocable to the property produced because the taxpayer's royalty payments were calculated as a percentage of net sales and were incurred only on the sale of the product. The court stated that the royalty costs were not incurred by reason of and did not directly benefit the performance of production activities, and therefore were not capitalizable under the section 263A regulations. The court reasoned that, although the licensing agreements may have directly benefited or been incurred by reason of production activities, the regulations did not require the capitalization of the royalty costs because the costs themselves did not directly benefit and were not incurred by reason of the performance of production activities.

The proposed regulations are consistent with the court's conclusion that, because of their relationship to sales, sales-based royalties inherently should not be capitalized to ending inventory. Because sales-based royalties are not incurred (within the meaning of section 461) until a unit of property is sold, sales-based royalties are more directly related to units of property sold during the taxable year than to unsold units. Therefore, the proposed regulations provide that capitalizable sales-based royalties are properly allocable to units of property produced or acquired for resale that are sold, or deemed sold, during the taxable year.

However, *Robinson Knife* misconstrued the nature of costs required to be capitalized. Royalties are the costs associated with the right to use intellectual property such as copyrighted works or patented inventions. If the use of those rights directly benefits or is incurred by reason of production activities, then the cost of securing those rights do as well. The fact that the amount of sales-based royalties is determined by reference to the number of units of property a taxpayer sells or is calculated as a percentage of revenue from the sale of inventory affects when a taxpayer incurs (within the meaning of section 461) that amount, but does not change an otherwise capitalizable production or resale cost into a non-capitalizable cost. Therefore, the proposed regulations also clarify that an indirect cost may directly benefit or be incurred by reason of the performance of production or resale activities even if the costs are incurred only upon the sale of inventory. Sales-based royalties, like other costs that directly benefit or are incurred by reason of production or resale activities, are capitalizable licensing and franchise costs within the meaning of § 1.263A–1(e)(3)(ii)(U).

The proposed regulations achieve a similar result to that in *Robinson Knife,* but rather than determining that sales-based royalty costs are inherently non-capitalizable, the proposed regulations provide that otherwise capitalizable sales-based royalty costs are properly allocable to property sold during the taxable year.

2. Sales-Based Vendor Allowances

Under § 1.471–3(b), the cost of merchandise a taxpayer purchases generally is the invoice price less trade or other discounts. A sales-based vendor allowance is an allowance, discount, or price rebate a taxpayer earns as a result of selling a vendor's merchandise, typically at a temporarily reduced price. The taxpayer's right to receive the sales-based vendor allowance depends on actual sales of the vendor's products. The amount received directly relates to the specific merchandise the taxpayer sells and properly is treated as a reduction in the cost of that merchandise. Therefore, the proposed regulations clarify that a sales-based vendor allowance is an adjustment to the cost of the merchandise sold or deemed sold under the taxpayer's cost flow assumption.

3. Adjusting the Cost of Goods Sold and Goods in Ending Inventory

Sales-based royalties and sales-based vendor allowances are properly allocable to property sold during the taxable year. Therefore, it is inappropriate to treat sales-based royalties and sales-based vendor allowances as adjustments to the cost of goods in ending inventory. The proposed regulations provide that sales-based royalties and sales-based vendor allowances are allocable to the units of property sold or deemed sold under the taxpayer's cost flow assumption and are

not included in determining the inventory cost or value of goods on hand at the end of the taxable year under any inventory method.

Because the proposed regulations expressly allocate sales-based royalties and sales-based vendor allowances to property that has been sold or deemed sold, the proposed regulations revise the simplified production and simplified resale methods to remove costs such as capitalizable sales-based royalties and cost reductions such as sales-based vendor allowances, which are properly allocable to property that has been sold, from the formulas used to allocate additional section 263A costs to ending inventory. Taxpayers must continue to include capitalizable sales-based royalty costs in both the numerator and denominator of the production cost allocation ratio under § 1.263A–1(h)(5) for purposes of determining capitalized mixed service costs under the simplified service cost method.

The proposed regulations do not modify the retail inventory method under § 1.471–8 specifically. Section 1.471–3 and section 263A determine the cost of purchases for purposes of the retail inventory method, and the proposed regulations under §§ 1.263A–1 and 1.471–3 preclude a taxpayer from including sales-based royalties and sales-based vendor allowances in the cost of goods in the fraction used to determine the value of ending inventory under § 1.471–8. Similarly, if the selling price markdown in a sales-based vendor allowance arrangement is temporary, the retail selling price component of the fraction is not adjusted.

Effective/Applicability Date

These regulations are proposed to apply for taxable years ending on or after the date the regulations are published as final regulations in the **Federal Register**.

Special Analyses

This notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely to the IRS. Comments may be submitted electronically or via a signed original with eight (8) copies. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is John Roman Faron of the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.263A–1 also issued under 26 U.S.C. 263A.

Section 1.263A–2 also issued under 26 U.S.C. 263A.

Section 1.263A–3 also issued under 26 U.S.C. 263A. * * *

Section 1.471–3 also issued under 26 U.S.C. 471. * * *

Par. 2. Section 1.263A–0 is amended by adding new entries for §§ 1.263A–1(c)(5), 1.263A–1(k), 1.263A–1(l), 1.263A–2(b)(3)(ii)(C), 1.263A–2(e), 1.263A–2(f), 1.263A–3(d)(3)(i)(C)(*3*), and 1.263A–3(f) and revising the entry for §§ 1.263A–1(e)(3)(ii) in the table of contents to read as follows:

§ 1.263A–0 Outline of regulations under section 263A.

* * * * *

§ 1.263A–1 Uniform Capitalization of Costs.

* * * * *

(c) * * *

(5) Costs allocable only to sold property.

* * * * *

(e) * * *

(3) * * *

(ii) Types of indirect costs required to be capitalized.

* * * * *

(k) Change in method of accounting.

(1) In general.

(2) Scope limitations.

(3) Audit protection.

(4) Section 481(a) adjustment.

(5) Time for requesting change.

(l) Effective/applicability date.

§ 1.263A–2 Rules Relating to Property Produced by the Taxpayer.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) Costs allocable only to sold property.

* * * * *

(e) Change in method of accounting.

(1) In general.

(2) Scope limitations.

(3) Audit protection.

(4) Section 481(a) adjustment.

(5) Time for requesting change.

(f) Effective/applicability date.

§ 1.263A–3 Rules Relating to Property Acquired for Resale.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(C) * * *

(*3*) Costs allocable only to sold property.

* * * * *

(f) Effective/applicability date.

* * * * *

Par. 3. Section 1.263A–1 is amended by:

1. Adding a new paragraph (c)(5).
2. Revising paragraph (e)(3)(i).
3. Revising the introductory text of paragraph (e)(3)(ii).
3. Redesignating paragraph (e)(3)(ii)(U) as paragraph (e)(3)(ii)(U)(*1*) and adding a sentence to the end of newly-designated paragraph (e)(3)(ii)(U)(*1*).
4. Adding a new paragraph (e)(3)(ii)(U)(*2*).
5. Revising paragraph (l).

The additions and revisions read as follows:

§ 1.263A–1 Uniform capitalization of costs.

* * * * *

(c) * * *

(5) *Costs allocable only to sold property.* Any cost that is required

under this section, § 1.263A–2, or § 1.263A–3, to be allocated only to property sold, or deemed to be sold under the inventory cost flow assumption (such as first-in, first-out, last-in, first-out, or a specific-goods method) the taxpayer uses to identify the costs in ending inventory, must be included in cost of goods sold and is not included in determining the inventory cost or value of goods on hand at the end of the taxable year.

* * * * *

(e) * * *

(3) * * *

(i) *In general.* (A) Indirect costs are defined as all costs other than direct material costs and direct labor costs (in the case of property produced) or acquisition costs (in the case of property acquired for resale). Taxpayers subject to section 263A must capitalize all indirect costs properly allocable to property produced or property acquired for resale. Indirect costs are properly allocable to property produced or property acquired for resale when the costs directly benefit or are incurred by reason of the performance of production or resale activities. Indirect costs may directly benefit or be incurred by reason of the performance of production or resale activities even if the costs are calculated as a percentage of sales revenue from inventory or are incurred only upon the sale of inventory. Indirect costs may be allocable to both production and resale activities, as well as to other activities that are not subject to section 263A. Taxpayers must make a reasonable allocation of indirect costs between production, resale, and other activities.

(B) *Example.* The following example illustrates the provisions of this paragraph (e)(3)(i):

Example. (i) Taxpayer A manufactures tablecloths and other linens. A enters into a licensing agreement with Company L under which A may label its tablecloths with L's trademark if the tablecloths meet certain specified quality standards. In exchange for its right to use L's trademark, the licensing agreement requires A to pay L a royalty of $X for each tablecloth carrying L's trademark that A sells. The licensing agreement does not require A to pay L any minimum or lump-sum royalties.

(ii) The licensing agreement provides A with the right to use L's intellectual property, a trademark. The licensing agreement also requires A to conduct its production activities according to certain standards as a condition of exercising that right. Thus, A's right to use L's trademark under the licensing agreement is directly related to A's production of tablecloths. The royalties the licensing agreement requires A to pay for using L's trademark are the costs A incurs in exchange for these rights. Therefore, although A incurs royalty costs only when A sells a tablecloth carrying L's trademark, the royalty costs directly benefit production activities and are incurred by reason of production activities within the meaning of paragraph (e)(3)(i) of this section.

(ii) *Types of indirect costs required to be capitalized.* The following are types of indirect costs that must be capitalized to the extent they are properly allocable to property produced or property acquired for resale:

* * * * *

(U) *Licensing and franchise costs.* (*1*) * * * These costs also include fees, payments, and royalties otherwise described in this paragraph (e)(3)(ii)(U) that a taxpayer incurs (within the meaning of section 461) only upon the sale of property produced or acquired for resale.

(*2*) If a taxpayer incurs (within the meaning of section 461) a fee, payment, or royalty described in this paragraph (e)(3)(ii)(U) only upon the sale of property produced or acquired for resale and the cost is required to be capitalized under this paragraph (e)(3), the cost is allocable only to the property that has been sold or, for inventory property, deemed to be sold under the inventory cost flow assumption (such as first-in, first-out; last-in, first-out; or a specific-goods method) the taxpayer uses to identify the costs in ending inventory.

* * * * *

(l) *Effective/applicability date.* (1) Paragraphs (h)(2)(i)(D), (k), and (l) of this section apply for taxable years ending on or after August 2, 2005.

(2) Paragraphs (c)(5), (e)(3)(i), and (e)(3)(ii)(U) of this section apply for taxable years ending on or after the date these regulations are published as final regulations in the **Federal Register**.

Par. 4. Section 1.263A–2 is amended by:

1. Adding paragraphs (b)(3)(ii)(C) and (b)(4)(ii)(A)(*4*).

2. Revising paragraph (f).

The additions and revision read as follows:

§ 1.263A–2 Rules relating to property produced by the taxpayer.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) *Costs allocable only to sold property.* Additional section 263A costs incurred during the taxable year, as defined in paragraph (b)(3)(ii)(A)(*1*) of this section, section 471 costs incurred during the taxable year, as defined in paragraph (b)(3)(ii)(A)(*2*) of this section, and section 471 costs remaining on hand at year end, as defined in paragraph (b)(3)(ii)(B) of this section, do not include costs specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) as properly allocable only to property that has been sold or, for inventory property, deemed to be sold under the inventory cost flow assumption (such as first-in, first-out; last-in, first-out; or a specific-goods method) a taxpayer uses to identify the costs in ending inventory.

* * * * *

(4) * * *

(ii) * * *

(A) * * *

(*4*) Additional section 263A costs incurred during the test period, as defined in paragraph (b)(4)(ii)(A)(*2*) of this section and section 471 costs incurred during the test period, as defined in paragraph (b)(4)(ii)(A)(*3*) of this section, do not include costs specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) as properly allocable only to property that has been sold or, for inventory property, deemed to be sold under the inventory cost flow assumption (such as first-in, first-out; last-in, first-out; or a specific-goods method) a taxpayer uses to identify the costs in ending inventory.

* * * * *

(f) *Effective/applicability date.* (1) Paragraphs (b)(2)(i)(D), (e), and (f) of this section apply for taxable years ending on or after August 2, 2005.

(2) Paragraphs (b)(3)(ii)(C) and (b)(4)(ii)(A)(*4*) of this section apply for taxable years ending on or after the date these regulations are published as final regulations in the **Federal Register.**

Par. 5. In § 1.263A–3, paragraphs (d)(3)(i)(C)(*3*), (d)(3)(i)(D)(*3*), (d)(3)(i)(E)(*3*), and (f) are added to read as follows:

§ 1.263A–3 Rules relating to property acquired for resale.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(C) * * *

(*3*) *Costs allocable only to sold property.* Section 471 costs remaining on hand at year end, as defined in paragraph (d)(3)(i)(C)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) as properly allocable only to property that has been sold or, for inventory property, deemed to be sold under the inventory cost flow assumption (such as first-in, first-out; last-in, first-out; or a specific-goods method) a taxpayer uses to identify the costs in ending inventory.

(D) * * *

(*3*) Current year's storage and handling costs, beginning inventory, and current year's purchases, as defined in paragraph (d)(3)(i)(D)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) as properly allocable only to property that has been sold or, for inventory property, deemed to be sold under the inventory cost flow assumption (such as first-in, first-out; last-in, first-out; or a specific-goods method) a taxpayer uses to identify the costs in ending inventory.

(E) * * *

(*3*) Current year's purchasing costs and current year's purchases, as defined in paragraph (d)(3)(i)(E)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) as properly allocable only to property that has been sold or, for inventory property, deemed to be sold under the inventory cost flow assumption (such as first-in, first-out; last-in, first-out; or a specific-goods method) a taxpayer uses to identify the costs in ending inventory.

* * * * *

(f) *Effective/applicability date.* Paragraphs (d)(3)(i)(C)(*3*), (d)(3)(i)(D)(*3*), and (d)(3)(i)(E)(*3*) of this section apply for taxable years ending on or after the date these regulations are published as final regulations in the **Federal Register.**

Par. 6. Section 1.471–3 is amended by:

1. Adding paragraphs (e) and (g).

2. Designating the undesignated text following paragraph (d) as paragraph (f).

The additions read as follows:

§ 1.471–3 Inventories at cost.

* * * * *

(e) The amount of an allowance, discount, or price rebate a taxpayer earns by selling specific merchandise is a reduction in the cost (as determined under paragraph (a), (b), or (d) of this section) of the merchandise sold or deemed to be sold under the inventory cost flow assumption (such as first-in, first-out; last-in, first-out; or a specific-goods method) the taxpayer uses to identify the costs in ending inventory. This amount decreases cost of goods sold and does not reduce the inventory cost or value of goods on hand at the end of the taxable year.

* * * * *

(g) *Effective/applicability date.* Paragraph (f) of this section applies to taxable years ending on or after the date these regulations are published as final regulations in the **Federal Register**.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2010–31597 Filed 12–16–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2010–0003; Notice No. 112; re: Notice Nos. 105 and 107]

RIN 1513–AB41

Proposed Establishment of the Pine Mountain-Mayacmas Viticultural Area; Comment Period Reopening

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is reopening the comment period for Notice No. 105, which concerned a proposal to establish an American viticultural area having the name Pine Mountain-Mayacamas. This reopening of the comment period solicits comments from the public on issues that were raised in public comments received in response to Notice No. 105. Three specific issues which we seek comments on concern the proper name for the proposed viticultural area, the viticultural significance of a suggested alternative name for the viticultural area, and the propriety of expanding the boundary of the proposed viticultural area.

DATES: We must receive written comments on or before February 15, 2011.

ADDRESSES: You may send comments on this notice to one of the following addresses:

- *http://www.regulations.gov:* Use the comment form for this notice as posted within Docket No. TTB–2010–0003 on "Regulations.gov," the Federal e-rulemaking portal, to submit comments via the Internet;
- *Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.
- *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200–E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of all published notices and all comments received about this proposal within Docket No. TTB–2010–0003 at *http://www.regulations.gov.* A direct link to this docket is posted on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 105. You also may view copies of all published notices, all supporting materials, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Elisabeth C. Kann, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20220; phone 202–453–2002.

SUPPLEMENTARY INFORMATION:

Petition History

The Alcohol and Tobacco Tax and Trade Bureau (TTB) received a petition from Sara Schorske of Compliance Service of America, prepared and filed on her own behalf and on behalf of local wine industry members, to establish the 4,600-acre "Pine Mountain-Mayacmas" American viticultural area in northern California. About two-thirds of the proposed viticultural area lies in the extreme southern portion of Mendocino County, with the remaining one-third located in the extreme northern portion of Sonoma County. The proposed Pine Mountain-Mayacmas viticultural area is totally within the multicounty North Coast viticultural area (27 CFR 9.30), and it overlaps the northernmost portions of the established Alexander Valley viticultural area (27 CFR 9.53) and the Northern Sonoma viticultural area (27 CFR 9.70).

In Notice No. 105, published in the **Federal Register** (75 FR 29686) on May 27, 2010, TTB described the petitioners' rationale for the proposed establishment of the Pine Mountain-Mayacmas viticultural area and requested comments on the proposal on or before July 26, 2010.

On July 16, 2010, TTB received a letter request from attorney Richard Mendelson on behalf of the Napa Valley Vintners (NVV), a wine industry trade association. The request explained that due to periodic scheduling of the NVV's committee and board of directors meetings, the group would be unable to meet the original July 26, 2010, comment deadline for Notice No. 105.

The letter therefore requested a 45-day extension to the comment period for Notice No. 105 to allow the NVV to complete and thoroughly vet its comments on the proposed viticultural area. In response to that request, on July 26, 2010, TTB published in the **Federal Register** (75 FR 43446) Notice No. 107 to extend the comment period for Notice No. 105 to September 9, 2010.

Comments Received

During the course of the original and extended comment period on Notice No. 105, TTB received and posted 85 comments from 70 groups and individuals; those comments may be viewed at the Regulations.gov Web site referred to under the **ADDRESSES** caption in this document. Commenters included 36 industry members and 34 non-industry individuals. Of the commenters, 54 supported, and 16 opposed, establishment of the Pine Mountain-Mayacmas viticultural area with the proposed name and boundary line. The comments in opposition to the proposal as published raised three issues that could warrant a change in the regulatory text proposed in Notice No. 105: (1) The appropriateness of the proposed Pine Mountain-Mayacmas name; (2) the viticultural significance of a suggested modified name for the proposed viticultural area; and (3) the inclusion of additional acreage within the boundary of the viticultural area.

With regard to the appropriateness of the Pine Mountain-Mayacmas name, some commenters questioned the "Mayacmas" portion of the name because "Mayacmas" is associated with the four counties of Napa, Sonoma, Lake, and Mendocino in northern California rather than just the smaller region within the proposed viticultural area boundary. A number of commenters supported use of the "Cloverdale Peak" name instead of "Mayacmas." The following comments in response to Notice No. 105 stated opposition to the Pine Mountain-Mayacmas name: Nos. 41, 43, 44, 45, 48, 50, 53, 55, 56, 57, 59, 60, 63, 65, 76, 78, 79, 81, and 82. Comments that specifically supported the name change to "Pine Mountain-Cloverdale Peak" were as follows: Nos. 61, 62, 68, 69, 70, 71, 72, 73, 74, 75, 77, 80, 83, 84, and 85.

The comments supporting a modification of the name of the viticultural area also give rise to the companion issue of the viticultural significance of the modified name. The following comments addressed the viticultural significance of the "Pine Mountain-Cloverdale Peak" name: Nos. 61, 62, 68, 69, 71, 75, 77, 80, and 83.

Finally, one comment, No. 68, suggested that if "Pine Mountain-Cloverdale Peak" is adopted as the viticultural area name, an additional 500 acres along the northern border should be included within the boundary line, in order to encompass Cloverdale Peak. Another commenter suggested in comments 58 and 67 that an additional 40 acres along the southwest border be included within the boundary line.

Determination To Re-Open Public Comment Period

TTB reviewed all comments received in response to Notice No. 105 with reference to the original petition materials. We believe that the comment period for Notice No. 105, which extended from May 27, 2010 to September 9, 2010, was adequate to obtain comments on our initially proposed regulation. However, because of the potential affect on label holders if TTB were to adopt any of the changes proposed in the comments themselves, TTB has determined that it would be appropriate in this instance to re-open the comment period, for the specific purpose of obtaining further public comment on the three issues mentioned above that affect the original proposal, before taking any further regulatory action on this matter.

TTB invites comments on the use of "Cloverdale Peak" as a geographical name in conjunction with "Pine Mountain" to form the "Pine Mountain-Cloverdale Peak" viticultural area name. Furthermore, the Bureau invites comments on the viticultural significance of the full name "Pine Mountain-Cloverdale Peak" and on the viticultural significance of "Pine Mountain-Cloverdale," "Cloverdale Peak," and "Cloverdale" standing alone. As TTB pointed out in this regard in Notice No. 105, for a wine to be eligible to use a viticultural area name or other term of viticultural significance as an appellation of origin or in a brand name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible to use the viticultural area name as an appellation of origin, and that name or other term of viticultural significance appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other term of viticultural significance appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Finally, TTB invites comments on whether the boundary line should be expanded as suggested in the comments.

Public Participation

Comments Invited

The specific purpose of this comment solicitation is to invite comments from interested members of the public on the three issues described in this document that were raised in public comments received in response to Notice No. 105. Please provide any available specific information in support of your comments. All comments previously submitted to TTB regarding Notice No. 105 will be given full consideration, so there is no need to resubmit such comments.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form linked to this notice in Docket No. TTB–2010–0003 on "Regulations.gov," the Federal e-rulemaking portal, at *http://www.regulations.gov.* A link to the docket is available under Notice No. 105 on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml.* Supplemental files may be attached to comments submitted via Regulations.gov. For information on how to use Regulations.gov, click on the site's Help or FAQ tabs.
- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200–E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference this notice and Notice No. 105 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and the Bureau considers all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please include the

entity's name in the "Organization" blank of the comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or that is inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and the public may view, copies of all published notices and all comments received in response to those notices within Docket No. TTB–2010–0003. A direct link to that docket is available on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 105. You may also reach Docket No. TTB–2010–0003 through the Regulations.gov search page at *http://www.regulations.gov.*

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You and other members of the public may view copies of all published notices, all related petitions, maps and other supporting materials, and all electronic or mailed comments TTB has received or will receive in response to this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact the TTB information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

Drafting Information

Nancy Sutton and other members of the Regulations and Rulings Division drafted this notice.

Signed: December 10, 2010.

John J. Manfreda,

Administrator.

[FR Doc. 2010–31655 Filed 12–16–10; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2010–OS–0135]

RIN 0790–AI67

32 CFR Part 174

Revitalizing Base Closure Communities and Addressing Impacts of Realignment

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Proposed rule.

SUMMARY: Economic Development Conveyances were created in amendments to the Base Closure and Realignment law in 1993, creating a new tool for communities experiencing economic dislocation from the closing of a major employer in the community. Congress recognized that the existing authority under the Federal Property and Administrative Services Act of 1949 (as amended and otherwise known as the Real Property Act) was not structured to deal with the unique challenges of assisting community economic recovery and job creation of such large installations, many with decaying or obsolete infrastructure and other redevelopment challenges. Section 2715 of Public Law 111–84 changed the authority of the Department of Defense to convey property to a local redevelopment authority (LRA) for purposes of job generation on a military installation closed or realigned under a base closure law, known as an Economic Development Conveyance (EDC). Under this revised authority, the Department is no longer required to seek to obtain fair market value for an EDC: An EDC may be for consideration at or below the estimated fair market value, including for no consideration. The law also now explicitly provides authority for the Department to be flexible regarding the form of consideration, including the authority to accept consideration in the form of revenue sharing or so-called "back-end" funding. (i.e., "The Secretary may accept, as consideration, a share of the revenues that the redevelopment authority receives from third-party buyers or lessees from sales and long-term leases of the conveyed property, consideration in kind (including goods and services), real property and improvements, or such other consideration as the Secretary considers appropriate.")

The revised language also provides that the Department's determination of the consideration may account for the economic conditions of the local affected community and the estimated costs to redevelop the property.

This proposed regulation provides guidance to implement recent changes to the law and makes other improvements that encourage expedited property transfers for job creation that allow for the Department to obtain a share of the revenues obtained.

DATES: Written comments received at the address indicated below by February 15, 2011 will be accepted.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Room 3C843, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Robert Hertzfeld, (703) 604–6020.

SUPPLEMENTARY INFORMATION: The proposed rule implements these statutory changes and is also intended to enable the Military Departments to expedite the EDC process. Closed military bases represent a potential engine of economic activity and job creation for former host communities. When disposing of property using this method, the Military Departments should use the full breadth of the EDC authority to structure conveyances that respond to the job creation and redevelopment challenges of the individual community.

The new law no longer requires the Department to seek Fair Market Value. Accordingly, a transfer may be made below estimated fair market value or without consideration if the LRA agrees to reinvest sale or lease proceeds for not less than seven years and to take title to the property within a reasonable timeframe. As such, this regulation deletes the requirement for the Department to obtain an appraisal of the property as part of an EDC conveyance, including analysis of highest and best use, for that purpose. This regulation

places the emphasis of EDCs on the economic redevelopment of the former installation. With this regulation, the Department approaches value by obtaining a share of the revenues obtained from the redevelopment of the property. Experience has shown that estimates of fair market value for property at closing installations, especially those requiring substantial future investment in redevelopment, can vary widely due to the uncertainties inherent in significant long-term redevelopment projects and differences in projected costs and revenues over a potential 20–30 year development cycle that may occur on many large closing installations. Elimination of the requirement to determine estimated fair market value and related appraisal requirements should expedite the conveyance process and remove what has been a common source of conflict and delays between the community and the Department. Accordingly, the proposed rule establishes as DoD policy a requirement that, for every EDC, the LRA must reinvest sale or lease proceeds for not less than seven years and take title to the property within a reasonable timeframe. This makes the determination of fair market value of the property unnecessary for purposes of establishing EDC terms and conditions that comply with statutory requirements. Consequently, it also eliminates the need to establish a process by which the fair market value of property to be conveyed by EDC must be determined. However, the proposed rule does not interfere with the ability of the Secretary concerned to obtain and use any information deemed appropriate, including market analysis, construction estimates, a real estate proforma, and appraisals, to ensure that decisions regarding property disposal are properly informed. If the proposed conveyance does not meet the requirements for an EDC, or if the LRA does not agree to reinvest sale or lease proceeds for not less than seven years and to take title to the property within a reasonable timeframe, the Secretary concerned may pursue a negotiated sale to a public body at fair market value, including a negotiated sale for economic development purposes, under regulations at 41 CFR Part 102–75.880, et seq., or competitive public sale.

This regulation seeks to streamline the process by separating the eligibility criteria for an EDC from the criteria guiding the negotiation of the terms and conditions. It also makes the application more concise and incorporates adjustments to reflect current market conditions and to recognize local community investment and risk. Finally, this proposed regulation implements the revised EDC authority in a manner intended to clarify and streamline the Economic Development Conveyance process and assist affected communities in job generation.

Regulatory Procedures

Executive Order 12866, "*Regulatory Planning and Review*"

It has been certified that 32 CFR part 174 does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribunal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order 12866, as amended by Executive Order 13422.

Section 202, Pub. L. 104–4, "*Unfunded Mandates Reform Act*"

It has been certified that 32 CFR part 174 does not contain a Federal mandate that may result in the expenditure by State, local and tribunal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, "*Regulatory Flexibility Act*" *(5 U.S.C. 601)*

It has been certified that 32 CFR part 174 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

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

It has been certified that 32 CFR part 174 does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

Executive Order 13132, "*Federalism*"

It has been certified that 32 CFR part 174 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 174

Community development; Government employees; Military personnel; Surplus Government property.

Accordingly, 32 CFR Part 174 is proposed to be amended as follows:

PART 174—[AMENDED]

1. The authority citation for Part 174 continues to read as follows:

Authority: 10 U.S.C. 113 and 10 U.S.C. 2687 *note*.

2. Section 174.9 is revised to read as follows:

§ 174.9 Economic development conveyances.

(a) The Secretary concerned may transfer real property and personal property to the LRA for purposes of job generation on the former installation. Such a transfer is an Economic Development Conveyance (EDC).

(b) An LRA is the only entity eligible to receive property under an EDC.

(c) A completed application will be used to decide whether the Secretary concerned will enter into an EDC with an LRA. An LRA may submit an EDC application only after it adopts a redevelopment plan. The Secretary concerned shall establish a reasonable time period for submission of an EDC application after consultation with the LRA.

(d) The application shall include:

(1) A copy of the adopted redevelopment plan.

(2) A project narrative including the following:

(i) A general description of the property requested.

(ii) A description of the intended uses.

(iii) A description of the economic impact of closure or realignment on the local community.

(iv) A description of the economic condition of the community and the prospects for redevelopment of the property.

(v) A statement of how the EDC is consistent with the overall redevelopment plan.

(3) A description of how the EDC will contribute to short- and long-term job generation on the installation, including the projected number and type of new jobs it will assist in generating.

(4) A business/operational plan for the EDC parcel, including at least the following elements:

(i) A development timetable, phasing schedule, and cash flow analysis.

(ii) A market and financial feasibility analysis describing the economic viability of the project, including an estimate of net proceeds over a fifteen year period and proposed consideration or payment to the Department of Defense,

(iii) A cost estimate and justification for infrastructure and other investments needed for redevelopment of the EDC parcel.

(iv) Local investment and proposed financing plan for the development.

(5) A statement describing why an EDC will more effectively enable achievement of the job generation objectives of the redevelopment plan regarding the parcel requested for conveyance than other federal real property disposal authorities.

(6) Evidence of the LRA's legal authority to acquire and dispose of the property.

(7) Evidence that the LRA has authority to perform the actions required of it, pursuant to the terms of the EDC, and that the officers executing the EDC documents on behalf of the LRA have authority to do so.

(8) A commitment from the LRA that the proceeds from any sale or lease of the EDC parcel (or any portion thereof) received by the LRA during at least the first seven years after the date of the initial transfer of property, except proceeds that are used to pay consideration to the Secretary concerned under paragraph (h) of this section, shall be used to support economic redevelopment of, or related to, the installation. In the case of phased transfers, the Secretary concerned may also require that this commitment apply during at least the first seven years after the date of every subsequent transfer of property to the LRA. The use of proceeds to pay for, or offset the costs of, public investment on or related to the installation for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the installation—

(i) Road construction;

(ii) Transportation management facilities;

(iii) Storm and sanitary sewer construction;

(iv) Police and fire protection facilities and other public facilities;

(v) Utility construction;

(vi) Building rehabilitation;

(vii) Historic property preservation;

(viii) Pollution prevention equipment or facilities;

(ix) Demolition;

(x) Disposal of hazardous materials generated by demolition;

(xi) Landscaping, grading, and other site or public improvements; and

(xii) Planning for or the marketing of the development and reuse of the installation.

(9) A commitment from the LRA to execute the agreement for transfer of the property and accept control of the property within a reasonable time, as determined by the Secretary concerned after consultation with the LRA, after the date of the property disposal record of decision. The determination of reasonable time should take account of the ability of the Secretary concerned to make the deed covenant, or covenant deferral, required under 42 U.S.C. 9620(h)(3).

(e) The Secretary concerned will review the application and, to the extent practicable, provide a preliminary determination within 30 days whether the Military Department can accept the application for negotiation of terms and conditions, pursuant to the following determinations:

(1) The LRA submitting the application has been duly recognized by the DoD Office of Economic Adjustment;

(2) The application is complete. With respect to the elements of the application specified in paragraphs (d)(6) and (d)(7) of this section, the Secretary concerned may accept the application for negotiation of terms and conditions without these elements, provided the Secretary concerned is satisfied that the LRA has a reasonable plan in place to provide these elements prior to transfer of the property; and

(3) The proposed EDC will more effectively enable achievement of the job generation objectives of the redevelopment plan regarding the parcel requested than other federal real property disposal authorities.

(f) Upon acceptance of an EDC application, the Secretary concerned will determine if the proposed terms and conditions are fair and reasonable. The Secretary concerned may propose and negotiate any alternative terms or conditions that the Secretary considers necessary. The following factors will be considered, as appropriate, in evaluating the terms and conditions of the proposed transfer, including price, time of payment, and other relevant methods of compensation to the Federal Government.

(1) Local economic conditions and adverse impact of closure or realignment on the region and potential for economic recovery through an EDC.

(2) Extent of short- and long-term job generation.

(3) Consistency with the entire redevelopment plan.

(4) Financial feasibility of the development, including market analysis and need and extent of proposed infrastructure and other investments.

(5) Extent of state and local investment, level of risk incurred, and the LRA's ability to implement the plan. Higher risk and investment made by the LRA should be recognized with more favorable terms and conditions, to encourage local investment to support job generation.

(6) Current local and regional real estate market conditions, including market demand for the property.

(7) Incorporation of other Federal agency interests and concerns, including the applicability of, and conflicts with, other Federal surplus property disposal authorities.

(8) Economic benefit to the Federal Government, including protection and maintenance cost savings, environmental clean-up savings and anticipated consideration from the transfer.

(9) Compliance with applicable Federal, state, interstate, and local laws and regulations.

(g) The Secretary concerned will negotiate the terms and conditions of each transaction with the LRA. The Secretary concerned will have the discretion and flexibility to enter into agreements that specify the form of payment and the schedule.

(h)(1) The Secretary concerned may accept, as consideration, any combination of the following:

(i) Cash, including a share of the revenues that the redevelopment authority receives from third-party buyers or lessees from sales and long-term leases of the conveyed property (i.e., a share of the revenues generated from the redevelopment project);

(ii) Goods and services;

(iii) Real property and improvements; or

(iv) Such other consideration as the Secretary considers appropriate.

(2) The consideration may be paid over time.

(3) All cash consideration for property at a military installation where the date of approval of closure or realignment is before January 1, 2005, shall be deposited in the account established under Section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Pub. L. 101–510; 10 U.S.C. 2687 note). All cash consideration for property at a military installation where the date of approval of closure or realignment is after January 1, 2005, shall be deposited in the account established under Section 2906A(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Pub. L. 101–510; 10 U.S.C. 2687 note).

(4) The Secretary concerned may use in-kind consideration received from an LRA at any location under control of the Secretary concerned.

(i) The LRA and the Secretary concerned may agree on a schedule for sale of parcels and payment participation.

(j) Additional provisions shall be incorporated in the conveyance documents to protect the Department's interest in obtaining the agreed upon consideration, which may include such items as predetermined release prices, accounting standards or other appropriate clauses designed to ensure payment and protect against fraudulent transactions. Every agreement for an EDC shall contain provisions allowing the Secretary concerned to recoup from the LRA such portion of the proceeds from its sale or lease as the Secretary concerned determines appropriate if the LRA does not use the proceeds to support economic redevelopment of or related to the installation for the period specified in paragraph (d)(8) of this section. The Secretary concerned and an LRA may enter into a mutually agreed participation agreement which may include input by the Secretary concerned on the LRA's disposal of EDC parcels.

(k) The Secretary concerned may take account of property value but is not required to formally determine the estimated fair market value of the property for any EDC. The consideration negotiated should be based on a business plan and development pro-forma that assumes the uses in the redevelopment plan. The Secretary concerned may determine the nature and extent of any additional information needed for purposes of negotiation. To the extent not prohibited by law, information used should be shared with the LRA.

(l) After evaluating the application based upon the criteria specified in paragraph (f) of this section, and negotiating terms and conditions, the Secretary concerned shall present the proposed EDC to the Deputy Under Secretary of Defense (Installations and Environment) for formal coordination before announcing approval of the application.

§ 174.10 [Removed and Reserved]

3. § 174.10 is removed and reserved:

Dated: December 10, 2010.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–31649 Filed 12–16–10; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0876; FRL–9240–4]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the West Virginia Department of Environmental Protection on July 20, 2009. This revision will establish nitrogen oxides (NO_X) as a precursor to ozone, add the Federally equivalent provisions to the rules for the Prevention of Significant Deterioration (PSD) as they pertain to "reasonable possibility" and delete certain references to pollution control projects (PCPs) and clean units (CUs) to make the West Virginia PSD program consistent with the Federal PSD regulations. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 18, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0876 by one of the following methods:

A. *http://www.regulations.gov.* Follow the online instructions for submitting comments.

B. *E-mail: mccauley.sharon@epa.gov.*

C. *Mail:* EPA–R03–OAR–2009–0876, Kathleen Cox, Associate Director, Office of Permits & Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2009–0876. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, West Virginia 25304.

FOR FURTHER INFORMATION CONTACT: Sharon McCauley, (215) 814–3376, or by e-mail at *mccauley.sharon@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On July 20, 2009, the State of West Virginia submitted a revision to its State Implementation Plan (SIP) to replace the current SIP-approved version of 45CSR14, entitled, Permits for Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration.

I. Background

This SIP revision proposes to replace, in its entirety, the SIP version of 45CSR14, as approved by EPA on December 4, 2006 (71 FR 64470), with West Virginia's current version of this rule. West Virginia 45 CSR14 governs the permitting for the construction of new major stationary sources and the significant modification of existing major stationary sources of air pollutants in areas designated attainment or non-classifiable for the National Ambient Air Quality Standards (NAAQS). This regulatory revision was made effective as a legislative rule by the State of West Virginia on June 1, 2009.

II. Summary of SIP Revision

West Virginia's rule 45CSR14 establishes a pre-construction permit program consistent with Title I of the CAA and the implementing regulations at 40 CFR 51.166 "Prevention of Significant Deterioration of Air Quality." West Virginia rule 45CSR14 also ensures that the West Virginia SIP provides for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) in accordance with Section 110(a)(2)(C) of the CAA which requires States to have a permitting program for regulation of the construction and modification of sources as required by Part C of Title I of the CAA to assure NAAQS are achieved.

On November 29, 2005, NO_X were established as precursors to the criteria pollutant ozone and became regulated under 40 CFR 51.166 and 40 CFR 52.21 (70 FR 71612). The new version of 45CSR14 establishes NO_X as a precursor to ozone to satisfy these requirements.

The new version of 45CSR14 also deletes references to pollution control projects (PCPs) and clean units (CUs) to make the West Virginia's regulation consistent with the Federal PSD regulations.

The provisions of the State's rule at 45CSR14.19.8 now include the recordkeeping and reporting requirements for sources that elect to use the actual-to-projected actual emission test and where there is a "reasonable possibility" that a project may result in a significant net emissions increase. In our previous approval of 45CSR14, dated December 4, 2006 (71 FR 64470), at the request of West Virginia, we took no action on the provisions of 45CSR14.19.8 pertaining to the recordkeeping and reporting requirements for sources that elect to use the actual-to-projected actual emission test and where there is a "reasonable possibility" that a project may result in a significant net emissions increase. We are now proposing to approve 45CSR14.19.8 as a revision to the West Virginia SIP because the necessary regulatory corrections have been made.

We are proposing approval of West Virginia's July 20, 2009 SIP revision because we believe that the amendments to West Virginia's PSD permit program at 45CSR14 as described herein meet the minimum requirements of 40 CFR 51.166 and the CAA. Aside from the changes described herein, no other changes to the West Virginia SIP's PSD program as approved by EPA on December 4, 2006 (71 FR 64470) would result from this revision to replace the version of 45CSR14 in the West Virginia SIP.

III. Proposed Action

We are proposing to approve the West Virginia SIP's July 20, 2009 SIP revision to replace 45CSR14 in its entirety. We are soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission 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, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve 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 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 proposed rule to approve replacing the current SIP-approved version of West Virginia rule 45CSR14 in its entirety with an updated version to satisfy the CAA's requirements for the Prevention of Significant Deterioration 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.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 7, 2010.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2010–31796 Filed 12–16–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2010–0285; FRL–9239–9]

Availability of Additional Information for the Proposed Rulemaking for Colorado's Attainment Demonstration for the 1997 8-Hour Ozone Standard and Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: This document announces the availability of revised modeling that relates to EPA's notice of proposed rulemaking for Colorado's Attainment Demonstration for the 1997 8-hour Ozone Standard for the Denver Metro Area/North Front Range (DMA/NFR) nonattainment area and Related Revisions. The results of the modeling and the modeling files have been placed in the docket for this rulemaking. EPA is providing an opportunity to comment on the revised modeling.

DATES: Comments must be received on or before January 18, 2011.

ADDRESSES: Submit your comments identified by Docket ID Regulation Number EPA–R08–OAR–2010–0285 by one of the following methods:

- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.
- *E-mail: komp.mark@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2010–0285. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. 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 either electronically in *http://www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Komp, Air Program, 1595 Wynkoop Street, Mailcode: 8P–AR, Denver, Colorado 80202–1129, (303) 312–6022, *komp.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. General Information
II. Notice of Data Availability

Definitions

For the purpose of this document, the following definitions apply:

(i) *Act* or *CAA* means or refers to the Clean Air Act, unless the context indicates otherwise.

(ii) *EPA, we, us* or *our* means or refers to the United States Environmental Protection Agency.

(iii) *SIP* means or refers to State Implementation Plan.

(iv) *ppb* means parts per billion of ozone in air.

(v) *State* or *Colorado* means the State of Colorado, unless the context indicates otherwise.

(vi) *NAAQS* means or refers to National Ambient Air Quality Standards.

(vii) *NODA* means or refers to Notice of Data Availability.

I. General Information

A. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://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:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- 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.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Notice of Data Availability

On June 18, 2009, Colorado submitted revisions to the Colorado SIP for the 1997 8-hour ozone NAAQS for the DMA/NFR nonattainment area. The revisions included a modeled attainment demonstration using

photochemical grid modeling that the State conducted in 2008. (Photochemical grid modeling is used to project future 8-hour ozone Design Values for comparison to the 85.0 ppb ozone NAAQS.) On July 21, 2010, we proposed to act on the State's revisions and as part of that action, proposed to approve Colorado's attainment demonstration and certain other aspects of the revisions, and proposed to disapprove other aspects of the revisions. For further information on Colorado's submittal and our proposed action, please consult the **Federal Register** (July 21, 2010; 75 FR 42346).

On October 7, 2010, Colorado submitted revised photochemical modeling results to us for the DMA/NFR ozone SIP. Colorado re-ran the photochemical model because in September 2010 the State discovered that errors had been made in specifying the location of certain point sources in the 2008 modeling. Latitude/longitude locations for some point sources in the original modeling effort were mistakenly derived using the degree-minute-second coordinate system rather than the correct decimal degree coordinate system. As a result, some point source locations were displaced in the grid-coordinate system used by the model. Thus, Colorado re-ran the model with the correct coordinates to determine whether the errors made in locating some point sources affected the reliability of the model results.

The projected Design Values for 2010 resulting from the revised modeling remain below the 85.0 ppb ozone NAAQS. For the SIP's 2010 base case, the revised modeling's maximum projected 8-hour ozone Design Values are found at the Rocky Flats North and Fort Collins West monitoring sites—84.7 ppb ozone at both locations in 2010. This is 0.2 ppb lower than the State's 2008 modeling projected using incorrect point source locations. Because it produced slightly lower values at the monitoring sites with maximum Design Values, the revised modeling supports the conclusions that EPA proposed regarding the 2008 modeling.

With this Notice of Data Availability, we are providing an opportunity for the public to comment on Colorado's October 2010 revised modeling, including comments on how it may affect EPA's proposed determinations as reflected in our July 21, 2010 proposal. We are not re-opening the comment period on the material that was before the Agency at the time of the July 21, 2010 proposal.

Colorado's October 2010 revised modeling is reflected in the following two documents, which we have added to the rulemaking docket:

1. Final 2010 Ozone Attainment Demonstration Modeling for the Denver 8-Hour Ozone State Implementation Plan. Docket Number: EPA–R08–OAR–2010–0285–0025.
2. MEMORANDUM, October 7, 2010: ENVIRON: Denver Final 2010 Ozone Attainment Demonstration Modeling using Correct Point Source Locations. Docket Number: EPA–R08–OAR–2010–0285–0043.

We will take final action based on our notice of proposed rulemaking that was published in the **Federal Register** on July 21, 2010 (75 FR 42346), the comments we received on that proposal, Colorado's October 2010 revised modeling, and any comments we receive in response to this NODA.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by Reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 10, 2010.

Carol Rushin,

Deputy Regional Administrator, Region 8.

[FR Doc. 2010–31738 Filed 12–16–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2010–0859; FRL–9240–3]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Commonwealth of Virginia; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator (HMIWI) Units, Negative Declaration and Withdrawal of EPA Plan Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the Commonwealth of Virginia's negative declaration and request for EPA withdrawal of its section 111(d)/129 plan (the plan) approval for HMIWI units. Submittal of a negative declaration or State plan revision is a requirement of the Clean Air Act (CAA). In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth of Virginia's negative declaration and request for EPA withdrawal of its plan approval for HMIWI units. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by January 18, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2010–0859 by one of the following methods:

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

B. *E-mail:* E-mail: *wilkie.walter@epa.gov.*

C. *Mail:* EPA–R03–OAR–2010–0859, Walter K. Wilkie, Associate Director, Air Protection, Division, Office of Air Monitoring and Analysis, Mailcode 3AP40, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2010–0859 EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in

the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., at (215) 814–2190, or by e-mail at *topsale.jim@epa.gov.* Please note that while questions may be posed via phone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: December 2, 2010.

W.C. Early,

Acting Regional Administrator, EPA Region III.

[FR Doc. 2010–31740 Filed 12–16–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE TREASURY

48 CFR Chapter 10

RIN 1505–AC04

Department of the Treasury Acquisition Regulation

AGENCY: Office of the Procurement Executive, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Treasury is proposing to amend the Department of the Treasury Acquisition Regulation (DTAR) to: update, revise, or remove, as applicable, outdated text and references; add new text to maintain consistency with the Federal Acquisition Regulation (FAR); incorporate Treasury-specific policy associated with current FAR requirements; reflect the Treasury's organization and delegation of authorities; and make minor editorial changes.

DATES: *Comment due date:* February 15, 2011.

ADDRESSES: Treasury invites comments on the topics addressed in this proposed rule. Comments may be submitted to Treasury by any of the following methods: by submitting electronic comments through the federal government e-rulemaking portal, *http://www.regulations.gov,* by e-mail to *fernando.tonolete@do.treas.gov* mailto:, by fax to (202) 622–2273, or by sending paper comments to Department of the Treasury, Office of the Procurement Executive, *Attn:* Fernando Tonolete, 1500 Pennsylvania Avenue, NW., Met. Square Room 6B517, Washington, DC 20220.

In general, Treasury will post all comments to *www.regulations.gov* without change, including any business or personal information provided, such as names, addresses, e-mail addresses, or telephone numbers. Treasury will also make such comments available for public inspection and copying in Treasury's Library, Room 1428, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622–0990. All comments, including attachments and other supporting materials received are part of the public record and subject to public disclosure. You should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Fernando Tonolete, Procurement Analyst, Office of the Procurement Executive, at (202) 622–6416.

SUPPLEMENTARY INFORMATION:

A. Background

The Department of the Treasury is in the process of reviewing and updating all of its acquisition policies. As part of this policy review, the Office of the Procurement Executive (OPE) is updating and using as point of reference the Department of the Treasury Acquisition Regulation (DTAR) 2002 Edition, first published on June 14, 2002, and currently posted at:*http://www.access.gpo.gov/nara/cfr/.* Only regulatory guidance is being published for public comment. Once adopted as a final rule, the DTAR will be maintained separately and combined with Department of the Treasury Acquisition Procedures (DTAP) for expediency of use by Treasury staff. The DTAR and combined DTAR/DTAP will be posted at: *http://www.treasury.gov/about/organizational-structure/offices/Mgt/Pages/ProcurementPolicy-Regulations.aspx.*

B. This Proposed Rule

The following describes Treasury's proposed changes to 48 CFR Chapter 10:

Subpart 1001.3 AGENCY ACQUISITION REGULATIONS was added to restate the policy that the DTAR applies throughout the Department of the Treasury except for the US Mint, and that OPE is responsible for the DTAR's evaluation, review and issuance.

Subpart 1001.4 DEVIATIONS FROM THE FAR was added, stating that the Senior Procurement Executive (SPE) is authorized to approve individual contract and class deviations from the FAR and DTAR.

Subpart 1001.6 CAREER DEVELOPMENT, CONTRACTING AUTHORITY AND RESPONSIBILITIES was added to link by reference and insert in this subpart DTAR 1052.201–70 on Contracting Officer's Technical Representative (COTR) appointment and authority, with the requirement that substantially the same clause be included in all solicitations and contracts.

Editorial and clarification changes were made to section 1001.104 to make it easier for contractors, offerors and Treasury contracting staff to read and use.

Sections 1001.301, 1001.304, 1001.403, 1001.404, 1002.70, 1052.201–70, and 1052.219–73 supplement the FAR by providing paragraph specific designations, delegations of authority within Treasury and/or changed names of offices due to reorganization.

Under Part 1002 DEFINITIONS OF WORDS AND PHRASES definitions were added for:

- All Bureaus and their corresponding acronyms
- Contracting Activity
- Head of Contracting Activity (HCA)
- Head of the Agency

Full definitions were likewise added for the following abbreviations:

- BCPO
- COTR
- HCA
- OPE
- OSDBU
- SPE

Part 1003 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST was removed because its applicability is deemed closer to internal Treasury policy and procedure, as opposed to one having an impact on external contracting activity. It has been relocated to the companion Department of the Treasury Acquisition Procedures (DTAP).

Part 1004 ADMINISTRATIVE MATTERS was removed because the requirement concerning contract employees meeting the investigative requirements of the Treasury Security Manual to access classified information is no longer within the DTAR's purview.

Part 1005 PUBLICIZING CONTRACT ACTIONS was removed because the OFPP and SBA pilot program on Acquisition of Services from Small Business has lapsed and has not been extended.

Part 1009 CONTRACTOR QUALIFICATIONS was added to link and insert in this subpart DTAR 1052.210.70 on Contractor Publicity, with the requirement that substantially the same clause be included in all solicitations and contracts.

31 U.S.C. 333(a) prohibits the use of Treasury names, abbreviations, or symbols, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, in a manner that may imply endorsement by Treasury. Substantially the same clause at DTAR 1052.210–70 on Contractor Publicity must be inserted in all solicitations and contracts.

Part 1011 DESCRIBING AGENCY NEEDS was removed because the stipulation that BCPOs can act on behalf of the Head of the Agency in requiring offerors to make the required demonstrations of market acceptance is outdated and/or no longer applies.

Part 1016 TYPES OF CONTRACTS was added to specify that Bureaus must appoint a Task and Delivery Ombudsman to review complaints from contractors, and in the absence of such a designation, the Bureau Competition Advocate will serve in that capacity.

Editorial and clarification changes were made to sections 1019.202–70–4, 1019.202–70–5, 1019.202–70–8, 1019.202–70–9, 1019.202–70–10, 1019.202–70–11, 1019.202–70–12,1019.202–70–14, 1019.202–70–16, 1019.811–3 to make it easier for contractors, offerors and Treasury contracting staff to read and use. Furthermore, these provisions, except for 1019.811–3, are being consolidated into a single new section 1019.202–70.

In subdivision 1019.202–70(d), the reference limiting the program to prime contractors is being changed to "contractors."

In subdivision 1019.202–70(e), the title limiting the program to prime contractors is being changed to apply to any "contractor." In addition, this subdivision authorizes incentives in negotiated contract actions. Incentives of up to 5% may apply to non-price factors and, if used, must be included in the solicitation indicating that this adjustment may occur. SBA regulations allow for the development of incentives as a tool for increasing the number of participating mentoring firms.

Subdivision 1019.202–70(h) is being revised to comply with the FAR by adding two additional firm types qualifying as protégés—owned or controlled by a veteran or a qualified 8(a) concern.

Subsection 1019.705–4, paragraph (a)(1) is being removed, since Treasury Directive P 76–01B no longer applies.

Subsection 1028.307–1 requires contractors to submit plans for buying group insurance to the Contracting Officer; and the internal procedure to obtain advice from Legal Counsel was removed.

As of January 6, 2007, the General Services Board of Contract Appeals (GSBCA) was replaced by the Civilian Board of Contract Appeals (CBCA) as the authorized representative of the Secretary of the Treasury for appeals involving contract disputes. Section 1033.201 is being revised to reflect this change.

Part 1034 MAJOR SYSTEM ACQUISITION was added to incorporate the concept of Earned Value Management (EVM). This part consists of multiple pages of detailed text with a full explanation of the core EVM concept which encompasses the following subject areas:

- EVM Policy
- ANSI/EIA Standard-748 criteria
- Acquisition Strategy
- Integrated Baseline Reviews
- Relevant Solicitation Provisions and Contract Clauses

Sections 1034.001, 1034.004, 1034.201, 1034.202, 1034.203 1052.234–2, 1052.234–3, 1052.234–4, 1052.234–70, 1052.234–71, and 1052.234–72 contain EVM requirements to include informational text, provisions and clauses to be inserted in solicitations and awards with development, modernization or enhancement (DME) efforts. Projects with DME must be managed using an Earned Value Management System (EVMS) that is compliant with the American National Standards Institute/Engineering Industrial Alliance (ANSI/EIA) Standard 748 (current version). Treasury has established two types of EVM reporting: "Full" EVM reporting—32 ANSI/EIA criteria, and "Core" EVM Reporting—10 ANSI criteria that are a subset of ANSI/EIA 748, which apply to dollar thresholds described in Section 1034.201.

Part 1036 CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS was added to provide authorization for bureaus to utilize either or both of the short processes described at FAR 36.602–5 for selecting firms for Construction and Architect-Engineer Services contracts that are not expected to exceed the simplified acquisition threshold.

Subsection 1036.602–5, Treasury authorizes the option of using either short selection process for AE contracts not exceeding the simplified acquisition threshold.

Part 1042 CONTRACT ADMINISTRATION AND AUDIT SERVICES was added to provide text references to contract administration and audit procedures codified in FAR 42.1503 under the authority of 41 U.S.C. 418b.

Editorial and clarification changes were made to sections 1052.201.570 1052.219–72, and 1052.219–73 to make it easier for contractors, offerors and Treasury contracting staff to read and use.

Section 1052.210–70 CONTRACTOR PUBLICITY was added to address the need for the Contracting Officer's explicit written consent prior to a contractor using equipment or services provided under the contract for news releases or commercial advertising.

Clause 1052.219–75, MENTOR REQUIREMENTS AND EVALUATION is being added to evaluate mentor protégé accomplishments or withdrawal under the agreements; provide notification requirements for withdrawing from program; and provide a notice of the availability of a bonus incentive not to exceed 5% of the relative importance of non-price factors.

Clauses 1052.234–2, 1052.234–3, 1052.234–4, 1052.234.70, 1052.234–71 and 1052.234–72 collectively refer to the EVM concept and were added to explain various stages of the Earned Value Management system.

C. Procedural Matters

Executive Order 12866

This proposed rule is not a significant regulatory action under Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* applies to this proposed rule. It is hereby certified that the changes included in this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act

The revisions are not considered substantive; revisions only update and reorganize existing coverage. Further, the revisions to the Mentor-Protégé program, although having some economic impact on participating small entities, are not expected to affect a substantial number of small entities. The program is designed for mentoring firms to provide developmental assistance to protégés in the areas of management, personnel, organization, technical capability, financial strength, and training/certifications. As a result, the approximately 44 participating small entities may experience short-term gains including an increase in the areas of revenue, number of contract awards, personnel, technical capabilities, and business relationships. Long-term, program participation should provide increased access to prime or subcontractor opportunities at the Treasury. Subsequently, this program serves to improve the Department of the Treasury's small business goal attainment. The U.S. Department of the Treasury invites comments from small businesses to examine the impact proposed on such entities.

Paperwork Reduction Act

The information collections contained in this proposed rule have been previously approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) and assigned OMB control numbers 1505–0081; 1505–0080; and 1505–0107. Under the Paperwork Reduction Act, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

List of Subjects in 48 CFR Part 10

Government procurement.

Dated: November 30, 2010.

Thomas A. Sharpe, Jr.,

Senior Procurement Executive, Office of the Procurement Executive.

Accordingly, the Department of the Treasury proposes to revise 48 CFR Chapter 10 in its entirety, to read as follows:

CHAPTER 10—DEPARTMENT OF THE TREASURY

Subchapter A—General

PART 1001—DEPARTMENT OF THE TREASURY ACQUISITION REGULATION (DTAR) SYSTEM

Part
1001 Department of the Treasury Acquisition Regulation (DTAR) System
1002 Definitions of Words and Terms

Subchapter B—Acquisition Planning

1009 Contractor Qualifications

Subchapter C—Contracting Methods and Contract Types

1016 Types of Contracts

Subchapter D—Socioeconomic Programs

1019 Small Business Programs

Subchapter E—General Contracting Requirements

1028 Bonds and Insurance
1032 Contract Financing
1033 Protests, Disputes, and Appeals

Subchapter F—Special Categories of Contracting

1034 Major System Acquisition
1036 Construction and Architect-Engineer Contracts

Subchapter G—Contract Management

1048 Value Engineering

Subchapter H—Clauses and Forms

1052 Solicitation Provisions and Contract Clauses

Subchapter A—General

PART 1001—DEPARTMENT OF THE TREASURY ACQUISITION REGULATION (DTAR) SYSTEM

Subpart 1001.1—Purpose, Authority, Issuance

Sec.
1001.101 Purpose.
1001.104 Applicability.
1001.105 Issuance.
1001.105–1 Publication and code arrangement.
1001.105–2 Arrangement of regulations.
1001.105–3 Copies.
1001.106 OMB Approval under the Paperwork Reduction Act.

Subpart 1001.3—Agency Acquisition Regulations

1001.301 Policy.
1001.304 Agency control and compliance procedures.

Subpart 1001.4—Deviations From the FAR

1001.403 Individual Deviations.
1001.404 Class Deviations.

Subpart 1001.6—Career Development, Contracting Authority and Responsibilities

1001.670 Contract clause.

Authority: 41 U.S.C. 418b.

Subpart 1001.1—Purpose, Authority, Issuance

1001.101 Purpose.

This subpart establishes Chapter 10, the Department of the Treasury Acquisition Regulation (DTAR), within Title 48 of the Federal Acquisition Regulation (FAR) System. The DTAR contains policies and procedures that supplement FAR coverage and directly affect the contractual relationship between the Department of the Treasury and its business partners (*e.g.,* prospective offerors/bidders and contractors). When FAR coverage is adequate, there will be no corresponding DTAR coverage.

1001.104 Applicability.

The DTAR applies to all acquisitions of supplies and services, which obligate appropriated funds. For acquisitions made from non-appropriated funds, the Senior Procurement Executive will determine the rules and procedures that will apply. The DTAR does not apply to the acquisitions of the U.S. Mint.

1001.105 Issuance.

1001.105–1 Publication and code arrangement.

The DTAR and its subsequent changes will be published in the **Federal Register** and codified in the Code of Federal Regulations (CFR). The DTAR will be issued as 48 CFR Chapter 10.

1001.105–2 Arrangement of regulations.

(a) *References and citations.* The DTAR is divided into the same parts, subparts, sections, subsections, and paragraphs as the FAR except that 10 or 100 will precede the DTAR citation so that there are four numbers to the left of the first decimal. Reference to DTAR material must be made in a manner similar to that prescribed by FAR 1.105–2(c).

1001.105–3 Copies.

Copies of the DTAR in **Federal Register** or CFR form may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402.

1001.106 OMB Approval under the Paperwork Reduction Act.

OMB has assigned the following control numbers that must appear on

the upper right corner of the face page of each solicitation, contract, modification, and order: OMB Control No. 1505–0081 (Offeror submissions), OMB Control No. 1505–0080 (Contractor submissions), OMB Control No. 1505–0107 (Protests). OMB regulations and OMB's approval and assignment of control numbers are conditioned upon Treasury bureaus not requiring more than three copies (including the original) of any document of information. OMB has granted a waiver to permit the Department to require up to eight copies of proposal packages, including proprietary data, for solicitations, provided that contractors who submit only an original and two copies will not be placed at a disadvantage.

Subpart 1001.3—Agency Acquisition Regulations

1001.301 Policy.

(a)(1) The DTAR (48 CFR Chapter 10) is issued for Treasury implementation in accordance with the authority cited in FAR 1.301(b). The DTAR supplements the Federal Acquisition Regulation by establishing uniform policies for all acquisition activities throughout the Department of the Treasury, except for the United States Mint.

1001.304 Agency control and compliance procedures.

(a) The DTAR is under the direct oversight and control of Treasury's Office of the Procurement Executive (OPE), which is responsible for the evaluation, review, and issuance of all Department-wide acquisition regulations and guidance.

Subpart 1001.4—Deviations from the FAR

1001.403 Individual deviations.

The SPE is authorized to approve individual contract FAR and DTAR deviations.

1001.404 Class deviations.

(a) The SPE is authorized to approve class FAR and DTAR deviations.

Subpart 1001.6—Career Development, Contracting Authority and Responsibilities

1001.670 Contract clause.

Contracting Officers must insert a clause substantially similar to the clause in section 1052.201–70, Contracting Officer's Technical Representative (COTR) Appointment and Authority, in all solicitations and contracts. Exceptions to the requirement for inclusion of the COTR clause and the appointment of a COTR may be made at the discretion of the BCPO.

PART 1002—DEFINITIONS OF WORDS AND TERMS

Sec.

Subpart 1002.1—Definitions

1002.101 Definitions.
1002.70 Abbreviations.

Authority: 41 U.S.C. 418b.

Subpart 1002.1—Definitions

1002.101 Definitions.

Bureau means any one of the following Treasury organizations:

(1) Alcohol and Tobacco Tax and Trade Bureau (TTB);

(2) Bureau of Engraving & Printing (BEP);

(3) Bureau of Public Debt (BPD);

(4) Departmental Offices (DO);

(5) Financial Crimes Enforcement Network (FinCEN);

(6) Financial Management Service (FMS);

(7) Inspector General (OIG);

(8) Internal Revenue Service (IRS);

(9) Office of the Comptroller of the Currency (OCC);

(10) Office of Thrift Supervision (OTS);

(11) Special Inspector General for the Troubled Asset Relief Program (SIGTARP);

(12) Treasury Inspector General for Tax Administration (TIGTA); or

(13) U.S. Mint.

Bureau Chief Procurement Officer (BCPO) means the senior acquisition person at each headquarters office or bureau. Within the Internal Revenue Service, this may be the Director, Procurement or the Deputy Director, Procurement.

Contracting Activity means an organization within a bureau or the Departmental Offices, having delegated acquisition authority.

Head of Contracting Activity (HCA) means the Senior Procurement Executive for Departmental Offices, the Deputy Commissioner for Operations Support for the Internal Revenue Service, and the heads of each bureau, as listed in section 1.b.(1) of Department of the Treasury Directive 12–11.

Head of the Agency means the Assistant Secretary for Management and Chief Financial Officer as designated by Treasury Order 101–30.

Legal Counsel means the Treasury or bureau office providing legal services to the contracting activity.

Senior Procurement Executive (SPE) for the Department of the Treasury is the Director, Office of the Procurement Executive.

1002.70 Abbreviations.

BCPO Bureau Chief Procurement Officer
COTR Contracting Officer's Technical Representative
HCA Head of the Contracting Activity
OPE Office of the Procurement Executive
OSDBU Office of Small and Disadvantaged Business Utilization
SPE Senior Procurement Executive

Subchapter B—Acquisition Planning

PART 1009—CONTRACTOR QUALIFICATIONS

Subpart 1009.2—Qualifications Requirements

Sec.

1009.204–70 Contractor Publicity.

Authority: 41 U.S.C. 418b.

Subpart 1009.2—Qualifications Requirements

1009.204–70 Contractor Publicity.

31 U.S.C. 333(a) prohibits the use of Treasury names, abbreviations, or symbols, in connection with, or as a part of, any advertisement, solicitation, business activity, or product, in a manner that may imply endorsement by Treasury. Bureaus shall insert a clause substantially the same as 1052.210–70 Contractor Publicity in all solicitations and contracts.

Subchapter C—Contracting Methods and Contract Types

PART 1016—TYPES OF CONTRACTS

Subpart 1016.5—Indefinite-Delivery Contracts

Sec.

1016.505 Ordering.

Authority: 41 U.S.C. 418b.

Subpart 1016.5—Indefinite-Delivery Contracts

1016.505 Ordering.

(b)(6) Bureaus shall designate a Task and Delivery Ombudsman in accordance with bureau procedures. In the absence of a designation, the Bureau Competition Advocate will serve in that capacity.

Subchapter D—Socioeconomic Programs

PART 1019—SMALL BUSINESS PROGRAMS

Subpart 1019.2—Policies

Sec.

1019.202 Specific policies.
1019.202–70 Treasury's Mentor-Protégé Program.

Subpart 1019.7—The Small Business Subcontracting Program.

1019.705 Responsibilities of the Contracting Officer Under the Subcontracting Assistant Program.

1019.705–4 Reviewing the Subcontracting Plan.

Subpart 1019.8—Contracting With the Small Business Administration (The 8(a) Program)

1019.811 Preparing the contracts.
1019.811–3 Contract clauses.

Authority: 41 U.S.C. 418b.

Subpart 1019.2—Policies

1019.202 Specific policies.

1019.202–70 The Treasury Mentor Protégé Program.

(a) [Reserved]

(b) [Reserved]

(c) *Non-affiliation.* For purposes of the Small Business Act, a protégé firm may not be considered an affiliate of a mentor firm solely on the basis that the protégé firm is receiving developmental assistance referred to in paragraph (m) of this section, from such mentor firm under the Mentor-Protégé Program.

(d) *General policy.* (1) Eligible contractors, not included on the "List of Parties Excluded from Federal Procurement and Nonprocurement Programs," that are approved as mentors will enter into agreements with eligible protégés. Mentors provide appropriate developmental assistance to enhance the capabilities of protégés to perform as contractors or subcontractors.

(2) A firm's status as a protégé under a Treasury contract shall not have an effect on the firm's eligibility to seek other contracts or subcontracts.

(e) *Incentives for contractor participation.* (1) Under the Small Business Act, 15 U.S.C. 637(d)(4)(E), Treasury is authorized to provide appropriate incentives in negotiated contractual actions to encourage subcontracting opportunities consistent with the efficient and economical performance of the contract. Proposed mentor-protégé efforts will be considered during the evaluation of such negotiated, competitive offers. Contracting Officers may provide, as an incentive, a bonus score, not to exceed 5% of the relative importance assigned to the non-price factors. If this incentive is used, the Contracting Officer shall include language in the solicitation indicating that this adjustment may occur.

(2) Before awarding a contract that requires a subcontracting plan, the existence of a mentor-protégé arrangement, and performance (if any) under such an existing arrangement, will be considered by the Contracting Officer in:

(i) Evaluating the quality of a proposed subcontracting plan under FAR 19.705–4; and

(ii) Evaluating the contractor compliance with the subcontracting plans submitted in previous contracts as a factor in determining contractor responsibility under FAR 19.705–5(a)(1).

(3) The Office of Small and Disadvantaged Business Utilization (OSDBU) Mentoring Award is a non-monetary award that will be presented (annually on a fiscal year basis or as often as is appropriate) to the mentoring firm providing the most effective developmental support of a protégé. The Mentor-Protégé Program Manager will recommend an award winner to the Director, OSDBU.

(f) [Reserved]

(g) *Mentor firms.* A mentor firm may be either a large or small business, eligible for award of a Government contract that can provide developmental assistance to enhance the capabilities of protégés to perform as subcontractors. Mentors will be encouraged to enter into arrangements with protégés in addition to firms with whom they have established business relationships.

(h) *Protégé firms.* (1) For selection as a protégé, a firm must be:

(i) A small business, women-owned small business, small disadvantaged business, small business owned and controlled by veteran or service disabled veteran, or qualified HUBZone small business, or a qualified 8(a) concern;

(ii) Qualified as a small business under the NAICS code for the services or supplies to be provided by the protégé under its subcontract to the mentor; and

(iii) Eligible for award of Government contracts.

(2) Except small disadvantaged businesses and qualified HUBZone small business firms, a protégé firm may self-certify to a mentor firm that it meets the requirements set forth in paragraph (h)(1) of this section. Mentors may rely in good faith on written representations by potential protégés that they meet the specified eligibility requirements. In paragraph (h)(1)(i) of this section, small disadvantaged business, or qualified HUBZone small business status eligibility and documentation requirements are determined according to FAR 19.304 and 19.1303, respectively.

(3) Protégés may not have multiple mentors unless approved, in writing, by the Director, OSDBU. Protégés participating in other agency mentor protégé programs in addition to the Treasury Mentor-Protégé Program should maintain a system for preparing separate reports of mentoring activity for each agency's program.

(i) *Selection of protégé firms.* (1) Mentor firms will be solely responsible for selecting protégé firms. The mentor is encouraged to identify and select the types of protégé firms listed in 1019.202–70(h). Mentor firms may have multiple protégés.

(2) The selection of protégé firms by mentor firms may not be protested. Any question regarding the size or eligibility status of an entity selected by a mentor to be a protégé must be referred solely to Treasury's OSDBU for resolution. Treasury, at its discretion, may seek an advisory opinion from the Small Business Administration (SBA).

(j) *Application process for mentor firms to participate in the program.* (1) Firms interested in becoming a mentor firm may apply in writing to Treasury's OSDBU. The application will be evaluated based upon the description of the nature and extent of technical and managerial support proposed as well as the extent of other developmental assistance in the form of equity investment, loans, joint-venture support and traditional subcontracting support.

(k) *OSDBU review and approval process of agreement.* (1) OSDBU will review the information specified in 1019.202–70(l). The OSDBU review will be completed no later than 30 calendar days after receipt.

(2) Upon completion of the review, the mentor may implement the developmental assistance program.

(3) An approved agreement will be incorporated into the mentor firm's contract(s) with Treasury.

(4) If OSDBU disapproves the agreement, the mentor may provide additional information for reconsideration. Upon finding deficiencies that OSDBU considers correctable, OSDBU will notify the mentor and provide a list of defects. Any additional information or corrections requested will be provided within 30 calendar days. The review of any supplemental material will be completed within 30 calendar days after receipt by OSDBU. When submission of additional data is required during a proposal evaluation for a new contract award, shorter timeframes for submission, review and re-evaluation for approval may be authorized by OSDBU.

(5) The agreement defines the relationship between the mentor and protégé firms only. The agreement itself does not create any privity of contract between the mentor or protégé and Treasury.

(l) *Agreement contents.* The contents of the agreement will contain:

(1) Names and addresses of mentor and protégé firms and a point of contact

within both firms who will oversee the agreement;

(2) Procedures for the mentor firm to notify the protégé firm, OSDBU and the Contracting Officer, in writing, at least 30 days in advance of the mentor firm's intent to voluntarily withdraw from the Mentor-Protégé Program;

(3) Procedures for a protégé firm to notify the mentor firm in writing at least 30 days in advance of the protégé firm's intent to voluntarily terminate the mentor-protégé agreement. The mentor must notify OSDBU and the Contracting Officer immediately upon receipt of such notice from the protégé;

(4) Each proposed mentor-protégé relationship must include information on the mentor's ability to provide developmental assistance to the protégé and how that assistance will potentially increase contracting and subcontracting opportunities for the protégé firm;

(5) A description of the type of developmental program that will be provided by the mentor firm to the protégé firm, to include a description of the potential subcontract work, and a schedule for providing assistance and criteria for evaluation of the protégés' developmental success;

(6) A listing of the types and dollar amounts of subcontracts that may be awarded to the protégé firm;

(7) Program participation term;

(8) Termination procedures;

(9) Plan for accomplishing work should the agreement be terminated; and

(10) Other terms and conditions, as appropriate.

(m) *Developmental assistance.* The forms of developmental assistance a mentor can provide to a protégé include:

(1) Management guidance relating to financial management, organizational management, overall business management/planning, business development, and technical assistance.

(2) Loans;

(3) Rent-free use of facilities and/or equipment;

(4) Property;

(5) Temporary assignment of personnel to protégé for purpose of training; and

(6) Any other types of mutually beneficial assistance.

(n) *Obligation.* (1) Mentor or protégé firms may voluntarily withdraw from the Mentor-Protégé Program. However, such withdrawal shall not excuse the contractor from compliance with contract requirements.

(2) At the conclusion of each year in the Mentor-Protégé Program, the contractor and protégé must formally brief the Department of the Treasury team regarding program accomplishments as they pertain to the approved agreement. Individual briefings may be conducted, at the request of either party. Treasury will consider the following:

(i) Specific actions taken by the mentor, during the evaluation period, to increase the participation of protégés as suppliers to the Federal government and to commercial entities;

(ii) Specific actions taken by the mentor, during the evaluation period, to develop the technical and corporate administrative expertise of a protégé as defined in the agreement;

(iii) To what extent the protégé has met the developmental objectives in the agreement; and

(iv) To what extent the mentor firm's participation in the Mentor-Protégé Program resulted in the protégé receiving contract(s) and subcontract(s) from private firms and agencies other than the Department of the Treasury.

(v) Mentor and protégé firms must submit an evaluation to OSDBU at the conclusion of the mutually agreed upon program period, the conclusion of the contract, or the voluntary withdrawal by either party from the Mentor-Protégé Program, whichever comes first.

(o) [Reserved]

(p) *Solicitation provisions and contract clauses* (1) Insert the provision at 1052.219–73, Department of the Treasury Mentor-Protégé Program, in all unrestricted solicitations exceeding $500,000 ($1,000,000 for construction) that offer subcontracting possibilities.

(2) Insert the clause at 1052.219–75, Mentor Requirements and Evaluation, in contracts where the contractor is a participant in the Treasury Mentor-Protégé Program.

Subpart 1019.8—Contracting With the Small Business Administration (The 8(A) Program)

1019.811 Preparing the contracts.

1019.811–3 Contract clauses.

(d)(3) Insert the clause at 1052.219–18, Notification of Competition Limited to Eligible 8(a) Concerns—Alternate III (Deviation), for paragraph (c) of FAR 52.219–18, Notification of Competition Limited to Eligible 8(a) Concerns, in all solicitations and contracts that exceed $100,000 and are processed under 1019.8.

(f) Insert the clause at 1052.219–72, Section 8(a) Direct Awards, in solicitations and contracts that exceed $100,000 and are processed under 1019.8 for paragraph (c) of FAR 52.219–11, Special 8(a) Contract Conditions; FAR 52.219–12, Special 8(a) Subcontract Conditions; and FAR 52.219–17, Section 8(a) Award.

Subchapter E—General Contracting Requirements

PART 1028—BONDS AND INSURANCE

Subpart 1028.3—Insurance

Sec.
1028.307 Insurance under cost-reimbursement contracts.
1028.307–1 Group insurance plans.
1028.310 Contract clause for work on a Government installation.
1028.310–70 Contract clause.
1028.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.
1028.311–2 Agency solicitation provisions and contract clauses.

Authority: 41 U.S.C. 418b.

Subpart 1028.3—Insurance

1028.307 Insurance under cost-reimbursement contracts.

1028.307–1 Group insurance plans.

(a) Plans shall be submitted to the CO.

(b) [Reserved]

1028.310 Contract clause for work on a Government installation.

1028.310–70 Contract clause.

(a) Insert a clause substantially similar to 1052.228–70, "Insurance Requirements," in all solicitations and contracts that contain the clause at FAR 52.228–5.

1028.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

1028.311–2 Agency solicitation provisions and contract clauses.

Insert a clause substantially similar to 1052.228–70, "Insurance Requirements," in all solicitations and contracts that contain the clause at FAR 52.228–7.

PART 1032—CONTRACT FINANCING

Subpart 1032.1—Non-Commercial Item Purchase Financing

Sec.
1032.113 Customary contract financing.

Subpart 1032.2—Commercial Item Purchase Financing

1032.202 General.
1032.202–1 Policy.

Authority: 41 U.S.C. 418b.

Subpart 1032.1—Non-Commercial Item Purchase Financing

1032.113 Customary contract financing.

The specified arrangements are considered customary within Treasury.

Subpart 1032.2—Commercial Item Purchase Financing

1032.202 General.

1032.202–1 Policy.

(b)(2) Commercial interim payments and commercial advance payments may also be made when the contract price is at or below the simplified acquisition threshold.

PART 1033—PROTESTS, DISPUTES, AND APPEALS

Subpart 1033.2—Disputes and Appeals

Sec.
1033.201 Definitions.

Authority: 41 U.S.C. 418b.

Subpart 1033.2—Disputes and Appeals

1033.201 Definitions.

Agency Board of Contract Appeals means the Civilian Board of Contract Appeals (CBCA). The CBCA is the authorized representative of the Secretary of the Treasury in hearing, considering, and determining all appeals of decisions of Contracting Officers filed by contractors pursuant to FAR Subpart 33.2. Appeals are governed by the Rules of Procedure of the CBCA.

Subchapter F—Special Categories of Contracting

PART 1034—MAJOR SYSTEM ACQUISITION

Subpart 34.0—General

Sec.
1034.001 Definitions.
1034.004 Acquisition strategy.

Subpart 34.2—Earned Value Management System

1034.201 Policy.
1034.202 Integrated Baseline Reviews.
1034.203 Solicitation provisions and contract clauses.

Authority: 41 U.S.C. 418b.

Subpart 34.0—General

1034.001 Definitions.

Core Earned Value Management is a process for ensuring that the contractor's self-validated earned value management system is capable of producing earned value management data and meets, at a minimum, the following core ANSI/EIA Standard-748 criteria:

(1) (ANSI #1) Define the authorized work elements for the program. A work breakdown structure (WBS), tailored for effective internal management control, is commonly used in this process.

(2) (ANSI #2) Identify the program organizational structure including the major subcontractors responsible for accomplishing the authorized work, and define the organizational elements in which work will be planned and controlled.

(3) (ANSI #3) Provide for the integration of the company's planning, scheduling, budgeting, work authorization, and cost accumulation processes with each other, and as appropriate, the program WBS and the program organizational structure.

(4) (ANSI #6) Schedule the authorized work in a manner that describes the sequence of work and identifies significant task interdependencies required to meet the needs of the program.

(5) (ANSI #7) Identify physical products, milestones, technical performance goals, or other indicators that will be used to measure progress.

(6) (ANSI #8) Establish and maintain a time-phased budget baseline, at the control account level, against which program performance can be measured. Initial budgets established for performance measurement will be based on either internal management goals or the external customer negotiated target cost including estimates for authorized but vaguely defined work. Budget for far-term efforts may be held in higher-level accounts until an appropriate time for allocation at the control account level. On government contracts, if an over-target baseline is used for performance measurement reporting purposes, prior notification must be provided to the customer.

(7) (ANSI #16) Record direct costs in a manner consistent with the budgets in a formal system controlled by the general books of account.

(8) (ANSI #22) At least on a monthly basis, generate the following information at the control account and other levels as necessary for management control using actual cost data from, or reconcilable with, the accounting system:

(i) Comparison of the amount of planned budget and the amount of budget earned for work accomplished. This comparison provides the schedule variance.

(ii) Comparison of the amount of the budget earned and the actual (applied where appropriate) direct costs for the same work. This comparison provides the cost variance.

(9) (ANSI #27) Develop revised estimates of cost at completion based on performance to date, commitment values for material, and estimates of future conditions. Compare this information with the performance measurement baseline to identify variances at completion important to management and any applicable customer reporting requirements, including statements of funding requirements.

(10) (ANSI #28) Incorporate authorized changes in a timely manner, recording the effects of such changes in budgets and schedules. In the directed effort prior to negotiation of a change, base such revisions on the amount estimated and budgeted to the program organizations.

Development, Modernization, Enhancement (DME) is the portion of an IT investment/project which deals with developing and implementing new or enhanced technology in support of an agency's mission.

Major acquisitions for development are defined as contracts, awarded in support of one or more Major IT investments with DME activities, which meet the contract threshold for fully applying FAR 34.2 procedures.

Performance-based acquisition management means a documented, systematic process for program management, which includes integration of program scope, schedule and cost objectives, establishment of a baseline plan for accomplishment of program objectives, and use of earned value techniques for performance measurement during execution of the program. A performance-based acquisition (as defined in FAR 37.101) or an acquisition with a defined quality assurance plan that includes performance standards/measures should be the basis for monitoring the contractor.

1034.004 Acquisition strategy.

(a) A program manager's acquisition strategy written at the system or investment level in accordance with FAR 7.103(e) shall include at a minimum:

(1) The relationship of each individual acquisition (Contract, Delivery Order, Task Order, or Interagency Agreement) to the overall investment requirements and management structure;

(2) What work is being performed in-house (by government personnel) versus contracted out for the investment;

(3) A description of the effort, by acquisition, and the plans to include required clauses in the acquisitions;

(4) A timetable of major acquisition award and administration activities, including plans for contract transitions;

(5) An investment/system surveillance plan;

(6) Financial and human resource requirements to manage the acquisition processes through the investment lifecycle;

(7) Consideration of optimal contract types, including considerations of performance based approaches, small business utilization, Section 508, etc.; and

(8) Assurances that the acquisition strategy section and supporting acquisition plans will maximize competition, including enabling downstream competition through avoidance of vendor "lock in".

(b) The acquisition strategy shall be approved by a chartered interdisciplinary acquisition team that includes a representative of the procurement organization designated in accordance with bureau procedures.

Subpart 34.2—Earned Value Management System

1034.201 Policy.

(a) An Earned Value Management System (EVMS) is required for major acquisitions for development/modernization/enhancement (DME) in accordance with OMB Circular A–11. This includes prototypes and tests to select the most cost effective alternative during the Planning Phase, the work during the Acquisition Phase, and any developmental, modification or upgrade work done during the Operational/Steady State Phase. EVMS is to be applied to contractor efforts regardless of contract type. The Contracting Officer shall procure the Contractor-developed component(s) of major project(s) that have been vetted through the Treasury governance process and the acquisition has been identified by the program manager as requiring the Contractor's use of an EVMS. In addition to major acquisitions for development, the Department of the Treasury may also require the Contractor's use of an EVMS for other acquisitions. The following thresholds apply to DME costs at the Contract Line Item Number (CLIN) level for performance-based acquisitions and to DME costs at the acquisition level (Contract, Task Order, or IAG) for non-performance-based contracts:

Contract, task order, IAG, or CLIN value	Reporting requirements for IT investments	Applicable ANSI/EIA criteria	Level of EVMS validation/acceptance	IBR required	Level of EVMS surveillance (contractor)
> $50 M	Full	32	CFA [1] Acceptance	Yes	CFA Surveillance unless another interested party alternative is requested by the Bureau and approved by the Treasury CIO.
Between $20M and $50 M.	Full	32	Contractor Self-Validation.	Yes	
< $20M	Core	10	Contractor Self-Validation.	Independent Baseline Validation IBR (Core).	Treasury/Bureau Surveillance.*

* In accordance with Bureau Annual Surveillance Strategy.
[1] CFA—Cognizant Federal Agency (See FAR 42.003).

For the purpose of this Subpart, CLIN may be interpreted as a single Contract Line Item Number, Contract Line Item Number with Sub-CLINs, or Multiple Contract Line Item Numbers included in a single DME effort. Do not break down any DME effort below the aggregation of the requirement to avoid use of the actual threshold prescriptions.

(b) *Acquisition Planning.* All written acquisition plans shall include the following:

(1) A determination from the requirements official as to whether the program is a major acquisition as defined under OMB Circular A–11 and FAR Part 34;

(2) If so, whether the program is required to include EVM and if the Contractor is required to use an EVMS;

(3) If so, whether the program official is EVM trained and qualified or has support from someone who is EVM trained and certified; and

(4) Whether a Full Integrated Baseline Review (IBR) will be completed within 90 days when the acquisition DME value is $20 Million or more, or a Core Integrated Baseline Review when the acquisition DME value is less than $20 Million.

(c) Solicitations and Awards. Unless a waiver has been granted (See Paragraph (e), below), all solicitations and awards for major investments with DME valued at $20 Million or more require EVMS from the Contractor and its Subcontractor as follows:

(1) FAR Clause 52.234–4, Earned Value Management System; and, as appropriate, 1052.234–4, Earned Value Management System Alternate I (See 1034.203 below), must contain a requirement that the Contractor and its subcontractors have:

(i) AN EVMS that has been determined as meeting the Full criteria of ANSI/EIA Standard-748 compliance (valued at $20 Million or more);

(ii) An EVMS that has been determined as meeting the Core criteria of ANSI/EIA Standard-748 compliance (valued at below $20 Million, See 5. DTAR Special Solicitation Provisions and Contract Clauses, 1052.234–2 and 1052.234–3); or

(iii) That the Contractor deliver a plan to provide EVM data that meets the standard.

(2) Provide for the completion of an IBR, or, as appropriate, for subcontracts with DME less than $20 million, an IBR (Core) that meets the Government standard, and r provide periodic reporting of the EVM data.

(3) All EVM determinations as set forth in paragraphs 3(c)(i)(A) and (B), above, shall be documented in the pre-award and contract files, as appropriate.

(d) *Program Management.* For those acquisitions to which EVM applies, the program manager (PM)/(COTR) shall:

(1) Ensure that EVM requirements are included in the acquisition Statement of Objectives (SOO), Performance Work Statement (PWS), or Statement of Work (SOW);

(2) Determine whether the Contractor's EVMS (and that of its subcontractors) is ANSI/EIA Standard 748 compliant, or determine whether the Contractor's plan to provide EVM data meets the required standard; and

(3) Validate and approve the IBR/IBR (Core) and the subsequently issued EVM reports. These program management requirements shall be included in the Contracting Officer's written appointment letter to the COTR.

(e) Waivers. In accordance with Bureau policy, a waiver(s) to the guidance described within the Department of the Treasury Earned Value Management Guide (Treasury EVM Guide) may be granted by the Departmental Treasury CIO based on Bureau documented and Bureau CIO approved requests. Examples of waiver justifications may include, but are not limited to:

(1) Urgency of work to be performed;

(2) Limited duration of work to be performed;

(3) Cost of adding EVMS requirement to a contract versus benefit achieved;

(4) Percentage of DME costs vis-à-vis the life cycle investment costs; and

(5) Level of risk.

1034.202 Integrated Baseline Reviews.

(a) When an EVMS is required, and depending on the DME CLIN value threshold, the Government will conduct a Full IBR or a Core IBR.

(b) The purpose of the Full IBR and the Core IBR is to verify the technical content and the realism of the related performance budgets, resources, and schedules. It should provide a mutual understanding of the inherent risks in offerors'/contractors' performance plans and the underlying management control systems, and it should formulate a plan to handle these risks.

(c) Both the IBR and the IBR (Core) are joint assessments by the offeror or Contractor, and the Government, of the—

(1) Ability of the project's technical plan to achieve the objectives of the scope of work;

(2) Adequacy of the time allocated for performing the defined tasks to successfully achieve the project schedule objectives;

(3) Ability of the Performance Measurement Baseline (PMB) to successfully execute the project and attain cost objectives, recognizing the relationship between budget resources, funding, schedule, and scope of work;

(4) Availability of personnel, facilities, and equipment when required, to perform the defined tasks needed to execute the program successfully; and

(5) The degree to which the management process provides effective and integrated technical/schedule/cost planning and baseline control.

(d) An IBR/IBR (Core) may be held either pre- or post-award; however, the post-award IBR/IBR (Core) must be completed within 90 days after award, or the Contracting Officer shall obtain a copy of the Program Manager's written review of the requirement and assessment of the IBR/IBR (Core) timing based on the risk associated with the acquisition. While a post-award IBR is preferred, a pre-award IBR will be acceptable. Note: The IBR (Core) may be included within the Quality Assurance Surveillance Plan (QASP).

(e) The solicitation and award shall include the process and schedule for EVMS validation as meeting the ANSI/EIA 748 through EVMS Compliance Recognition documents or a Compliance Evaluation Review where a compliance document does not exist, and periodic systems surveillance.

1034.203 Solicitation provisions and contract clauses.

(a) For major investment acquisitions that included a DME effort value of greater than $50 Million, the Contracting Officer shall follow the requirements provided at FAR Subpart 34.203.

(b) For major investment acquisitions that include a DME effort with a value between $20–$50 Million:

(1) The Contracting Officer shall insert the FAR provision at FAR 52.234–2, Notice of Earned Value Management System—Pre-Award IBR, with the clause at 1052.234–2, Notice of Earned Value System—Pre-Award Alternate I in solicitations and awards that require the contractor to use an EVMS and for which the Government requires an IBR *prior to award*.

(2) The Contracting Officer shall insert the FAR provision at FAR 52.234–3, Notice of Earned Value Management System—Post-Award IBR, with 1052.234–3, Notice of Earned Value System—Post-Award Alternate I in solicitations and awards that require the contractor to use and Earned Value Management System (EVMS) and for which the Government requires an IBR *after award*.

(3) The contracting officer shall insert the FAR clause at FAR 52.234–4, Earned Value Management System, with 1052.234–4, Earned Value Management System Alternate I), in solicitations and awards that require a contractor to use an EVMS.

(c) For major acquisitions that include a DME effort with a value of less than $20 Million:

(1) The Contracting Officer shall insert the provision 1052.234–70, Notice of Earned Value Management System—Pre-Award IBR (Core), in solicitations for awards that require the contractor to use an Earned Value Management System (EVMS) and for which the Government requires an IBR prior to award.

(2) The Contracting Officer shall insert the provision 1052.234–71, Notice of Earned Value Management System—Post-Award IBR (Core), in solicitations for contracts that require the contractor to use an Earned Value Management System (EVMS) and for which the Government requires an IBR after award.

(3) The Contracting Officer shall insert the clause 1052.234–72, Core Earned Value Management System, in solicitations and awards that require a contractor to use an EVMS.

PART 1036—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1036.6—Architect-Engineer Services

Sec.
1036.602–5 Short selection process for contracts not to exceed the simplified acquisition threshold.

Authority: 41 U.S.C. 418b.

Subpart 1036.6—Architect-Engineer Services

1036.602–5 Short selection process for contracts not to exceed the simplified acquisition threshold.

Bureaus are authorized to use either process.

Subchapter G—Contract Management

PART 1042—CONTRACT ADMINISTRATION AND AUDIT SERVICES

Sec.
1042.1500 Procedures.

Authority: 41 U.S.C. 418b.

1042.1500 Procedures.

Contracting Officers are responsible for preparing interim and final past performance evaluations.

Subchapter H—Clauses and Forms

PART 1052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1052.2—Texts of Provisions and Clauses

Sec.
1052.201–70 Contracting Officer's Technical Representative (COTR) Appointment and Authority.
1052.210–70 Contractor Publicity.
1052.219–18 Notification of Competition Limited to Eligible 8(a) Concerns—Alternate III (Deviation).
1052.219.72 Section 8(a) Direct Awards.
1052.219–73 Department of the Treasury Mentor-Protégé Program.
1052.219–75 Mentor Requirements and Evaluation.
1052.228–70 Insurance Requirements.
1052.234–2 Notice of Earned Value Management System—Pre-Award IBR—Alternate I.
1052.234–3 Notice of Earned Value Management System—Post-Award IBR—Alternate I.
1052.234–4 Earned Value Management System—Alternate I.
1052.234–70 Notice of Earned Value Management System—Pre-Award IBR (Core).
1052.234–71 Notice of Earned Value Management System—Post-Award IBR (Core).
1052.234–72 Core Earned Value Management System.

Authority: 41 U.S.C. 418b.

Subpart 1052.2—Texts of Provisions and Clauses

1052.201–70 Contracting Officer's Technical Representative (COTR) appointment and authority.

As prescribed in 1001.670–6, insert the following clause:

CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR) APPOINTMENT AND AUTHORITY (Date TBD)

(a) The COTR is _____[insert name, address and telephone number].

(b) Performance of work under this contract is subject to the technical direction of the COTR identified above, or a representative designated in writing. The term "technical direction" includes, without limitation, direction to the contractor that directs or redirects the labor effort, shifts the work between work areas or locations, and/or fills in details and otherwise serves to ensure that tasks outlined in the work statement are accomplished satisfactorily.

(c) Technical direction must be within the scope of the contract specification(s)/work statement. The COTR does not have authority to issue technical direction that:

(1) Constitutes a change of assignment or additional work outside the contract specification(s)/work statement;

(2) Constitutes a change as defined in the clause entitled "Changes";

(3) In any manner causes an increase or decrease in the contract price, or the time required for contract performance;

(4) Changes any of the terms, conditions, or specification(s)/work statement of the contract;

(5) Interferes with the contractor's right to perform under the terms and conditions of the contract; or

(6) Directs, supervises or otherwise controls the actions of the contractor's employees.

(d) Technical direction may be oral or in writing. The COTR must confirm oral direction in writing within five workdays, with a copy to the Contracting Officer.

(e) The Contractor shall proceed promptly with performance resulting from the technical direction issued by the COTR. If, in the opinion of the contractor, any direction of the COTR or the designated representative falls within the limitations of (c) above, the contractor shall immediately notify the Contracting Officer no later than the beginning of the next Government work day.

(f) Failure of the Contractor and the Contracting Officer to agree that technical direction is within the scope of the contract shall be subject to the terms of the clause entitled "Disputes."

(End of Clause)

1052.210–70 Contractor publicity.

As prescribed in 1009.204–70, insert the following clause:

CONTRACTOR PUBLICITY (Date TBD)

The Contractor, or any entity or representative acting on behalf of the Contractor, shall not refer to the equipment or services furnished pursuant to the provisions of this contract in any news release or commercial advertising, or in connection with any news release or commercial advertising, without first obtaining explicit written consent to do so from the Contracting Officer. Should any reference to such equipment or services appear in any news release or commercial advertising issued by or on behalf of the Contractor without the required consent, the Government shall consider institution of all remedies available under applicable law, including 31 U.S.C. 333, and this contract. Further, any violation of this provision may be considered during the evaluation of past performance in future competitively negotiated acquisitions.

(End of Clause)

1052.219–18 Notification of competition limited to eligible 8(a) concerns—Alternate III (Deviation) (May 1998).

In accordance with 1019.811–3(d)(3), substitute the following for the paragraph (c) in FAR 52.219–18:

(c) Any award resulting from this solicitation will be made directly by the contracting officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

1052.219–72 Section 8(a) direct awards.

As prescribed in 1019.811–3(f), insert the following clause:

8(A) BUSINESS DEVELOPMENT PROGRAM AWARDS (June 2003)

(a) This purchase/delivery/task order or contract is issued by the contracting activity directly to the 8(a) program participant/contractor pursuant to the Partnership Agreement between the Small Business Administration (SBA) and the Department of the Treasury. However, the Small Business Administration is the prime contractor and retains responsibility for 8(a) certification, 8(a) eligibility determinations and related issues, and provides counseling and assistance to the 8(a) contractor under the 8(a) Business Development program. The cognizant SBA district office is:

[To be completed by the contracting officer at the time of award]

(b) The contracting officer is responsible for administering the purchase/delivery/task order or contract and taking any action on behalf of the Government under the terms and conditions of the purchase/delivery/task order or contract, to include providing the cognizant SBA district office with a signed copy of the purchase/delivery/task order or contract award within 15 days of the award. However, the contracting officer shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the purchase order or contract. The contracting officer shall also coordinate with SBA prior to processing any novation agreement. The contracting officer may assign contract administration functions to a contract administration office.

(c) The contractor agrees:

(1) To notify the contracting officer, simultaneously with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based, plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of control; and,

(2) To adhere to the requirements of FAR 52.219–14, Limitations on Subcontracting.

(End of Clause)

1052.219–73 Department of the Treasury Mentor-Protégé Program.

As prescribed in 1019.202–70.(p), insert the following clause:

DEPARTMENT OF THE TREASURY MENTOR–PROTÉGÉ PROGRAM (June 2003)

(a) Large and small businesses are encouraged to participate in the Department of the Treasury Mentor-Protégé Program. Mentor firms provide small business protégés with developmental assistance to enhance their capabilities and ability to obtain federal contracts.

(b) Mentor firms are large prime contractors or eligible small businesses capable of providing developmental assistance. Protégé firms are small businesses as defined in 13 CFR parts 121, 124, and 126.

Developmental assistance includes technical, managerial, financial, and other mutually beneficial assistance to aid protégé. Contractors interested in participating in the Program are encouraged to contact the Department of the Treasury Office of Small and Disadvantaged Business Utilization for further information.

(End of Provision)

1052.219–75 Mentor Requirements and Evaluation.

As prescribed in 1019.202–70(p), insert the following clause:

MENTOR REQUIREMENTS AND EVALUATION (Date TBD)

(a) Mentor and protégé firms shall submit an evaluation to the Department of the Treasury's Office of Small and Disadvantaged Business Utilization (OSDBU) at the conclusion of the mutually agreed upon Program period, or the voluntary withdrawal by either party from the Program, whichever occurs first. At the conclusion of each year in the Mentor-Protégé Program, the prime contractor and protégé will formally brief the Department of the Treasury Mentor-Protégé Program Manager regarding program accomplishments under their mentor-protégé agreements.

(b) A mentor or protégé must notify the OSDBU and the contracting officer, in writing, at least 30 calendar days in advance of the effective date of the firm's withdrawal from the Program. A mentor firm must notify the OSDBU and the contracting officer upon

receipt of a protégé's notice of withdrawal from the Program.

(c) Contracting officers may provide, as an incentive, a bonus score, not to exceed 5% of the relative importance assigned to the non-price factors. If this incentive is used, the contracting officer shall include language in the solicitation indicating that this adjustment may occur.

(End of Clause)

1052.228–70 Insurance requirements.

As prescribed in 1028.310–70 and 1028.311–2, insert a clause substantially as follows: The contracting officer may specify additional kinds (*e.g.,* aircraft public and passenger liability, vessel liability) or increased amounts of insurance.

INSURANCE (Date TBD)

In accordance with the clause entitled "Insurance—Work on a Government Installation" [*or* "*Insurance—Liability to Third Persons*"] in Section I, insurance of the following kinds and minimum amounts shall be provided and maintained during the period of performance of this contract:

(a) Worker's compensation and employer's liability. The contractor shall, as a minimum, meet the requirements specified at FAR 28.307–2(a).

(b) General liability. The contractor shall, at a minimum, meet the requirements specified at FAR 28.307–2(b).

(c) Automobile liability. The contractor shall, at a minimum, meet the requirements specified at FAR 28.307–2(c).

(End of Clause)

1052.234–2 Notice of Earned Value Management System—Pre-Award IBR—Alternate I (Date TBD).

As prescribed in DTAR 1034.203, substitute the following paragraph (a) for paragraph (a) of the basic FAR clause:

(a) The offeror shall provide either documentation that the Cognizant Federal Agency has determined that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard-748 (ANSI Standard) or documentation that supports the offeror's self-validation that the EVMS complies with the ANSI Standard, as applicable.

(End of Provision)

1052.234–3 Notice of Earned Value Management System—Post-Award IBR-Alternate I (Date TBD)

As prescribed in DTAR 1034.203, substitute the following paragraph (a) for paragraph (a) of the basic FAR clause:

(a) The offeror shall provide either documentation that the Cognizant Federal Agency has determined that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard-748 (ANSI Standard) or documentation that supports the offeror's self-validation that the EVMS complies with the ANSI Standard, as applicable.

(End of Provision)

1052.234–4 Earned Value Management System Alternate I (Date TBD)

As prescribed in DTAR 1034.203, substitute the following paragraph (a) for paragraph (a) of the basic FAR clause:

(a) The Contractor shall use an earned value management system (EVMS) that has been determined by the Cognizant Federal Agency (CFA) or has been determined through Contractor's self-validation to be compliant with the guidelines in ANSI/EIA Standard-748 (current version at the time of award) to manage this contract. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.

(End of Clause)

1052.234–70 Notice of Earned Value Management System—Pre-Award IBR (Core) (Date TBD)

As prescribed in DTAR 1034.203, insert this provision in solicitations and awards that require the Contractor to use an earned value management system (EVMS) and for which the Government requires an IBR *prior to award*.

(a) The offeror shall provide either documentation that the Cognizant Federal Agency has determined that the proposed earned value management system (EVMS) complies with the EVMS guidelines in ANSI/EIA Standard-748 (ANSI Standard) or documentation that supports its self-validation that the EVMS used for this award complies with Core EVM criteria.

(b) If the offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS guidelines.

(1) The plan shall—

(i) Describe the EVMS the offeror intends to use in performance of the contracts; Distinguish between the offeror's existing management system and modifications proposed to meet the guidelines;

(ii) Describe the management system and its application in terms of the EVMS guidelines;

(iii) Describe the proposed procedures for administration of the guidelines, as applied to subcontracts; and

(iv) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with the EVMS guidelines.

(2) The offeror shall provide information and assistance as required by the contracting officer to support review of the plan.

(3) The Government will review and approve the offeror's plan for an EVMS before contract award.

(4) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVM system will be compliant with the requirements in paragraph (a) of this provision.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontracts have not been selected subject to the guidelines. The prime Contractor and the Government shall agree to subcontractors selected for application of the EVMS requirements.

(d) The Government will conduct an Integrated Baseline Review (IBR), as designed by the agency, prior to contract award. The objective of the IBR is for the Government and the Contractor to jointly assess technical areas, such as the Contractor's planning, to ensure complete coverage of the contract requirements, logical scheduling of the work activities, adequate resources, methodologies for earned value (budgeted cost for work performed (BCWP)), and identification of inherent risks.

(End of Provision)

1052.234–71 Notice of Earned Value Management System—Post-Award IBR (Core) (Date TBD)

As prescribed in DTAR 1034.203, insert this provision in solicitations and awards that require the contractor to use an earned value management system (EVMS) and for which the Government requires an IBR *after award*.

(a) The offeror shall provide either documentation that the Cognizant Federal Agency has determined that the proposed EVMS complies with the EVMS guidelines in ANSI/EIA Standard-748 (ANSI Standard) or documentation that supports its self-validation that the EVMS used for this award complies with Core EVM criteria.

(b) If the offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS guidelines.

(1) The plan shall—

(i) Describe the EVMS the offeror intends to use in performance of the contracts;

(ii) Distinguish between the offeror's existing management system and modifications proposed to meet the guidelines;

(iii) Describe the management system and its application in terms of the EVMS guidelines;

(iv) Describe the proposed procedures for administration of the guidelines, as applied to subcontracts; and

(v) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with the EVMS guidelines.

(2) The offeror shall provide information and assistance as required by the contracting officer to support review of the plan.

(3) The Government will review and approve the offeror's plan for an EVMS before contract award.

(4) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVMS will be compliant with the requirements in paragraph (a) of this provision.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontracts have not been selected subject to the guidelines. The prime Contractor and the Government shall agree to subcontractors selected for application of the EVMS requirements.

(d) The Government will conduct an Integrated Baseline Review (IBR), as designed by the agency, prior to contract award. The objective of the IBR is for the Government and the Contractor to jointly assess technical areas, such as the Contractor's planning, to ensure complete coverage of the contract requirements, logical scheduling of the work activities, adequate resources, methodologies for earned value (budgeted cost for work performed (BCWP)), and identification of inherent risks.

(End of Provision)

1052.234–72 Core Earned Value Management System (Date TBD)

As prescribed in DTAR 1034.203, insert this clause in major investment solicitations and awards with DME that require a contractor to use an earned value management system (EVMS).

(a) The Contractor shall use an earned value management system (EVMS) that has either been determined by the Cognizant Federal Agency (CFA) to be compliant with the guidelines in ANSI/EIA Standard-748 (current version at the time of award) or documentation that supports its validation that the EVMS used to manage this contract meets the following ANSI/EIA–748 criteria:

(1) (ANSI #1) Define the authorized work elements for the program. A work breakdown structure (WBS), tailored for effective internal management control, is commonly used in this process.

(2) (ANSI #2) Identify the program organizational structure including the major subcontractors responsible for accomplishing the authorized work, and define the organizational elements in which work will be planned and controlled.

(3) (ANSI #3) Provide for the integration of the company's planning, scheduling, budgeting, work authorization, and cost accumulation processes with each other, and as appropriate, the program WBS and the program organizational structure.

(4) (ANSI #6) Schedule the authorized work in a manner that describes the sequence of work and identifies significant task interdependencies required to meet the needs of the program.

(5) (ANSI #7) Identify physical products, milestones, technical performance goals, or other indicators that will be used to measure progress.

(6) (ANSI #8) Establish and maintain a time-phased budget baseline, at the control account level, against which program performance can be measured. Initial budgets established for performance measurement will be based on either internal management goals or the external customer negotiated target cost including estimates for authorized but vaguely defined work. Budget for far-term efforts may be held in higher-level accounts until an appropriate time for allocation at the control account level. On Government contracts, if an over-target baseline is used for performance measurement reporting purposes, prior notification must be provided to the customer.

(7) (ANSI #16) Record direct costs in a manner consistent with the budgets in a formal system controlled by the general books of account.

(8) (ANSI #22) At least on a monthly basis, generate the following information at the control account and other levels as necessary for management control using actual cost data from, or reconcilable with, the accounting system:

(i) Comparison of the amount of planned budget and the amount of budget earned for work accomplished. This comparison provides the schedule variance.

(ii) Comparison of the amount of the budget earned and the actual (applied where appropriate) direct costs for the same work. This comparison provides the cost variance.

(9) (ANSI #27) Develop revised estimates of cost at completion based on performance to date, commitment values for material, and estimates of future conditions. Compare this information with the performance measurement baseline to identify variances at completion important to management and any applicable customer reporting requirements, including statements of funding requirements.

(10) (ANSI #28) Incorporate authorized changes in a timely manner, recording the effects of such changes in budgets and schedules. In the directed effort prior to negotiation of a change, base such revisions on the amount estimated and budgeted to the program organizations. If the Contractor's current EVMS has not been determined compliant at the time of award, see paragraph (b) of this clause. The Contractor shall submit reports in accordance with the requirements of this contract.

(b) If, at the time of award, the Contractor's EVMShas not been determined by the CFA as complying with EVMS guidelines or the Contractor does not have an existing cost/schedule control system that is compliant with the guidelines in paragraph (a), the Contractor shall—

(1) Apply the current system to the contract; and

(2) Take necessary actions to meet the milestones in the Contractor's EVMS plan approved by the contracting officer.

(c) The Government will conduct an Integrated Baseline Review (IBR). If a pre-award IBR has not been conducted, a post award IBR shall be conducted as early as practicable after contract award.

(d) The contracting officer may require an IBR upon the

(1) Exercise of significant options; or

(2) Incorporation of major modifications.

(e) Unless a waiver is granted by the CFA, Contractor-proposed EVMS changes require approval of the CFA prior to implementation. The CFA will advise the Contractor of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the CFA, the Contractor shall disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.

(f) The Contractor shall provide access to all pertinent records and data requested by the contracting officer or a duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS conforms, and continues to conform, with the performance criteria referenced in paragraph (a) of this clause.

(g) The Contractor shall require the subcontractors specified below to comply with the requirements of this clause: [Insert list of applicable subcontractors].

(End of Clause)

[FR Doc. 2010–30528 Filed 12–16–10; 8:45 am]

BILLING CODE 4810–25–P

Notices

Federal Register

Vol. 75, No. 242

Friday, December 17, 2010

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2010–0110]

Notice of Request for Extension of Approval of an Information Collection; Customer/Stakeholder Satisfaction Surveys for the National Animal Health Monitoring System and the National Veterinary Services Laboratories

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request extension of approval of an information collection to conduct surveys of customer/stakeholder satisfaction for both the National Animal Health Monitoring System and the National Veterinary Services Laboratories.

DATES: We will consider all comments that we receive on or before February 15, 2011.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2010–0110* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS–2010–0110, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2010–0110.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For information on the Customer/Stakeholder Satisfaction Surveys, contact Ms. Sandra Warnken, Management and Program Analyst, Centers for Epidemiology and Animal Health, VS, APHIS, 2150 Centre Avenue, Building B MS 2E3, Fort Collins, CO 80526; (970) 494–7193. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION: *Title:* Customer/Stakeholder Satisfaction Surveys for the National Animal Health Monitoring System and the National Veterinary Services Laboratories.

OMB Number: 0579–0339.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture is authorized to protect the health of our Nation's livestock, poultry, and aquaculture populations by preventing the introduction and interstate spread of serious diseases and pests of livestock and for eradicating such diseases from the United States when feasible. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS).

In connection with this mission, APHIS operates the National Animal Health Monitoring System (NAHMS), which collects, on a national basis, statistically valid and scientifically sound data on the prevalence and economic importance of livestock, poultry, and aquaculture disease risk factors.

NAHMS national studies have evolved into a collaborative industry and government initiative to help determine the most effective means of preventing and controlling diseases of livestock, poultry, and aquaculture. APHIS is the only agency responsible for collecting national data on livestock, poultry, and aquaculture health. Participation in any NAHMS study (including these surveys) is voluntary, and all data are confidential.

The National Veterinary Services Laboratories (NVSL) assists the NAHMS by providing testing services for many of the NAHMS projects. Primary functions of the NVSL also include providing diagnostic support for domestic diseases, potential foreign animal diseases, import/export programs, disease surveillance, and disease eradication efforts. The efforts of the NVSL are an essential part of preventing and controlling diseases of livestock, poultry, and aquaculture.

Information from the NAHMS studies is disseminated to and used by producers, animal health officials, private practitioners, animal industry groups, policymakers, public health officials, media, and educational institutions to improve the health and welfare, quality, and marketability of our Nation's livestock, poultry, and aquaculture.

Customer/stakeholder surveys are used to:

- Gather information from producers and other information users on the usefulness of studies and reports,
- Minimize producer burden,
- Increase response rates,
- Improve report quality and relevance to producers' and stakeholders' needs, and
- Improve laboratory performance.

The NAHMS staff will obtain feedback from Study Participant Surveys and NAHMS Descriptive Reports Surveys, and NVSL staff will obtain feedback from the annual NVSL Performance Surveys. Feedback from these surveys will be used to improve NAHMS Descriptive Reports and to evaluate customer/stakeholder satisfaction in an effort to increase participation rates for NAHMS studies. The NVSL surveys will help to monitor the NVSL's performance. Producers and stakeholders who participate in the NAHMS program, customers who utilize information from the NVSL, and customers who read NAHMS reports will benefit from more effective

programs and timely, relevant information.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of burden on the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.24870 hours per response.

Respondents: Livestock, poultry, and catfish producers; information users; NAHMS Descriptive Report Recipients; Animal Health Report recipients; practicing veterinarians; animal importers/exporters; State and independent laboratories.

Estimated annual number of respondents: 22,500.

Estimated annual number of responses per respondent: 0.31666.

Estimated annual number of responses: 7,125.

Estimated total annual burden on respondents: 1,772 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 13th day of December, 2010.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–31705 Filed 12–16–10; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Dixie Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Dixie Resource Advisory Committee will meet in Cedar City, Utah. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of this meeting is to make recommendations for Title II projects.

DATES: January 20, 2011, 10 a.m.

ADDRESSES: January 20, 2011 meeting will be held at Paiute Tribe of Utah Headquarters, 440 North Paiute Drive (200 East), Cedar City, Utah. The public is invited to attend the meeting.

FOR FURTHER INFORMATION CONTACT: Kenton Call, RAC Coordinator, Dixie National Forest, (435) 865–3730; e-mail: *ckcall@fs.fed.us.*

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. The following business will be conducted: (1) Welcome and committee introductions; (2) Review of project proposals; (3) Category discussion of proposals; (4) RAC discussion and decision on proposals, and (5) Public comment on any propopals. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input will be accepted by the RAC during the meetings.

Dated: December 10, 2010.

Robert G. MacWhorter,

Forest Supervisor.

[FR Doc. 2010–31673 Filed 12–16–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Del Norte Resource Advisory Committee (RAC) will meet in Crescent City, California. The committee meeting is authorized under the Secure Rural Schools and Community Self-Determination (SRS) Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act.

DATES: The meeting will be held January 11, 2011, from 5 p.m. to 9 p.m.

ADDRESSES: The meeting will be held at the Del Norte County Unified School District, Redwood Room, 301 West Washington Boulevard, Crescent City, California 95531.

FOR FURTHER INFORMATION CONTACT: Adam Dellinger, Committee Coordinator, Six Rivers National Forest, at (707) 441–3569; e-mail *adellinger@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Through presentations and/or revised proposals, the public will present clarification on previously submitted Title II project proposals to the RAC. The RAC will vote on projects to recommend for funding. There will also be a public comment opportunity.

Dated: December 10, 2010.

Tyrone Kelley,

Forest Supervisor.

[FR Doc. 2010–31788 Filed 12–16–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2009 Management and Organizational Practices Survey.

Form Number(s): MP–10002.

OMB Control Number: None.

Type of Request: New collection.

Burden Hours: 25,000.

Number of Respondents: 50,000.

Average Hours Per Response: 30 minutes.

Needs and Uses: The Census Bureau plans to conduct the Management and Organizational Practices Survey (MOPS) as a one time inquiry with possible future annual data collection pending funding. This survey will utilize the Annual Survey of Manufactures (ASM) survey panel collecting information on management and organizational practices at the establishment level. Data obtained from the survey will

allow us to estimate a firm's stock of management and organizational assets, specifically the use of decentralized decision rights and greater investments in human capital. The results will provide information on investments in organizational practices thus allowing us to gain a better understanding of the benefits from these investments when measured in terms of firm productivity or firm market value. A manufacturing sector establishment based survey on management and organizational practices would provide information on the dimensions of organizational capital for this sector that is not currently available.

Understanding the determinants of productivity growth is essential to understanding the dynamics of the U.S. economy. The Management and Organizational Practices Survey (MOPS) will provide information on whether the large and persistent differences in productivity across establishments (even within the same industry) are partly driven by differences in management and organizational practices. In addition to increasing our understanding of the dynamics of the economy, the MOPS will provide policy makers with some guidance in attempts to raise aggregate productivity levels. Policymakers, such as the Federal Reserve Board, can use the MOPS to understand the current state and evolution of management and organizational practices which can in turn aid the policymakers in forecasting future productivity growth.

Management data will also be particularly important for understanding what policymakers can do to assist U.S. manufacturing companies hit particularly hard by the recent recession. There has been renewed policy interest in approaches to support the manufacturing industry. For example, some policymakers have suggested extending programs like the Manufacturing Extension Program (MEP). The MEP is a nationwide system of resources, transforming manufactures to compete globally by making use of modern manufacturing equipment, innovative methodologies, and management practices to improve/increase the productivity in the manufacturing sector. The MOPS would provide information on differences in manufacturing management and organizational practices by region, industry and firm size which would directly aid policy discussions about the potential impact of programs like the MEP. Researchers for this proposed survey have discussed with members of the Council of Economic Advisors the potential impact of management practices on manufacturing performance and the evaluation of the MEP. In a similar vein, researchers on this proposal have had discussions with members of the current administration about measuring and evaluating differences in healthcare management and its links to patient outcomes. The MOPS could also provide information in this area.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131, 182, 193, and 224.

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: December 13, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–31679 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–934]

1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony

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

SUMMARY: On September 13, 2010, the United States Court of International Trade ("CIT") sustained the remand determination made by the Department of Commerce (the "Department") pursuant to the CIT's remand of the final determination in the antidumping duty investigation on 1-hydroxyethylidene-1, 1-diphosphonic acid ("HEDP") from the People's Republic of China ("PRC") and ordered the case dismissed.[1] This case arises out of the Department's final determination in the antidumping investigation on HEDP from the PRC.[2] The final judgment in this case was not in harmony with the Department's *Final Determination.*

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

FOR FURTHER INFORMATION CONTACT: Shawn Higgins, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–0679.

SUPPLEMENTARY INFORMATION: On March 11, 2009, the Department published its *Final Determination* in which it determined that HEDP from the PRC is being, or is likely to be, sold in the United States at less than fair value as provided in section 735 of the Tariff Act of 1930, as amended (the "Act").[3]

Separate rate respondent companies Changzhou Wujin Fine Chemical Factory Co., Ltd. ("Wujin Fine") and Jiangsu Jianghai Chemical Group Co., Ltd. ("Jiangsu Jianghai") timely challenged certain aspects of the *Final Determination* to the CIT. Among the issues raised before the CIT was whether the Department properly corroborated the adverse facts available ("AFA") rate upon which it relied in calculating the separate rate.

On February 8, 2010, the CIT granted the United States' motion for a voluntary remand to reconsider the separate rate assigned to Wujin Fine and Jiangsu Jianghai after examining whether the Department corroborated the AFA rate upon which it relied in calculating the separate rate.[4] In a remand determination filed on May 3, 2010, the Department determined that the AFA rate upon which the Department relied in calculating the separate rate was not corroborated in the *Final Determination.*[5] Consequently, the

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[1] *See Changzhou Wujin Fine Chemical Factory Co., Ltd.* v. *United States,* No. 09–00216, Slip Op. 10–85 (Ct. Int'l Trade Aug. 5, 2010); *Changzhou Wujin Fine Chemical Factory Co., Ltd.* v. *United States,* No. 09–00216, Slip Op. 10–103 (Ct. Int'l Trade Sept. 13, 2010).

[2] *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 10545 (March 11, 2009) ("*Final Determination*").

[3] *Id.* at 10545.

[4] *See Changzhou Wujin Fine Chemical Factory Co., Ltd.* v. *United States,* No. 09–00216 (Ct. Int'l Trade Feb. 8, 2010).

[5] *See* Final Results of Redetermination Pursuant to Court Order: *Changzhou Wujin Fine Chemical Factory Co., Ltd.* v. *United States* (May 3, 2010) at 1–9.

Department calculated a revised separate rate of 15.47 percent for Wujin Fine and Jiangsu Jianghai relying on a second AFA rate that did not require corroboration. The CIT sustained the Department's remand redetermination on August 5, 2010, and subsequently dismissed the case.[6]

On November 12, 2010, Wujin Fine and Jiangsu Jianghai filed an appeal with the United States Court of Appeals for the Federal Circuit ("CAFC") of the CIT's decision.

Timken Notice

In its decision in *Timken Co.* v. *United States,* 893 F.2d 337, 341 (Fed. Cir. 1990) ("*Timken*"), the CAFC held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's decision of September 13, 2010, constitutes a final decision of that court that is not in harmony with the Department's *Final Determination.* This notice is published in fulfillment of the publication requirements of *Timken.* In the event the CIT's decision is affirmed on appeal, the Department will publish an amended final determination revising the separate rate assigned to Wujin Fine and Jiangsu Jianghai and issue revised cash deposit instructions to U.S. Customs and Border Protection.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: December 10, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–31756 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See Changzhou Wujin Fine Chemical Factory Co., Ltd.* v. *United States,* No. 09–00216, Slip Op. 10–103 (Ct. Int'l Trade Sept. 13, 2010).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–819]

Magnesium Metal From the Russian Federation: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* December 17, 2010.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street, and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3477.

Background

On May 28, 2010, the Department of Commerce (the Department) published a notice of initiation of an administrative review of the antidumping duty order on magnesium metal from the Russian Federation for the period April 1, 2009, through March 31, 2010. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 75 FR 29976 (May 28, 2010). The preliminary results of this administrative review are currently due no later than December 31, 2010.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published in the **Federal Register.** If it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of this review by the current deadline of December 31, 2010, because we require additional time to analyze a number of complex corporate-affiliation issues relating to this administrative review.

Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we are extending the time period for issuing the preliminary results of this review by 75 days to March 16, 2011.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: December 13, 2010.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–31753 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–803]

Polyethylene Terephthalate Film, Sheet, and Strip From the United Arab Emirates: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET Film) from the United Arab Emirates (UAE). This review covers respondents, JBF RAK LLC (JBF), and FLEX Middle East FZE (FLEX), producers and exporters of PET Film from the UAE. The Department preliminarily determines that sales of PET Film from the UAE have been made below normal value (NV) during the November 6, 2008, through October 31, 2009 period of review. The preliminary results are listed below in the section titled "Preliminary Results of Review." Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* December 17, 2010.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, or Jun Jack Zhao, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4261 or (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 10, 2008, the Department published in the **Federal Register** the antidumping duty order on PET Film from the UAE. *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, the People's Republic of China and the United Arab Emirates: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates*, 73 FR 66595 (November 10, 2008) (*Order*). On November 2, 2009, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 74 FR 56573 (November 2, 2009). In response, on November 24,

2009, and November 30, 2009, JBF and FLEX, respectively, requested that the Department conduct an administrative review of their sales of PET Film in the U.S. market. On November 30, 2009, Dupont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc. and Toray Plastics (America) Inc. (collectively, the petitioners) requested administrative reviews of JBF and FLEX.

On December 23, 2009, the Department initiated an administrative review of JBF and FLEX. S*ee Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 68229, 68232 (December 23, 2009). On January 7, 2010, the Department issued an antidumping duty questionnaire to the respondents. FLEX timely submitted section A of the questionnaire on January 29, 2010, and sections B and C on February 19, 2010. JBF timely submitted its section A of the questionnaire on February 9, 2010, and sections B and C on March 4, 2010. On April 19, 2010, JBF submitted additional information regarding its responses to sections B and C of the original questionnaire. On June 4, 2010, JBF submitted information requested by the Department regarding its reported exports to the United States. Also on June 4, 2010, the Department issued a supplemental questionnaire to FLEX; FLEX submitted its timely response on July 23, 2010. On June 15, 2010, the Department issued a supplemental questionnaire to JBF; JBF submitted its timely response on July 13, 2010.

On May 6, 2010, the petitioners submitted an allegation of sales at prices below the cost of production (COP) against JBF and requested that the Department issue a section D questionnaire to JBF. On May 11, 2010, JBF filed comments on the petitioners' sales below cost allegation, claiming that the petitioners' allegation was untimely. On May 21, 2010, the petitioners provided additional information requested by the Department, to establish that sales below COP by JBF were representative of the broader range of foreign products which may be used to determine the NV of U.S. products. On June 21, 2010, the Department found that there was sufficient information to initiate an investigation of whether JBF had made home market sales at prices below COP. *See* Memorandum to Barbara Tillman, "The Petitioners' Allegation of Sales Below the Cost of Production," (June 21, 2010) (COP Initiation Memorandum).[1] In the COP Initiation Memorandum, the Department determined that, because JBF filed information on April 19, 2010 that had not been provided with its original March 4, 2010 response, the submission was incomplete and the petitioners" sales-below-cost allegation was timely filed (*i.e.*, within 20 days of the April 19, 2010 response), in accordance with 19 CFR 351.301(d)(2)(ii). On June 28, 2010, the Department issued a request for JBF to complete section D of the original questionnaire; JBF submitted its response on August 10, 2010.

On June 4, 2010, JBF submitted information requested by the Department regarding its reported exports to the United States. Also on June 4, 2010, the Department issued a supplemental questionnaire to FLEX; FLEX submitted its timely response on July 23, 2010. On June 15, 2010, the Department issued a supplemental questionnaire to JBF; JBF submitted its timely response on July 13, 2010. On July 14, 2010, the Department extended the time period for issuing the preliminary results of the administrative review. *See Polyethylene Terephthalate Film, Sheet and Strip From the United Arab Emirates: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 40776 (July 14, 2010). On August 3, 2010, FLEX submitted revised section B and C responses to correct certain formatting errors in their submission of July 23, 2010. On August 23, 2010, the Department issued a second supplemental questionnaire to JBF; JBF submitted a timely response on September 1, 2010. On August 27, 2010, the Department issued a supplemental section D questionnaire to JBF; JBF submitted a timely response on September 23, 2010. On September 27, 2010, the Department issued a second supplemental section D questionnaire; JBF submitted a timely response on October 5, 2010. JBF submitted minor corrections to previously filed information on November 18, 2010. As discussed below, these corrections concerned its knowledge that certain sales included in its home market sales database were being exported to third countries.

Verification

A cost verification of JBF was conducted from October 24 through October 28, 2010. See Memorandum to Neal M. Halper, "Verification of Cost Response of JBF RAK LLC in the Antidumping Review of Polyethylene Terephthalate (PET) Film from the United Arab Emirates," (November 30, 2010) (Cost Verification Report). The Department intends to conduct a sales verification of JBF following the issuance of these preliminary results of review.

Scope of the Order

The products covered by the order are all gauges of raw, pre-treated, or primed polyethylene terephthalate film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Period of Review

Since this is the first administrative review, the period of review (POR) is different from the standard twelve month POR. The POR is November 6, 2008 through October 31, 2009.[2]

Comparisons to Normal Value

To determine whether sales of PET Film were made at less than NV, we compared the respondents' export price (EP) or constructed export price (CEP) sales made in the United States to unaffiliated customers to NV, as described below in the "Normal Value" section of this notice. In accordance with section 777A(d)(2) of the Act, we compared the EP and CEP of individual transactions to monthly weighted-average NVs.

Product Comparisons

Pursuant to section 771(16) of the Act, we determined that products sold by the

[1] Public versions of all memoranda referenced in this notice are on file in the Department's Central Records Unit (CRU) in Room 7046 of the main Department building.

[2] November 6, 2008, is the date the International Trade Commission (ITC) published its final determination that the domestic industry was threatened with material injury. According to section 736(b)(2) of the Tariff Act of 1930, as amended (the Act), the Department cannot assess duties on merchandise entered, or withdrawn from warehouse, for consumption, before the publication date of the final affirmative ITC determination when the ITC finds the domestic industry was "threatened with material injury." Therefore, in such cases, and in accordance with 19 CFR 213(e)(1)(ii), the first administrative review must begin on the publication date of the ITC's final determination.

respondents, as described in the "Scope of the Order" section, above, and sold in the UAE during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on four criteria to match U.S. sales of subject merchandise to comparison-market sales: Specification, thickness, thickness category, and surface treatment. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed above.

Arm's-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the prices at which sales are made to parties not affiliated with the exporter or producer; *i.e.*, sales to home market affiliates must be at arm's-length. *See* 19 CFR 351.403(c). Sales to affiliated customers for consumption in the home market that are determined not to be at arm's-length are excluded from our analysis. To test whether sales are made at arm's-length prices, the Department compares the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c), and in accordance with the Department's practice, when the prices charged to an affiliated party are, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determine that the sales to the affiliated party are at arm's-length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002). In this proceeding, neither FLEX nor JBF reported sales to affiliates in the home market.

Level of Trade

To determine whether NV sales are at a different level of trade (LOT) than U.S. sales, we examine selling functions along the chain of distribution between the respondent and the unaffiliated customer for EP sales and between the respondent and the affiliated U.S. importer for CEP sales. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment pursuant to section 773(a)(7)(A) of the Act.

In implementing these principles, we examined information provided by JBF and FLEX regarding the selling functions involved in their home market and U.S. sales, including a description of these selling functions, listed in Attachment 2 (Level of Trade Analysis) of FLEX's July 23, 2010 submission and Exhibit A–5 of JBF's February 9, 2010 submission. Our analysis revealed that there were not any significant differences in selling functions between different channels of distribution or customer type in either the home or U.S. markets. Therefore, we preliminarily determine that FLEX and JBF each made all home-market sales at one level of trade. Moreover, we preliminarily determine that all home-market sales by FLEX and JBF were made at the same level of trade as their U.S. sales. Accordingly, an LOT adjustment is not warranted.

Likewise, the CEP offset requested by FLEX is not warranted. Because FLEX's selling functions for the U.S. and home market sales do not differ and all home-market sales were made at the same level of trade as its U.S. sales, we have not applied a CEP offset in accordance with section 773(a)(7)(B) of the Act.

Date of Sale

The Department will normally use invoice date, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale, but may use a date other than the invoice date if it better reflects the date on which the material terms of sale are established. *See* 19 CFR 351.401(i). For both JBF and FLEX, we preliminarily determine that no departure from our standard practice is warranted. Both companies reported invoice date as date of sale, and the record does not indicate that material terms of sale are established at a later date or earlier in the sales process. For certain sales, however, shipment took place a few days earlier than invoice date. For such sales, we have used shipment date to the customer as date of sale rather than invoice, consistent with Department practice that assumes terms of sale are fixed at the time of shipment.

JBF Margin Calculation

Export Price

The Department based the price of all U.S. sales of subject merchandise by JBF on EP as defined in section 772(a) of the Act because the merchandise was sold before importation by the producer or exporter of the subject merchandise outside the United States to an unaffiliated purchaser in the United States. We calculated EP based on the packed price to unaffiliated purchasers in the United States, as appropriate. *See* section 772(c) of the Act. We made adjustments to price for billing adjustments, where applicable, and deducted all movement expenses reported by JBF.

Normal Value

A. Selection of Comparison Market

To determine whether there was a sufficient volume of sales of PET Film in the home market to serve as a viable basis for calculating NV, we compared the volume of respondent's home market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act. In their November 18, 2010 submission, JBF identified certain transactions, originally reported as home market sales, that it claims it knew were exported. Where it was possible to identify in the database that JBF knew that a shipment was destined for a third country market, which in turn meant that JBF knew that the sale was exported, we removed those transactions from the home market sales database. In accordance with section 773(a)(1)(B) of the Act, and 19 CFR 351.404(b), because JBF's revised aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we find that the home market was viable for comparison purposes.

B. Cost of Production Analysis

In accordance with section 773(b)(2)(A) of the Act, to initiate a COP investigation the Department must have "reasonable grounds" to believe or suspect that sales of the foreign like product under consideration for the determination of NV have been made at prices below the COP of that product. An allegation will be deemed to have provided reasonable grounds if: (1) A reasonable methodology is used in the calculation of the COP including the use of the respondent's actual data, if available; (2) using this methodology, sales are shown to be made at prices below the COP; and (3) the sales allegedly made at below cost are representative of a broader range of foreign models which may be used as a basis for NV. *See* section 773(b)(2)(A)(i) of the Act and *Notice of Preliminary Results of the New Shipper Review of the Antidumping Duty Order on Certain Hot-Rolled Flat-Rolled Carbon Quality*

Steel Products from Brazil, 70 FR 48668, 48670 (August 19, 2005), unchanged in *Notice of Final Results of New Shipper Review of the Antidumping Duty Order on Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil*, 70 FR 62297 (October 31, 2005). The Department found that pursuant to 773(b)(2)(A)(i) of the Act, the petitioners, referencing section B of JBF's March 4, 2010 questionnaire response, provided in their allegation a reasonable basis to believe or suspect that JBF was selling PET Film at below the COP. *See* COP Initiation Memorandum. As a result, the Department is directed under section 773(b) of the Act to determine whether JBF made home market sales during the POR at prices below COP.

C. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of JBF's cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses, interest expenses and home market packing costs. *See* Memorandum to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—JBF RAK LLC" (December 7, 2010) (JBF Cost Memorandum).

The Department's normal practice is to calculate an annual weighted-average cost for the entire period of investigation or POR. See, *e.g., Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000) and accompanying Issues and Decision Memorandum at Comment 18. However, the Department recognizes that possible distortions may result if our normal annual-average cost methodology is used during a period of significant cost changes. The Department determines whether to deviate from our normal methodology of calculating an annual weighted-average cost by evaluating two primary factors: (1) whether the change in the cost of manufacturing recognized by the respondent during the POR is deemed significant (*i.e.*, greater than 25 percent); and (2) whether the record evidence indicates that sales during the shorter averaging periods could be reasonably linked with the COP during the same shorter averaging periods. *See Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398, 75399 (December 11, 2008) and *Certain Welded Stainless Steel Pipes From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 74 FR 31242 (June 30, 2009). We preliminarily determine that the record evidence does not satisfy the first criterion and, thus, we also determine that JBF's quarterly cost data should not be used for these preliminary results. We calculated the change from the low quarter to the high quarter of the POR for all significant raw material inputs and found that there was no significant change in costs for a majority of the raw materials purchased (*i.e.*, that the change in cost over the POR did not meet our 25 percent significance threshold). As there was not a significant change in raw material costs, we determined that there was no need to depart from our average annual cost methodology. Based on our analysis of JBF's questionnaire responses and our findings at the cost verification, we made the following adjustments to JBF's reported COP.

- We reallocated the total cost of non-recyclable film lumps to all PET film products produced during the POR.
- We increased the reported COP to exclude credits related to depreciation recorded outside of the POR and to include depreciation for October 2009.
- We adjusted the cost of chips transferred from the chips division to reflect chips division conversion costs as well as raw material rebates and credits.
- We adjusted the reported conversion costs to exclude the cost of metalizing materials included in manufacturing expenses.
- We revised the general and administrative expense ratio to exclude selling expenses that are either double counted in the U.S. or home market sales files or properly excluded.
- We used the financial expense ratio submitted in JBF's October 5, 2010 section D response.

See JBF Cost Memorandum and Cost Verification Report.

D. Cost of Production Test

On a product-specific basis, we compared the revised COP figures to home market prices, net of applicable billing adjustments, discounts and rebates, movement charges, selling expenses, and packing, to determine whether home market sales had been made at prices below COP. (We first removed those transactions that the Department was able to confirm from the information on the record were export sales to third countries which JBF had reported in its November 18, 2010 submission, as noted above.) In determining whether to disregard home market sales made at prices below COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with section 773(b) of the Act, where less than 20 percent of a given product was sold at prices less than COP, we did not disregard any below-cost sales of that product, because the below-cost sales were not made in "substantial quantities." We did however disregard the below cost sales that: (1) Have been made within an extended period of time (within six months to one year) in substantial quantities (20 percent or more), as defined by section 773(b)(2)(B) and (C) of the Act; and (2) were not made at prices which permit recovery of all costs within a reasonable period of time, as prescribed by section 773(b)(2(D) of the Act. Accordingly, we determined that JBF had sales that may be disregarded in the determination of NV because (1) 20 percent or more of a given product was sold as prices less than COP and (2) based on our comparison of prices to weighted-average COP figured for the POR, they were made at prices that would not permit recovery of all costs within a reasonable period of time. We used the remaining home market sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

E. Constructed Value

After disregarding certain sales as below cost, as described above, home market sales of contemporaneous identical and similar products existed that allowed for price-to-price comparisons for all margin calculations. Therefore, the Department did not need to rely on constructed value for any calculations for these preliminary results.

F. Price-to-Price Comparisons

We calculated NV based on packed prices to unaffiliated customers in the home market. We used JBF's adjustments and deductions as reported. We made deductions, where appropriate, for foreign inland freight pursuant to section 773(a)(6)(B) of the Act. In addition, for comparisons involving similar merchandise, we made adjustments for cost differences attributable to the physical differences between the products compared, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii)

of the Act and 19 CFR 351.410. Specifically, we made COS adjustments for imputed credit expenses as well as credit insurance expense and demurrage, which JBF tied to specific U.S. invoices, in accordance with section 772(c)(2)(A) of the Act (other than imputed credit expenses, JBF reported no home market direct selling expenses). Finally, we added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act, respectively.

FLEX's Margin Calculation

Constructed Export Price

In calculating the antidumping duty margins for FLEX, we used CEP, as defined in section 772(b) of the Act, because all sales were made through FLEX America, a company affiliated with FLEX. We made deductions from CEP for all movement expenses reported by FLEX, as well as imputed credit expenses, and several direct expenses, including documentation charges, credit insurance expenses, terminal handling charges, demurrage charges, and several other fees, like port security charges, incurred on U.S. sales. In addition, we deducted indirect selling expenses associated with economic activity in the United States and imputed inventory carrying costs incurred by FLEX America. *See* sections 772(c)(2)(A) and 772(d)(1) of the Act. Finally, pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit; *i.e.*, profit associated with economic activity in the United States.

Normal Value

A. Selection of Comparison Market

To determine whether there was a sufficient volume of sales of PET Film in the home market to serve as a viable basis for calculating NV, we compared the volume of respondent's home market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act. In accordance with section 773(a)(1)(B) of the Act, and 19 CFR 351.404(b), because FLEX's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we have determined that the home market was viable for comparison purposes. No COP analysis was conducted for FLEX because there was no allegation of sales below COP by the petitioners in this review, nor is there reason to believe or suspect sales below COP in this review based on a finding of sales below COP in the investigation.

B. Price-to-Price Comparisons

We calculated NV based on packed prices to unaffiliated customers in the home market. We made deductions for foreign inland freight pursuant to section 773(a)(6)(B) of the Act, imputed credit expenses, and credit insurance expenses, and demurrage charges. In addition, for comparisons involving similar merchandise, we made adjustments for cost differences attributable to the physical differences between the products compared, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

Currency Conversions

Pursuant to section 773(A) of the Act and 19 CFR 351.415, we made currency conversions for FLEX's and JBF's sales based on the daily exchange rates in effect on the dates of the relevant U.S. sales as certified by the Federal Reserve Bank of New York.

Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margins exist for the period November 6, 2008, through October 31, 2009.

Manufacturer/Exporter	Weighted-Average margin (percent)
JBF RAK LLC	4.76
FLEX Middle East FZE	3.16

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. We will instruct CBP to liquidate entries of merchandise produced and/or exported by JBF and FLEX. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. For assessment purposes, where the respondents reported the entered value for their sales, we calculated importer-specific (or customer-specific) *ad valorem* assessment rates based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total entered value of those same sales. *See* 19 CFR 351.212(b). However, where the respondents did not report the entered value for their sales, we will calculate importer-specific (or customer-specific) per unit duty assessment rates. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of PET Film from the UAE entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for companies under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and, (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the all others rate for this proceeding, 4.05 percent.[3] These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance

[3] *See Order*, 73 FR at 66597.

with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. See 19 CFR 351.310. If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. Unless extended by the Department, interested parties must submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed not later than five days after the time limit for filing case briefs. See 19 CFR 351.309(c) and (d) (for a further discussion of case briefs and rebuttal briefs, respectively). Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Executive summaries should be limited to five pages total, including footnotes.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**, unless otherwise extended. See section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 7, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–31771 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Special Subsistence Permits and Harvest Logs for Pacific Halibut in Waters Off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 15, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to Patsy A. Bearden, (907) 586–7008 or *Patsy.Bearden@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for renewal of a currently approved information collection.

This collection-of-information describes special permits issued to participants in the Pacific halibut subsistence fishery in waters off the coast of Alaska and any appeals resulting from denials. The National Marine Fisheries Service (NMFS) designed the permits to work in conjunction with other halibut harvest assessment measures. Subsistence fishing for halibut has occurred for many years among the Alaska Native people and non-Native people. Special permits in this collection-of-information are initiated in response to the concerns of Native and community groups regarding increased restrictions in International Pacific Halibut Commission Area 2C and include Community Harvest Permits, Ceremonial Permits, and Educational Permits.

A Community Harvest Permit allows the community or Alaska Native tribe to appoint one or more individuals from its respective community or tribe to harvest subsistence halibut from a single vessel under reduced gear and harvest restrictions. Ceremonial and Educational Permits are available exclusively to Alaska Native tribes. Eligible Alaska Native tribes may appoint only one Ceremonial Permit Coordinator per tribe for Ceremonial Permits or one authorized Instructor per tribe for Educational Permits.

Except for enrolled students fishing under a valid Educational Permit, special permits require persons fishing under them to also possess a Subsistence Halibut Registration Certificate (SHARC) (see OMB Control No. 0648–0460) which identifies those persons who are currently eligible for subsistence halibut fishing. Each of the instruments is designed to minimize the reporting burden on subsistence halibut fishermen while retrieving essential information.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include online, e-mail of electronic forms, mail, and facsimile transmission of paper forms. Educational Permits may not be applied for online.

III. Data

OMB Control Number: 0648–0512.

Form Number: None.

Type of Review: Regular submission (renewal of a currently approved collection).

Affected Public: Individuals or households; State, local, or tribal government.

Estimated Number of Respondents: 415.

Estimated Time per Response: Permit applications, 10 minutes; Community harvest log, 30 minutes; Ceremonial or educational harvest log, 30 minutes; Appeal for permit denial, 4 hours.

Estimated Total Annual Burden Hours: 325.

Estimated Total Annual Cost to Public: $529 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be

collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 13, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–31658 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[File No. 10022]

RIN 0648–XA086

Endangered Species

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

ACTION: Notice; receipt of application for permit modification.

SUMMARY: Notice is hereby given that Raymond Carthy, University of Florida, Florida Cooperative Fish and Wildlife Research Unit, 117 Newins-Ziegler Hall, P.O. Box 110450, Gainesville, FL 32611, has requested a modification to scientific research Permit No. 10022–01.

DATES: Written, telefaxed, or e-mail comments must be received on or before January 18, 2011.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 10022–02 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the above address. Comments may also be submitted by facsimile to (301) 713–0376, or by e-mail to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the e-mail comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Amy Hapeman, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 10022–01 is requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit 10022–01, issued on May 12, 2010 (75 FR 26715) authorizes the permit holder to conduct research off the northwest coast of Florida. Researchers may capture loggerhead (*Caretta caretta*), green (*Chelonia mydas*), and Kemp's ridley (*Lepidochelys kempii*) sea turtles by strike-net or set-net. Animals may be weighed, measured, photographed, skin biopsied, flipper and passive integrated transponder (PIT) tagged, and released. Researchers also are authorized to perform a subset of activities on sea turtles legally captured by relocation trawlers. A subset of sea turtles may have transmitters attached to assess habitat use and study whether relocation distances for sea turtles captured by relocation trawlers are appropriate.

Dr. Carthy requests a modification to the permit to: (1) Increase the number of sea turtles (up to 50 loggerheads, 350 greens, and 200 Kemp's ridleys) that may be taken annually; (2) authorize satellite tagging for captured loggerhead and Kemp's ridleys; and (3) authorize three additional research activities (epibiota removal, blood sampling, and carapace swabbing) for up to 30 captured animals of each species annually. A subset of the green sea turtles will also be captured by hand/dip net, flipper and PIT tagged, measured, weighed, photographed, and temporarily carapace marked. This work would assess changes in sea turtle abundance, physical characteristics, and habitat use in the area relative to historical data and assess potential impacts of Mississippi Canyon 252 oil to sea turtles for the Natural Resources Damage Assessment. The modification would be valid until the permit expires on April 30, 2013.

Dated: December 13, 2010.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–31754 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[File No. 15614]

RIN 0648–XA087

Endangered Species

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Tom Savoy, Connecticut Department of Environmental Protection, Marine Fisheries Division, P.O. Box 719, Old Lyme, CT 06371, has applied in due form for a permit to take shortnose sturgeon for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before January 18, 2011.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 15614 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices: Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by

facsimile to (301) 713–0376, or by e-mail to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the e-mail comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Malcolm Mohead, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Mr. Savoy is seeking a permit enabling the Connecticut Department of Environmental Protection to conduct scientific research and monitor the status of shortnose sturgeon in Connecticut waters. Annually, 450 adult and juvenile fish would be captured via gill net and trawl, measured; weighed; PIT tagged; have a pectoral fin ray removed; and released in the Connecticut River between river kilometers 0 and 140. A subset of 100 would also be gastric lavaged, and a subset of 25 would also have a sonic/radio tag attached. Additionally, 50 fish annually would be captured via gill net and trawl; measured; weighed; PIT tagged; fin ray clipped; and released in either the Thames or Housatonic Rivers. Mr. Savoy is seeking authorization for these activities for five years from the date of permit issuance.

Dated: December 13, 2010.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–31748 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA094

Fisheries of the South Atlantic and Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Assessment Webinar 9 for SEDAR 22 Yellowedge Grouper and Tilefish

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

ACTION: Notice of SEDAR 22 Gulf of Mexico yellowedge grouper and tilefish assessment webinar 9.

SUMMARY: The SEDAR 22 assessments of the Gulf of Mexico stocks of yellowedge grouper and tilefish will consist of a series of workshops and webinars: a Data Workshop, a series of Assessment webinars, and a Review Workshop. *See* **SUPPLEMENTARY INFORMATION.**

DATES: The ninth SEDAR 22 Assessment Process webinar will be held on Wednesday, January 11, 2011 from 10 a.m. to approximately 2 p.m. (Eastern). The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information.

A listening station will be available at the Gulf of Mexico Fishery Management Council office located at 2203 N Lois Avenue, Suite 1100, Tampa, FL 33607. Those interested in participating via the listening station should contact Julie A. Neer at SEDAR (See **FOR FURTHER INFORMATION CONTACT**) at least 1 day prior to the webinar.

FOR FURTHER INFORMATION CONTACT: Julie A Neer, SEDAR Coordinator, 4055 Faber Place, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; e-mail: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop, (2) Assessment Process utilizing webinars and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and State and Federal agencies.

SEDAR 22 Assessment webinar IX

Using datasets recommended from the Data Workshop, participants will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Dated: December 14, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–31692 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA092

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/MPA/Ecosystem Committee, in January, 2011, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, January 6, 2011 at 9 a.m.

ADDRESSES: This meeting will be held at the Courtyard by Marriott, 225 McClellan Highway, East Boston, MA 02128; telephone: (617) 569–5250; fax: (617) 561–0971.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will continue to work on Omnibus EFH Amendment 2 and continue development of alternatives to protect deep-sea corals. They will also review PDT analysis of management options to minimize the adverse effects of fishing on EFH. Based on options reviewed, the Committee will develop alternatives to minimize the adverse effects of fishing on EFH. The Committee will receive an informational presentation on NOAA's Habitat Assessment Improvement Plan. Other topics may be discussed at the Chair's discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: December 13, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–31651 Filed 12–16–10; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be provided by the nonprofit agency employing persons who are blind or have other severe disabilities and to delete products and a service previously furnished by such agencies.

Comments Must be Received on or Before: 1/17/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

For Further Information or to Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

Due to Federal holidays occurring on Friday, December 24 and December 31, the Committee is unable to adhere to its routine practice of posting its **Federal Register** Notices on Friday of each week. Consequently, the Committee will publish any Notices necessary during these two holiday weeks on Thursday, December 23 and December 30. The Committee will return to its routine practice of publishing on Friday on January 7, 2011.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the service listed below from a nonprofit agency employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will provide the service to the Government.
2. If approved, the action will result in authorizing small entities to provide the service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following service is proposed for addition to Procurement List for production by the nonprofit agency listed:

Services

Service Type/Location: Warehouse/Receiving Service, Customs and Border Protection, 1 Puntilla St, San Juan, PR.

NPA: The Corporate Source, Inc., New York, NY.

Contracting Activity: Bureau of Customs and Border Protection, National Acquisition Center, Indianapolis, IN.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action may result in authorizing small entities to furnish the products and service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 46–48c) in connection with the products and service proposed for deletion from the Procurement List.

End of Certification

The following products and service are proposed for deletion from the Procurement List:

Products

Inkjet Printer Cartridge

NSN: 7510–01–555–8067—Inkjet printer cartridge
NSN: 7510–01–555–7723—Inkjet printer cartridge
NSN: 7510–01–555–7721—Inkjet printer cartridge
NSN: 7510–01–555–7720—Inkjet printer cartridge
NSN: 7510–01–555–6173—Inkjet printer cartridge
NSN: 7510–01–555–6171—Inkjet printer cartridge
NSN: 7510–01–555–6170—compatible with Epson Part No. T018201. Tri-color
NSN: 7510–01–555–6169—Inkjet printer cartridge
NSN: 7510–01–555–6168—Inkjet printer cartridge
NSN: 7510–01–555–7722—Inkjet printer cartridge
NSN: 7510–01–555–6167—Inkjet printer cartridge
NPA: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Computer Accessories

NSN: 7045–01–483–9279—3½″ Drive Cleaning Kit.
NPA: Wiscraft Inc.—Wisconsin Enterprises for the Blind, Milwaukee, WI.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Service

Service Type/Location: Eyewear Prescription Service, Phoenix Indian Medical Center, 4212 N. 16th Street, Phoenix, AZ.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contracting Activity: Health and Human Services, Department of, Dept of HHS, Washington, DC.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2010–31813 Filed 12–16–10; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be provided by the nonprofit agency employing persons who are blind or have other severe disabilities and to delete products and a service previously furnished by such agencies.

Comments Must be Received on or Before: 1/17/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

For Further Information or to Submit Comments Contact: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

Due to Federal holidays occurring on Friday, December 24 and December 31, the Committee is unable to adhere to its routine practice of posting its **Federal Register** Notices on Friday of each week. Consequently, the Committee will publish any Notices necessary during these two holiday weeks on Thursday, December 23 and December 30. The Committee will return to its routine practice of publishing on Friday on January 7, 2011.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the service listed below from a nonprofit agency employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will provide the service to the Government.

2. If approved, the action will result in authorizing small entities to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following service is proposed for addition to Procurement List for production by the nonprofit agency listed:

Services

Service Type/Location: Warehouse/Receiving Service, Customs and Border Protection, 1 Puntilla St., San Juan, PR.
NPA: The Corporate Source, Inc., New York, NY.
Contracting Activity: Bureau of Customs and Border Protection, National Acquisition Center, Indianapolis, IN.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and service proposed for deletion from the Procurement List.

End of Certification

The following products and service are proposed for deletion from the Procurement List:

Products

Inkjet Printer Cartridge

NSN: 7510–01–555–8067—Inkjet printer cartridge
NSN: 7510–01–555–7723—Inkjet printer cartridge
NSN: 7510–01–555–7721—Inkjet printer cartridge
NSN: 7510–01–555–7720—Inkjet printer cartridge
NSN: 7510–01–555–6173—Inkjet printer cartridge
NSN: 7510–01–555–6171—Inkjet printer cartridge
NSN: 7510–01–555–6170—compatible with Epson Part No. T018201. Tri-color
NSN: 7510–01–555–6169—Inkjet printer cartridge
NSN: 7510–01–555–6168—Inkjet printer cartridge
NSN: 7510–01–555–7722—Inkjet printer

cartridge
NSN: 7510–01–555–6167—Inkjet printer cartridge
NPA: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.

Computer Accessories

NSN: 7045–01–483–9279—3½″ Drive Cleaning Kit
NPA: Wiscraft Inc.—Wisconsin Enterprises for the Blind, Milwaukee, WI
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY

Service

Service Type/Location: Eyewear Prescription Service, Phoenix Indian Medical Center, 4212 N. 16th Street, Phoenix, AZ.
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC.
Contracting Activity: Health and Human Services, Department of, Dept of HHS, Washington, DC.

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2010–31814 Filed 12–16–10; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the CFTC is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Rules Pertaining to Contract Markets and Their Members; [OMB Control Number 3038–0022]. Before submitting the ICR to OMB for review and approval, the CFTC is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before January 18, 2011.

ADDRESSES: Comments may be mailed to David Van Wagner, Commodity Futures Trading Commission, Division of Market Oversight, 202–418–5481, fax 202–418–5507, e-mail *dvanwagner@cftc.gov.* Refer to OMB Control No. 3038–0022.

FOR FURTHER INFORMATION CONTACT: David Van Wagner @ 202–418–5481, fax 202–418–5507, e-mail *dvanwagner@cftc.gov.*

SUPPLEMENTARY INFORMATION: Affected entities: Entities potentially affected by this action are registered entities (designated contract markets, registered derivatives transaction execution facilities and registered derivatives clearing organizations) planning to implement new rules and rule amendments by either seeking prior approval or (for most rules) certifying to the Commission that such rules or rule amendments do not violate the Act or Commission regulations. Rules 40.2, 40.3, 40.4, 40.5 and 40.6 implement these statutory provisions.

Title: Rules Pertaining to Contract Markets and Their Members (OMB Control No. 3038–0022).

Abstract: Section 5c(c) of the Commodity Exchange Act, 7 U.S.C. 7a-2(c), establishes procedures for registered entities (designated contract markets, registered derivatives transaction execution facilities and registered derivatives clearing organizations) to implement new rules and rule amendments by either seeking prior approval or (for most rules) certifying to the Commission that such rules or rule amendments do not violate the Act or Commission regulations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 6, 2010 (75 FR 61707).

The Commission would like to solicit comments to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, usefulness, and clarity of the information to be collected; and
- Minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

Burden of Statement: The respondent burden for this collection is estimated to average 2.53 hours per response. These estimates include the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 12,272.

Estimated Number of Responses Annually: 307,179.

Estimated Total Annual Burden on Respondents: 777,345 hours.

Frequency of Collection: On occasion.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Dated: December 13, 2010.

David A. Stawick,
Secretary of the Commission.

[FR Doc. 2010–31766 Filed 12–16–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Department of the Air Force

Record of Decision for the 158th Fighter Wing's Proposed Realignment of National Guard Avenue and New Main Gate Construction, Vermont Air National Guard, Burlington International Airport, South Burlington, VT

ACTION: Notice of Availability (NOA) of a Record of Decision (ROD).

SUMMARY: On November 18, 2010, the United States Air Force signed the ROD for the 158th Fighter Wing's Proposed Realignment of National Guard Avenue and New Main Gate Construction, Vermont Air National Guard, Burlington International Airport, South Burlington, Vermont. The ROD states the Air Force decision to implement the preferred alternative (Alternative 1—-Realignment

of a portion of National Guard Avenue to meet recommended stand-off distance between perimeter fence and mission critical resources and personnel).

The decision was based on matters discussed in the Final Environmental Impact Statement (EIS) for the Proposed Realignment of National Guard Avenue and New Main Gate Construction, inputs from the public and regulatory agencies, and other relevant factors. The Final EIS was made available to the public on August 13, 2010 through a NOA in the **Federal Register** (Volume 75, Number 156, Page 49487) with a wait period that ended on September 14, 2010. The ROD documents only the decision of the Air Force with respect to the proposed Air Force actions analyzed in the Final EIS. Authority: This NOA is published pursuant to the regulations (40 CFR Part 1506.6) implementing the provisions of the NEPA of 1969 (42 USC. 4321, *et seq.*) and the Air Force's Environmental Impact Analysis Process (EIAP) (32 CFR Parts 989.21(b) and 989.24(b)(7)).

FOR FURTHER INFORMATION CONTACT: Mr. Robert Dogan, NGB/A7AM, Conaway Hall, 3500 Fetchet Avenue, JB Andrews, MD 20762–5157 *e-mail: robert.dogan@ang.af.mil.*

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. 2010–31669 Filed 12–16–10; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Independent Panel To Review the Judge Advocate Requirements of the Department of the Navy

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meetings.

SUMMARY: The Independent Panel to Review the Judge Advocate Requirements of the Department of the Navy (DoN) (hereinafter referred to as the Panel) will hold an open meeting. The Panel will meet in order to conduct deliberations and may hear witness testimony concerning the judge advocate requirements of the DoN. The session will be open to the public, subject to the availability of space. In keeping with the spirit of the Federal Advisory Committee Act (FACA), the Panel welcomes written comments concerning its work from the public at any time.

Interested citizens are encouraged to attend the sessions.

DATES: The meeting will be held on Friday, January 7th, 2011, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the Residence Inn Arlington Pentagon City, 550 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning these meetings or wishing to submit written comments may contact: Mr. Frank A. Putzu, Designated Federal Official, Department of the Navy, Office of the General Counsel, Naval Sea Systems Command, Office of Counsel, 1333 Isaac Hull Avenue, SE., Washington Navy Yard, Building 197, Room 4W–3153, Washington, DC 20376, via Telephone: 202–781–3097; Fax: 202–781–4628; or E-mail: *frank.putzu@navy.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of section 506 of Public Law 111–84, FACA of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.50, this is a public meeting and interested citizens are encouraged to attend the sessions.

Interested persons may submit a written statement for consideration by the Panel at any time prior to January 1, 2011.

Dated: December 13, 2010.

D.J. Werner,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2010–31797 Filed 12–16–10; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–366]

Application to Export Electric Energy; Twin Rivers Paper Company Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Twin Rivers Paper Company Inc. (Twin Rivers) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or requests to intervene must be submitted to DOE and received on or before January 18, 2011.

ADDRESSES: Comments, protests, or requests to intervene should be addressed to: Christopher Lawrence, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Christopher.Lawrence@hq.doe.gov,* or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) 202–586–5260.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On August 25, 2010, DOE received an application from Twin Rivers for authority to transmit electric energy from the United States to Canada over the existing international transmission facilities owned by Twin Rivers and authorized by Presidential permit No. PP–366. The international transmission facilities authorized by PP–366 consist of a three-phase, 6.6-kV line and a 138-kV line, operated at 69-kV, connect the integrated pulp and paper operations owned by Twin Rivers and its affiliate on either side of the international border. Twin Rivers has requested an export authorization in order to be able to supply emergency power as needed to Twin Rivers' Canadian operations using the PP–366 facilities.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with DOE and must be received on or before the date listed above.

Comments on the Twin Rivers application to export electric energy to Canada should be clearly marked with Docket No. EA–366. Additional copies (one each) are to be filed directly with Wayne Johnson, Vice President Finance, 707 Sable Oaks Drive, Suite 010, South Portland, Maine 04106 and Steven A. Hudson, ESQ, Preti, Flaherty, Beliveau & Pachios, LLP, P.O. Box 1058, Augusta, Maine 04330. A final decision will be made on this application after the environmental impacts have been

evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR Part 1021) and after a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permits_pending.htm,* or by e-mailing Odessa Hopkins at *Odessa.Hopkins@hq.doe.gov.*

Issued in Washington, DC, on December 13, 2010.

Anthony J. Como,

Director, Permitting and Siting Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2010–31745 Filed 12–16–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–280–B]

Application to Export Electric Energy; Direct Energy Marketing, Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: Direct Energy Marketing, Inc. (DEMI) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act (FPA).

DATES: Comments, protests, or requests to intervene must be submitted to DOE and received on or before January 3, 2011.

ADDRESSES: Comments, protests or requests to intervene should be addressed to: Christopher Lawrence, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Christopher.Lawrence@hq.doe.gov,* or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence (Program Office) 202–586–5260.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the FPA (16 U.S.C. 824a(e)).

On November 5, 2003, DOE issued Order No. EA–280, which authorized DEMI to transmit electric energy from the United States to Canada for a two-year term as a power marketer using existing international transmission facilities. DOE renewed the DEMI export authorization in Order No. EA–280–A on March 17, 2006. Order No. EA–280–A expired on November 5, 2010. On November 5, 2010, DEMI filed an application with DOE for renewal of the export authority contained in Order No. EA–280–A for an additional ten-year term.

DEMI has requested expedited treatment of their application. DEMI states that due to recent personnel changes, the impending termination of their current export authorization was only recently discovered. Because that authorization has expired, DEMI wishes to have expedited treatment of this application in order to minimize the disruption to its electricity trade with Canadian interests. DEMI also indicated that it has not engaged in the export of electricity since its authorization expired and will not do so unless and until DEMI receives an Order granting renewal of its export authority in this proceeding. In response to DEMI's request for expedited treatment, DOE has shortened the public comment period to 15 days.

The electric energy that DEMI proposes to export to Canada would be surplus energy purchased from electric utilities, Federal power marketing agencies, and other entities within the United States. The existing international transmission facilities to be utilized by DEMI have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to become a party to these proceedings or to be heard by filing comments or protests to this application should file a petition to intervene, comment, or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with and received by DOE on or before the date listed above.

Comments on the DEMI application to export electric energy to Canada should be clearly marked with Docket No. EA–280–B. Additional copies are to be filed directly with Judith Kim, FERC Attorney, Direct Energy, LP, 12 Greenway Plaza, Suite 600, Houston, Texas 77046 and Katherine Krause, Director, U.S. Compliance, Direct Energy, LP, 12 Greenway Plaza, Suite 600, Houston, Texas. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR Part 1021) and after a determination is made by DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://www.oe.energy.gov/permits_pending.htm,* or by e-mailing Odessa Hopkins at *Odessa.Hopkins@hq.doe.gov.*

Issued in Washington, DC, on December 13, 2010.

Anthony J. Como,

Director, Permitting and Siting Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2010–31743 Filed 12–16–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO300000.L14300000]

Notice of Availability of the Draft Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States and Notice of Public Meetings

AGENCIES: Bureau of Land Management, Interior; Department of Energy.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Land Management (BLM) and the Department of Energy (DOE) (the Agencies) as co-lead agencies announce the availability of the Draft Programmatic Environmental Impact Statement (EIS) for Solar Energy Development in Six Southwestern States (BLM/DES 10–59, DOE/EIS—0403). The BLM and the DOE have prepared this document in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended; the Council on Environmental Quality, the DOE, and the Department of the Interior (DOI) regulations implementing NEPA; and the Federal Land Policy and Management Act of 1976, as amended.

DATES: To ensure that comments will be considered in the Final Programmatic EIS, the Agencies must receive written comments on the Draft Programmatic EIS within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM and the DOE will hold 14 public meetings on the Draft Programmatic EIS. The locations of scheduled public meetings are listed in the Supplementary Information section below. The public will also be notified of the dates and times of these meetings at least 15 days in advance via local media, the project Web site, and the DOE NEPA Web site.

ADDRESSES: You may submit written comments related to the Draft Programmatic EIS by the following methods:

- *Web site:* Using the online comment form available on the project Web site: *http://solareis.anl.gov.* This is the preferred method of commenting.
- *Mail:* Addressed to: Solar Energy Draft Programmatic EIS, Argonne National Laboratory, 9700 S. Cass Avenue—EVS/240, Argonne, Illinois 60439.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on the Draft Programmatic EIS should be directed to Linda Resseguie, BLM Solar Programmatic EIS Project Manager, BLM Washington Office, by e-mail at *linda_resseguie@blm.gov,* or by telephone at 202–912–7337; or to Jane Summerson, DOE Solar Programmatic EIS Document Manager, by e-mail at *jane.summerson@ee.doe.gov,* or by telephone at 202–287–6188. For general information regarding the BLM NEPA process, contact Shannon Stewart, Senior Planning and Environmental Analyst, BLM Washington Office, by e-mail at *shannon_stewart@blm.gov,* or by telephone at 202–912–7219. For general information regarding the DOE NEPA process, contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, by telephone at 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The Draft Programmatic EIS, references, and additional information regarding solar energy development are available at the project Web site: *http://solareis.anl.gov.* An electronic copy of the Draft Programmatic EIS can be viewed in any BLM State Office public room in the 6-state study area and will be available through the BLM Web site at *http://www.blm.gov.* A complete, printed copy is available for review at the following BLM offices:

Arizona State Office, One North Central Avenue, Suite 800, Phoenix, Arizona 85004.

Caliente Field Office, US Highway 93 Building #1, Caliente, Nevada 89008.

California Desert District, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553.

California State Office, 2800 Cottage Way, Suite W–1623, Sacramento, California 95825.

Cedar City Field Office, 176 East D.L. Sargent Drive, Cedar City, Utah 84721.

Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406.

Las Cruces District Office, 1800 Marquess Street, Las Cruces, New Mexico 88005.

Nevada State Office, 1340 Financial Boulevard, Reno, Nevada 89502.

San Luis Valley Public Lands Center, 1803 West Highway 160, Monte Vista, Colorado 81144.

Southern Nevada District Office, 4701 North Torrey Pines, Las Vegas, Nevada 89130.

Tonopah Field Office, 1553 South Main Street, Tonopah, Nevada 89049.

Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101.

The Draft Programmatic EIS is also available on the DOE NEPA Web site at *http://nepa.energy.gov.*

The BLM and the DOE will hold 14 public meetings on the Draft Programmatic EIS to provide an overview of the document, respond to questions, and take public comments. The meetings will be announced through local news media, the project Web site (*http://solareis.anl.gov*), and the DOE NEPA Web site (*http://nepa.energy.gov*), at least 15 days in advance. Public meetings are currently planned for the following locations:

Alamosa, Colorado; Barstow, California; Caliente, Nevada; Cedar City, Utah; El Centro, California; Goldfield, Nevada; Las Cruces, New Mexico; Las Vegas, Nevada; Ontario, California; Palm Springs, California; Phoenix, Arizona; Salt Lake City, Utah; Tucson, Arizona; Washington, DC.

At these meetings, the public will have an opportunity to provide oral and written comments. Oral and written comments from the meetings and additional written comments submitted during the comment period will be considered by the Agencies in preparing the Final Programmatic EIS. Comments submitted after the close of the comment period will be considered to the extent practicable.

Background

The BLM is considering taking further actions to facilitate solar energy development in compliance with various orders, mandates, and agency policies. For the BLM, these actions include the evaluation of a new Solar Energy Program applicable to utility-scale solar energy development on BLM-administered lands in 6 southwestern states (Arizona, California, Colorado, Nevada, New Mexico, and Utah). The DOE is considering taking actions to facilitate solar energy development in compliance with various orders, mandates, and agency policies. For the DOE, these actions include the evaluation of developing new program guidance relevant to DOE-supported solar energy projects. The BLM and the DOE are working jointly as lead Agencies to prepare this Programmatic EIS to evaluate the proposed BLM program and whether to develop the DOE guidance. The Draft Programmatic EIS assesses environmental, social, and economic impacts associated with the development and implementation of agency-specific programs that would facilitate environmentally responsible utility-scale solar energy development in 6 southwestern states. For the purposes of the Programmatic EIS, utility-scale solar technologies considered to be viable for deployment over the next 20 years include 3 concentrating solar power technologies (*i.e.,* parabolic trough, power tower, and dish engine systems), and photovoltaic technologies. Because the Programmatic EIS involves environmental effects over a broad geographic and time horizon, the depth and detail of the impact analysis is general, focusing on major impacts in a qualitative manner. The Programmatic EIS does not assess site-specific issues associated with any future individual solar energy development projects. Future utility-scale solar energy development decisions will be subject to analysis under NEPA that may tier to the programmatic analysis.

BLM-Specific Information

The BLM has identified a need to respond in a more efficient and effective manner to the high interest in siting utility-scale solar energy development on public lands and ensure consistent application of measures to avoid, minimize, or mitigate the adverse impacts of such development. The BLM proposes to develop a new Solar Energy Program to further support utility-scale solar energy development on BLM-administered lands that would be applicable to all pending and future

solar energy development applications upon execution of the Record of Decision for the Solar Programmatic EIS.

The proposed Solar Energy Program has been designed to further the BLM's ability to meet the requirements for facilitating solar energy development on BLM-administered lands established by the Energy Policy Act of 2005 (Pub. L. 109–58) and Secretarial Order 3285A1 issued by the Secretary of the Interior. In particular, the proposed program has been designed to meet the requirements of Order 3285A1 to identify and prioritize solar energy development in locations best suited for such development, called solar energy zones (SEZ).

The objectives of the BLM's proposed Solar Energy Program include:

- Facilitating near-term utility-scale solar energy development on public lands;
- Minimizing potential negative environmental, social, and economic impacts;
- Providing flexibility to consider a variety of solar energy projects (*i.e.,* by location, facility size, or technology);
- Optimizing existing transmission infrastructure and corridors; and
- Standardizing and streamlining the authorization process for utility-scale solar energy development on BLM-administered lands.

The anticipated elements of the BLM's proposed Solar Energy Program include:

- Identification of lands excluded from utility-scale solar energy development in the 6-state study area;
- Identification of priority areas within the lands open to solar energy development that are best suited for utility-scale production of solar energy in accordance with the requirements of Secretarial Order 3285A1 (*i.e.,* proposed SEZs);
- Establishment of mitigation requirements for solar energy development on public lands to ensure the most environmentally responsible development and delivery of solar energy; and
- Amendment of BLM land use plans in the 6-state study area to adopt those elements of the new Solar Energy Program that pertain to land use planning.

A reasonably foreseeable development (RFD) scenario was developed as part of the Programmatic EIS to help define the potential magnitude of solar energy development that could occur within the 6-state study area over the next 20 years. On the basis of the RFD scenario, the estimated amount of solar energy generation on BLM-administered lands in the study area over the 20-year study period is about 24,000 megawatts, with a corresponding dedicated use of about 214,000 acres of BLM-administered lands.

Through the Programmatic EIS, the BLM is evaluating 3 alternatives for managing utility-scale solar energy development on BLM-administered lands in the 6-state study area. These alternatives include two action alternatives—a solar energy development program alternative and a SEZ program alternative—and a no action alternative.

Under the solar energy development program alternative, the BLM would establish a new Solar Energy Program of administration and authorization policies and required design features to replace certain elements of its existing solar energy policies. The lands that would be excluded from solar energy development include BLM-administered lands currently off-limits to solar energy development, including lands prohibited by law, regulation, presidential proclamation, or executive order (*e.g.,* lands in the National Landscape Conservation System), along with lands that (1) have slopes greater than or equal to 5 percent; (2) have solar insolation levels (*i.e.,* a measurement of the amount of sunlight that strikes the earth's surface) below 6.5 kilowatt-hours per square meter per day; and (3) have known resources, resource uses, or special designations identified in local land use plans that are incompatible with solar energy development. On the basis of these exclusions, approximately 22 million acres of BLM-administered lands would be available for right-of-way (ROW) application under this alternative.

As part of the solar energy development program alternative, the BLM would also identify a number of SEZs within the lands available for ROW application. An SEZ is defined by the BLM as an area well suited to utility-scale energy production, with few impediments to facility construction and operation where BLM would prioritize solar energy and associated transmission infrastructure development. Approximately 677,400 acres have been identified as proposed SEZs. The elements of the BLM's new program under this alternative would be implemented through amendment of the land use plans within the 6-state area.

Under the SEZ program alternative, the BLM would replace certain elements of its current solar energy policies with a program that would authorize utility-scale solar energy development only in the SEZs. Unlike the solar energy development program alternative, lands outside of SEZs would be excluded from utility-scale solar energy development ROW applications. Under this alternative, about 677,400 acres of BLM-administered lands have been identified as proposed SEZs and would be available for ROW application. Under the SEZ program alternative, the management of solar energy development on BLM-administered lands would be the same as described for the solar energy development program alternative. The BLM would establish comprehensive program administration and authorization policies and design features. The elements of the BLM's new program under this alternative would be implemented through amendment of the land use plans within the 6-state area.

Under the no action alternative, solar energy development would continue on BLM-administered lands in accordance with existing solar energy policies. The BLM would not implement a comprehensive Solar Energy Program to provide guidance to BLM field staff, developers, and other stakeholders in the 6-state study area. Specifically, the required program administration and authorization policies as well as design features and land use plan amendments proposed in the 2 action alternatives would not be implemented. Future solar energy projects and land use plan amendments would continue to be evaluated solely on an individual, case-by-case basis.

DOE-Specific Information

The DOE is required to take actions to meet mandates under Executive Order 13212, "Actions to Expedite Energy-Related Projects," published in the **Federal Register** on May 22, 2001 (66 FR 28357); Executive Order 13514, "Federal Leadership in Environmental, Energy, and Economic Performance," published in the **Federal Register** on October 5, 2009 (74 FR 52117); and Section 603 of the Energy Independence and Security Act of 2007 (EISA) (Pub. L. 109–58). The DOE's purpose and need is to satisfy both executive orders and comply with congressional mandates to promote, expedite, and advance the production and transmission of environmentally sound energy resources, including renewable energy resources and, in particular, cost-competitive solar energy systems at the utility scale.

Specifically, the DOE proposes to further integrate environmental considerations into its analysis and selection of solar projects that it will support. In the Programmatic EIS, the DOE will build on the BLM's analysis of potential impacts of utility-scale solar

development on the environment for all phases of development to provide a technical basis for the development of guidance. The DOE will consider, as appropriate, the relevance of the analytical results for all lands, not just BLM-administered lands in the six state area.

The DOE would use this information to develop guidance for the development of solar energy projects. The DOE's investment and deployment strategy would incorporate a decision-making framework of guidance for early consideration of sound environmental practices and potential mitigation measures for solar energy development. Development of a guidance framework, based on the analyses of the Programmatic EIS, would give the DOE the tools with which to make more informed, environmentally sound decisions at the outset, help to streamline future environmental analysis and documentation for DOE-supported solar projects, and support the DOE's efforts to comprehensively (1) determine where to make technology and resource investments to minimize the environmental impacts of solar technologies and (2) establish environmental mitigation recommendations for financial assistance recipients to consider in project plans when applying for DOE funding.

Through this Programmatic EIS, the DOE is evaluating 2 alternatives: an action alternative and a no action alternative. Under the action alternative, the DOE would develop programmatic guidance to further integrate environmental considerations into its analysis and selection of solar projects that it will support. The DOE would use the information about environmental impacts provided in this Programmatic EIS to appropriately amend its programmatic approaches to facilitate the advancement of solar energy development. Under the no action alternative, the DOE would continue to conduct environmental reviews of DOE-funded solar projects on a case-by-case basis. It would not develop programmatic guidance and explicit environmental guidelines and mitigation recommendations to apply to DOE-funded solar projects.

DOE's Western Area Power Administration (Western) markets and transmits wholesale electrical power through an integrated 17,000-circuit mile, high-voltage transmission system across 15 western states, including parts of the 6-state study area for this Programmatic EIS. Western's purpose and need for participating in this Programmatic EIS is to identify potential transmission impacts and recommend mitigation measures for transmission lines associated with solar energy projects. Western anticipates using the transmission environmental impact and mitigation measures analyses in this Programmatic EIS to streamline its own NEPA documents once specific projects are identified and interconnection requests are filed with Western. With the Programmatic EIS providing the basis for this analysis, interconnection project-specific NEPA documents should be more concise and take less time to prepare, resulting in efficiencies for both Western and the project proponent.

Preferred Alternative

The solar energy development program alternative is the BLM preferred alternative. The DOE has not yet identified a preferred alternative.

Public Participation

A notice of intent to prepare this PEIS was published in the **Federal Register** on May 29, 2008 (73 FR 30908). This notice initiated the first scoping period, which lasted from May 29 to July 15, 2008. During that period, the BLM and the DOE invited the public to provide comments on the scope and objectives of the Programmatic EIS, including identification of issues and alternatives that should be considered in the Programmatic EIS analyses. Public meetings were held at 11 locations across the 6 states. Comments were also collected via the project Web site and by mail. A second scoping period was announced through the "Notice of Availability of Maps and Additional Public Scoping" published in the **Federal Register** on June 30, 2009 (74 FR 31307). This scoping period was initiated to solicit public comments on 24 specific tracts of BLM-administered land proposed to receive in-depth study for solar development in the Programmatic EIS. Specifically, the Agencies solicited comments about environmental issues, existing resource data, and industry interest with respect to the 24 solar energy study areas. Public comments were collected via the project Web site and by mail.

Approximately 15,900 individuals, organizations, and government agencies provided comments during the first scoping process, and approximately 300 entities provided comments during the second scoping process.

In addition to public scoping, the BLM initiated government-to-government consultation with 316 Native American Tribes, Chapters, and Bands with a potential interest in solar energy development on BLM-administered lands in the 6-state study area. The BLM is also coordinating with and soliciting input from the State Historic Preservation Offices (SHPO) in each of the 6 states in the study area and from the Advisory Council on Historic Preservation. In addition, the National Council of SHPOs, the National Trust for Historic Preservation, and tribal governments have been invited to consult on the Programmatic EIS and the preparation of a National Programmatic Agreement regarding solar energy development.

The Draft Programmatic EIS consists of approximately 11,000 pages in 8 volumes. All readers are encouraged to review the document electronically. The Executive Summary and Reader's Guide, including a digital versatile disc (DVD) containing the entire document, is available upon request. The document is also available through the project Web site at *http://solareis.anl.gov,* the BLM Web site at *http://www.blm.gov,* and the DOE NEPA Web site at *http://nepa.energy.gov.*

Other Agency Involvement

Cooperating Federal agencies on the Programmatic EIS include the Department of Defense; the U.S. Fish and Wildlife Service; the National Park Service; the Bureau of Reclamation; the U.S. Environmental Protection Agency, Region 9; and the U.S. Army Corps of Engineers, South Pacific Division.

Other cooperating agencies on the Programmatic EIS include the Arizona Game and Fish Department; the California Energy Commission and Public Utilities Commission; the Nevada Department of Wildlife, the N–4 Grazing Board; the Utah Public Lands Policy Coordination Office; Clark, Esmeralda, Eureka, Lincoln, and Nye Counties, Nevada; Saguache County, Colorado; and Dona Ana County, New Mexico.

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.

Authority: 40 CFR 1506.6, 1506.10, and 43 CFR 1610.2

Michael D. Nedd,

Assistant Director, Minerals and Realty Management, Bureau of Land Management.

Cathy Zoi,

Assistant Secretary for Energy Efficiency and Renewable Energy, Department of Energy.

[FR Doc. 2010–31725 Filed 12–16–10; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13876–000]

South Run Pumped Storage, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

December 13, 2010.

On October 26, 2010, South Run Pumped Storage, LLC, Massachusetts, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the South Run Pumped Storage Project (South Run Project or project) to be located on South Run, near Norton, Medina and Summit counties, Ohio. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) An excavated, diked, and asphalt-lined 255-acre upper reservoir having a maximum water surface area of about 195 acres and a total volume of 7,805 acre-feet; (2) a 7,760-acre-foot capacity underground lower reservoir, 2,200 feet below ground surface, created by previous limestone mining activities; (3) a diversion channel around the west and south sides of the upper reservoir with sufficient capacity to carry a 100-year flood flow of 1,170 cubic feet per second; (4) a 28-foot-diameter, 7,000-foot-long, concrete-lined power tunnel located 300 feet below the ground surface that extends from the upper reservoir to two 17.5-foot-diameter, 2,400-foot-long concrete-lined vertical shafts connecting the power tunnel with the underground powerhouse penstocks; (5) six 6-foot-3-inch diameter, 235-foot-long, steel-and concrete-lined penstocks; (6) an underground powerhouse containing six 250-megawatt (MW) reversible pump-turbines; (7) an underground transformer gallery; (8) a 3-mile-long, 345-kilovolt overhead transmission line; and (9) appurtenant facilities. The estimated annual generation of the South Run Project would be between 1,300 and 2,000 gigawatt-hours, depending on utilization factors. There are no Federal or state lands associated with the project.

Applicant Contact: Daniel R. Irvin, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 252–7631.

FERC Contact: Sergiu Serban; phone: (202) 502–6211.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13876–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–31708 Filed 12–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13213–001]

Lock 14 Hydro Partners; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

December 10, 2010.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 13213–001.

c. *Dated Filed:* October 12, 2010.

d. *Submitted By:* Lock 14 Hydro Partners.

e. *Name of Project:* Kentucky Lock and Dam 14 Project.

f. *Location:* On the Kentucky River, in Lee County, Kentucky.

g. *Filed Pursuant to:* 18 CFR 4.6 of the Commission's regulations.

h. *Potential Applicant Contact:* David Brown Kinloch, Soft Energy Associates, Agent for Lock 14 Hydro Partners, 414 South Wenzel Street, Louisville, KY 40204, (502) 589–0975.

i. *FERC Contact:* Sean Murphy at (202) 502–6145; or e-mail at *sean.murphy@ferc.gov.*

j. Lock 14 Hydro Partners filed its request to use the Traditional Licensing Process on October 11, 2010. Lock 14 Hydro Partners provided public notice of its request on November 15, 2010. In a letter dated December 10, 2010, the Director of the Office of Energy Projects approved Lock 14 Hydro Partners' request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Kentucky State Historic Preservation Officer, as required by Section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Lock 14 Hydro Partners filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public

Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–31709 Filed 12–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[P–13214–001]

Lock 12 Hydro Partners; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

December 10, 2010.

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 13214–001.

c. *Dated Filed:* October 12, 2010.

d. *Submitted by:* Lock 12 Hydro Partners.

e. *Name of Project:* Kentucky Lock and Dam 12 Project.

f. *Location:* On the Kentucky River, in Estill County, Kentucky.

g. *Filed Pursuant to:* 18 CFR 4.6 of the Commission's regulations.

h. *Potential Applicant Contact:* David Brown Kinloch, Soft Energy Associates, Agent for Lock 12 Hydro Partners, 414 South Wenzel Street, Louisville, KY 40204, (502) 589–0975.

i. *FERC Contact:* Sean Murphy at (202) 502–6145; or e-mail at *sean.murphy@ferc.gov.*

j. Lock 12 Hydro Partners filed its request to use the Traditional Licensing Process on October 12, 2010. Lock 12 Hydro Partners provided public notice of its request on November 15, 2010. In a letter dated December 10, 2010, the Director of the Office of Energy Projects approved Lock 12 Hydro Partners' request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations there under at 50 CFR, Part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Kentucky State Historic Preservation Officer, as required by Section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Lock 12 Hydro Partners filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

n. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–31710 Filed 12–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13841–000]

County of DuPage; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

December 10, 2010.

On September 21, 2010, the County of DuPage, Illinois, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Elmhurst Quarry Pumped Storage Project (Elmhurst Quarry Project or project) to be located on Salt Creek, near Elmhurst City, DuPage County, Illinois. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A surface quarry (upper reservoir) having a total storage capacity of 8,145 acre-feet at a normal maximum operating elevation of 667 feet mean sea level (msl) and a usable capacity of 7,465 acre-feet; (2) an upper inlet/outlet structure equipped with trash racks and one or two slide gates for isolating and dewatering the penstock; (3) an 870-foot-long, 28-foot-diameter penstock consisting of both shaft and tunnel segments and extending between the upper inlet/outlet and the pump/turbines below; (4) an underground mine (lower reservoir) 250 feet below the bottom of the upper reservoir having a total/usable storage capacity of 7,465 acre-feet at normal maximum operation elevation of 210 feet msl; (5) a powerhouse with approximate dimensions of 185 feet long by 80 feet wide by 120 feet high and containing two vertical Francis reversible pump/turbine-motor/generator units rated for 125 megawatts each at 415 feet of net head; (6) a 120-foot-long, 28-foot-diameter tailrace tunnel connecting the pump/turbine draft tubes with the lower inlet/outlet; (7) a lower inlet/outlet structure equipped with one or two slide gates for isolating and dewatering the tailrace tunnel; (8) a substation containing step-up transformers, circuit breakers, and disconnect switches; (9) an underground 2-mile-long, 138-kilovolt (kV) transmission line extending from the project substation to an overhead 138-kV transmission line owned by Commonwealth Edison (the point of interconnection); (10) a switchyard constructed at the point of interconnection; and (11) appurtenant facilities. The estimated annual generation of the Elmhurst Quarry Project would be 708.5 gigawatt-hours.

Applicant Contact: Mr. Anthony Charlton, Director, Department of Environmental Concerns, DuPage County Center, 421 N. County Farm Road, Wheaton, Illinois 60187; phone: (630) 407–6698.

FERC Contact: Sergiu Serban; phone: (202) 502–6211.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13841–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–31711 Filed 12–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–40–000; CP10–34–000]

East Cheyenne Gas Storage, LLC; Notice of Intent To Prepare an Environmental Assessment for the East Cheyenne Gas Storage Project Well Plan Amendment and Request for Comments On Environmental Issues

December 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 Well Plan Amendment proposed by East Cheyenne Gas Storage, LLC (East Cheyenne). The proposed project would amend the East Cheyenne Gas Storage Project, authorized by the Commission on August 2, 2010 under Docket No. CP10–34–000, which consists of construction and operation of facilities in Logan County, Colorado. The proposed amendment primarily involves redeveloping a number of existing oil production wells in the West Peetz and Lewis Creek Fields to gas storage injection/withdrawal (I/W) wells. This EA will be used by the Commission in its decision-making process to determine whether the project amendment 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 amendment. 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 January 13, 2011.

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 amendment 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?" was attached to the project notice East Cheyenne provided to landowners. 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. It is also available for viewing on the FERC Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

The authorized East Cheyenne Gas Storage Project consists of construction and operation of a natural gas storage facility in two nearly depleted oil production fields in Logan County, Colorado. Prior to, and concurrent with development of the gas storage fields, East Cheyenne planned to do enhanced oil recovery (EOR) of petroleum reserves remaining in the storage fields. East Cheyenne's activities to date have included the conversion or plugging of existing wells in the West Peetz Field. The East Cheyenne Gas Storage Project is anticipated to have an initial working gas storage capacity of approximately 9.8 billion cubic feet (Bcf), which would increase to approximately 18.9 Bcf between 3 and 5 years after operation begins.

The proposed Well Plan Amendment consists of the following changes to the East Cheyenne Gas Storage Project:

- Conversion of 14 existing vertical oil production wells into natural gas storage I/W wells;
- Relocation of two of the certificated I/W wells, and the development of these wells as vertical wells rather than horizontal wells;
- Relocation of two of the originally certificated monitoring wells and the addition of three monitoring wells, using existing well pads and well bores;
- Reduction of the number of water disposal wells from four to three;
- Construction of additional gathering lines necessary to connect the additional and relocated wells;
- Conversion of 17 originally proposed and certificated temporary access roads to permanent access roads;
- Elimination of the temporary West Peetz Compressor Station; and
- Modification of the equipment to be used in the Process Facility to incorporate certain equipment previously included as part of the temporary West Peetz Compressor Station.

East Cheyenne proposes to amend its project because of recently acquired information about the existing conditions in the J Sands reservoir. As part of its EOR activities, East Cheyenne has reentered and evaluated the adequacy of previously plugged and abandoned wells and at the same time tested the characteristics of the reservoir. In response to new information, East Cheyenne undertook additional consultation and performed additional reservoir modeling. These consultations and modeling efforts suggest that the optimal method of commencing storage development and early storage operations will require an increased number of I/W wells and the conversion of horizontal wells to vertical wells.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

The approved East Cheyenne Gas Storage Project involved storing natural gas in nearly depleted reservoirs that underlie an area of approximately 2,360 acres, with an additional 3,400 acres serving as a storage buffer area. The

[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.

additional proposed facilities would all be located in previously surveyed areas within the project site. Construction of the proposed facilities within that area would require in total approximately 485.84 acres of land; an increase of 89.33 acres from the original project total of 396.51 acres. Following construction, about 201.39 acres would be maintained within the permanent right-of-way; an increase of 50.61 acres from the original project total of 150.78 acres. The remaining 284.45 acres of land would be restored and allowed to revert to its former use.

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 amendment 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 amendment, and make recommendations on how to lessen or avoid impacts on the various resource areas.

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 below.

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.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project amendment. 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 January 13, 2011.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP11–40–000) 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; 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.

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 website.

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 "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., CP11–40). 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

[2] "We," "us," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–31707 Filed 12–16–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Post-2014 Resource Pool-Loveland Area Projects, Allocation Procedures and Call for Applications

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of allocation procedures and call for applications.

SUMMARY: Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy (DOE), is publishing this notice of allocation procedures and call for applications from preference entities interested in an allocation of Federal electric power. Subpart C of the Energy Planning and Management Program (Program), which was developed in part to implement Section 114 of the Energy Policy Act of 1992, provides for establishing project-specific resource pools and allocating power from these pools to eligible new preference customers and for other appropriate purposes as determined by Western. These allocation procedures and call for applications, in conjunction with the Loveland Area Projects (LAP) Final Post-1989 Marketing Plan (Post-1989 Marketing Plan), establish the framework for allocating power from the LAP resource pool. This resource pool is comprised of up to one percent of the long-term marketable resource of the LAP.

DATES: An entity interested in applying for an allocation of electric power from Western must submit a written application (see Applicant Profile Data (APD) in Section V.A.) to Western's Rocky Mountain Customer Service Region at the address below. Western must receive the application by 4 p.m., MST, on Friday, March 4, 2011. Western reserves the right to not consider an application that is received after the prescribed date and time.

A single public information forum (not to exceed 3 hours) on the allocation procedures, call for applications, and APD will be held on Wednesday, February 2, 2011, at 1 p.m. MST; at the address below.

ADDRESSES: Submit applications for an allocation of electric power to Bradley S. Warren, Regional Manager, Rocky Mountain Customer Service Region, Western Area Power Administration. Applications may be delivered by certified mail, commercial mail, e-mail, or fax. Mail applications to 5555 East Crossroads Boulevard, Loveland, CO 80538–8986. Submit e-mail applications to *POST2014LAP@wapa.gov* with an electronic signature. If an electronic signature is not available, fax the signature page to 970–461–7204, or mail it to the address above. Fax applications to 970–461–7204.

Information about the Post-2014 Resource Pool Allocation Procedures, including letters and other supporting documents made or kept by Western pertaining to these allocation procedures and call for applications, is available for public inspection and copying at the Rocky Mountain Customer Service Region office, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986.

The single public information forum on the allocation procedures, call for applications and APD will be held on Wednesday, February 2, 2011, at 1 p.m., MST, at the Embassy Suites Hotel, Spa and Conference Center, 4705 Clydesdale Parkway, Loveland, CO 80538; telephone number 970–593–6200.

FOR FURTHER INFORMATION CONTACT: Linda Swails, Public Utilities Specialist, 970–461–7339, or Melanie Reed, Contracts and Energy Services Manager, 970–461–7229. Written requests for information should be sent to Rocky Mountain Customer Service Region, Western Area Power Administration, Attn: J6200, P.O. Box 3700, Loveland, CO 80539–3003.

SUPPLEMENTARY INFORMATION: Western published the final rule establishing the Program on October 20, 1995 (60 FR 54151). The rule became effective on November 20, 1995 and is codified at 10 CFR part 905. Subpart C of the Program, Power Marketing Initiative, provides for allocations from project-specific power resource pools to eligible new preference customers and/or for other appropriate purposes as determined by Western. Up to one percent of existing customers' allocations will be placed in a resource pool from which power allocations to new customers will be made. Allocations to new preference customers shall be made in accordance with the Post-1989 Marketing Plan and the Program. This notice sets forth the Post-2014 Resource Pool Allocation Procedures for making these allocations. These procedures address: (1) The amount of pool resources; (2) general eligibility criteria; (3) general allocation criteria, *i.e.,* how Western plans to allocate pool resources to new customers as provided for in the Program; (4) general contract principles under which Western will sell the allocated power, and; (5) APD, i.e., application information required from each applicant. As restated below, these procedures are consistent with the key principles and general eligibility and allocation criteria established in the LAP Post-2004 and Post-2009 Resource Pool Procedures.

I. Amount of Pool Resources

Western will allocate up to one percent of the LAP long-term firm hydroelectric resource available as of October 1, 2014, as firm power. "Firm power" means firm capacity and associated energy allocated by Western that is subject to the terms and conditions specified in Western's long-term firm electric service contract. The amount of resource that will become available on October 1, 2014, is approximately 6.9 MW for the summer season and 6.1 MW for the winter season.

II. General Eligibility Criteria

Western will apply the following general eligibility criteria to applicants seeking an allocation of firm power under the Post-2014 Resource Pool Allocation Procedures:

A. Qualified applicants must be preference entities as defined by Section 9c of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), as amended and supplemented.

B. Qualified applicants must be located within the currently established LAP marketing area. (*See* Section III.C. below for a description of the LAP marketing area.)

C. Qualified applicants must not have a current firm electric service contract nor be a member of a parent entity that has a firm electric service contract with Western.

D. Qualified utility and non-utility applicants must be able to use the firm

power directly or be able to sell it directly to retail customers.

E. Qualified utility applicants that are municipalities, cooperatives, public utility districts, or public power districts must attain utility status by October 1, 2011. "Utility status" means that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis.

F. A qualified Native American applicant must be an Indian Tribe as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 450b, as amended and supplemented.

III. General Allocation Criteria

Western will apply the following general allocation criteria to applicants seeking an allocation of firm power under the Post-2014 Resource Pool Allocation Procedures:

A. Allocations of firm power will be made in amounts solely determined by Western in exercising its discretion as permitted under Reclamation Law.

B. An allottee will have the right to purchase power only after executing a firm electric service contract with Western, and satisfying all conditions for firm electric service delivery in the contract.

C. Firm power allocated under these procedures will be available only to new qualified applicants in LAP's existing marketing area. This marketing area includes parts of Colorado, Kansas, Nebraska, and Wyoming. LAP's marketing area is specifically defined as the portion of Colorado east of the Continental Divide, Mountain Parks Rural Electric Association's service territory in Colorado west of the Continental Divide, the portion of Kansas located in the Missouri River Basin, the portion of Kansas west of the eastern borders of the counties intersected by the 100th Meridian, the portion of Nebraska west of the 101st Meridian, and Wyoming east of the Continental Divide.

D. An allocation made to an Indian Tribe will be based on actual load, or estimated load as developed by the Tribe. Western will evaluate and may adjust inconsistent estimates during the allocation process. Western is willing to assist Tribes in developing load estimating methods.

E. Allocations made to eligible utility and non-utility applicants will be based on 2009–2010 winter season and 2010 summer season loads. Western will apply the Post-1989 Marketing Plan, Program criteria, and the Post-2004 and Post-2009 Resource Pool criteria to these loads, except as restated herein.

F. Firm capacity and energy will be based upon each applicant's seasonal system load factor.

G. Any long-term firm electric service contract offered by Western to an applicant is expected to be executed by the applicant no later than September 30, 2012, unless otherwise agreed to in writing by Western.

H. The resource pool will be dissolved subsequent to the closing date for executing firm electric service contracts. Firm power not under contract will be used as Western determines.

I. The minimum allocation shall be 100 kilowatts (kW).

J. The maximum allocation shall be 5,000 kW. Qualified Native American applicants are not subject to this limitation.

K. Contract rates of delivery shall be subject to adjustment in the future as provided in the firm electric service contract.

L. If Western encounters unanticipated obstacles to delivering firm electric service to an Indian Tribe, it retains the right to provide the economic benefit of the resource directly to the Tribe.

IV. General Contract Principles

Western will apply the following general contract principles to all allottees receiving an allocation of firm power under the Post-2014 Resource Pool Allocation Procedures:

A. Western, at its discretion and sole determination, reserves the right to adjust the contract rate of delivery on 5 years' advance written notice in response to changes in hydrology and river operations. Any such adjustments shall take place only after a public process.

B. Each allottee is ultimately responsible for making its own third-party delivery arrangements. Western may assist allottees in making third-party transmission arrangements for delivery of firm power.

C. Contracts entered into under the Post-2014 Resource Pool Allocation Procedures shall provide for Western to furnish firm electric service effective October 1, 2014, through September 30, 2024.

D. Contracts entered into under the Post-2014 Resource Pool Allocation Procedures shall incorporate Western's standard provisions for power sales contracts, to include integrated resource planning and general power contract provisions.

V. Applications for Firm Power

This notice formally requests applications from qualified entities that desire to purchase firm power from LAP. Applications for an allocation of firm power under these procedures must be submitted in writing to the Regional Manager, Rocky Mountain Customer Service Region. APD must be received at Western's Rocky Mountain Customer Service Region in accordance with the requirements listed herein. Western reserves the right to not consider applications submitted before publication of this notice or after the deadline specified in the **DATES** section above. Applications are available upon request and at *http://www.wapa.gov/rm/PMcontractRM/Post2014.html.*

A. Applicant Profile Data (APD)

APD content and format are outlined below. To be considered, each applicant must submit its APD to Western's Rocky Mountain Customer Service Region no later than 4 p.m., MST, on March 4, 2011. *See* the **DATES** and **ADDRESSES** sections above for specific information on submission and deadline requirements. Applicants are encouraged to use the application form provided at the above referenced Web site, but may submit the requested information in another format using the sequence listed below. The applicant must provide all requested information or the most reasonable available estimate, and note any requested information that does not apply. Western is not responsible for errors in data, missing data, or missing pages. All APD should be answered as if prepared by the entity seeking an allocation of Federal power. The APD content and format follow.

APPLICANT PROFILE DATA

1. Applicant Information. Please provide the following:

a. Applicant's (entity/organization requesting an allocation) name and address:

Applicant's Name:	
Address:	
City:	
State:	
Zip:	

b. Person(s) representing the applicant:

Contact Person (Name & Title):	
Address:	
City:	

State:	
Zip:	
Telephone:	
Fax:	
E-mail Address:	

c. Type of entity/organization:

☐ Federal Agency
☐ Irrigation District
☐ Municipal, Rural, or Industrial User
☐ Municipality
☐ Native American Tribe
☐ Public Utility District
☐ Rural Electric Cooperative
☐ State Agency
☐ Other, please specify:

d. Parent entity/organization of the applicant, if any:

e. Name of the applicant's member organizations, if any:

f. Applicable law under which the applicant was established:

g. Applicant's geographic service area (if available, please submit a map of the service area and indicate the date prepared):

h. Describe whether the applicant owns and operates its own electric utility system:

i. Provide the date the applicant attained utility status, if applicable. 10 CFR part 905.35 defines "utility status" to mean "that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase power from Western on a wholesale basis for resale to retail consumers."

j. Describe the entity/organization that will interact with Western on contract and billing matters:

2. Service Requested:

a. Provide the amount of energy the applicant is requesting Western to serve (annual kWh):

3. Applicant's Loads:

a. Utility and non-utility applicants:

(i) If applicable, provide the number and type of customers served (e.g., residential, commercial, industrial, military base, agricultural):

CUSTOMER TYPE AND NUMBER

	Residential	Commercial	Industrial	Military	Ag.	Other
Number of customers						
If not applicable, explain why:						

(ii) Provide the actual monthly maximum demand (kilowatts) and energy use (kilowatt-hours) for each calendar month experienced in 2009–2010 winter season (October–March), and 2010 summer season (April–September):

2009–2010

	Oct 2009	Nov 2009	Dec 2009	January 2010	February 2010	March 2010
Demand (kilowatts)						
Energy (kilowatt-hours)						
	April 2010	May 2010	June 2010	July 2010	August 2010	September 2010
Demand (kilowatts)						
Energy (kilowatt-hours)						

(iii) Provide the average annual load factor for the Federal government Fiscal Year 2010 (October 2009 through September 2010):

Fiscal Year 2010 Average Annual Load Factor:

(iv) Provide the average monthly load factors for 2009–2010 winter season (October–March), and 2010 summer season (April–September):

2009–2010 AVERAGE MONTHLY LOAD FACTOR

	Oct 2009	Nov 2009	Dec 2009	January 2010	February 2010	March 2010
Load Factor						

	April 2010	May 2010	June 2010	July 2010	August 2010	September 2010
Load Factor						

(v) Identify any factors or conditions anticipated in the next 5 years which may significantly change peak demands, load duration, or profile curves:

b. Native American Tribe applicants only:

(i) Indicate the utility or utilities currently serving your loads:

(ii) If applicable, provide the number and type of customers served (e.g., residential, commercial, industrial, military base, agricultural):

CUSTOMER TYPE AND NUMBER

	Residential	Commercial	Industrial	Military	Ag.	Other
Number of customers						
If not applicable, explain why:						

(iii) Provide the actual monthly maximum demand (kilowatts) and energy use (kilowatt-hours) experienced in 2009–2010 winter season (October–March), and 2010 summer season (April–September). If the actual demand and energy data are not available or are difficult to obtain, provide the estimated monthly demand and energy data:

2009–2010

	Oct 2009	Nov 2009	Dec 2009	January 2010	February 2010	March 2010
Demand (kilowatts)						
Energy (kilowatt-hours)						
	April 2010	May 2010	June 2010	July 2010	August 2010	September 2010
Demand (kilowatts)						
Energy (kilowatt-hours)						

(iv) If the demand and energy data in 3.b.(iii) above is estimated, provide a description of the method and basis for the estimation:

(v) Provide the actual average annual load factor for the Federal government Fiscal Year 2010 (October 2009 through September 2010). If the actual load factor is not available, provide the estimated load factor:

Fiscal Year 2010 Average Annual Load Factor:

(vi) Provide the actual monthly load factors for 2009–2010 winter season (October–March), and 2010 summer season (April–September). If the actual load factors are not available, provide the estimated load factors:

2009–2010 AVERAGE MONTHLY LOAD FACTOR

	Oct 2009	Nov 2009	Dec 2009	January 2010	February 2010	March 2010
Load Factor						
	April 2010	May 2010	June 2010	July 2010	August 2010	September 2010
Load Factor						

(vii) If the load factor data in 3.b.(v) and (vi) is estimated, provide a description of the method and basis for the estimation:

(viii) Identify any factors or conditions anticipated in the next 5 years which may significantly change peak demands, load duration, or profile curves:

4. Applicant's Resources. Please provide the following information:

a. A list of current power supplies if applicable, including the applicant's own generation, as well as purchases from others. For each supply, provide the resource name, capacity supplied, and the resource's location:

b. For each power supplier, provide a description and status of the power supply contract (including the termination date):

c. For each power supplier, provide the type of power:

☐ Power supply is on a firm basis.

☐ Power supply is on a non-firm basis.

Please explain:

5. Transmission:

a. Points of delivery. Provide the requested point(s) of delivery on Western's transmission system (or a third party's transmission system), the voltage of service required, and the capacity desired, if applicable:

b. Transmission arrangements. Describe the transmission arrangements necessary to deliver firm power to the requested points of delivery. Include a brief description of the applicant's transmission and distribution system including major interconnections. Provide a single-line drawing of applicant's system if one is available:

c. Provide a brief explanation of the applicant's ability to receive and use, or receive and distribute, Federal power as of [date]:

6. Other Information. The applicant may provide any other information pertinent to receiving an allocation:

7. Signature: Western requires the signature and title of an appropriate official who is able to attest to the validity of the APD and who is authorized to submit the request for an allocation.

By signing below, I certify the APD which I have provided is true and correct to the best of my knowledge and belief.

Signature Title

Record Keeping Requirements: If Western accepts an application and the applicant receives an allocation of Federal power, the applicant must keep all APD for a period of 3 years after signing a firm electric service contract.

B. Western's Consideration of Applications

1. Upon receipt, Western will review APD and verify that each applicant meets the general eligibility criteria set forth in Section II.

a. Western will request, in writing, additional information from any applicant whose APD is deficient. The applicant shall have 15 calendar days from the date on Western's request letter to provide, in writing, the needed information. If the requested information is not provided within that time, Western retains the right to consider the application withdrawn.

b. If Western determines that an applicant does not meet the general eligibility criteria, Western will send a letter explaining why the applicant did not qualify.

c. If an applicant meets the general eligibility criteria, Western will determine the amount of firm power to be allocated pursuant to the general allocation criteria set forth in Section III. Western will send for the applicant's review a draft contract, which contains the terms and conditions of the offer and the amount of firm power allocated to the applicant.

2. Western reserves the right to determine the amount of firm power to allocate to an applicant, as justified by an applicant's APD.

VI. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501–3520, Western has received approval from the Office of Management and Budget to collect APD under control number 1910–5136.

Notwithstanding any other provision 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 of information displays a currently valid OMB Control Number.

VII. Review Under the National Environmental Policy Act

Western completed an environmental impact statement on the Program pursuant to the National Environmental Policy Act of 1969 (NEPA).

The Record of Decision was published in the **Federal Register**, 60 FR 53181, on October 12, 1995. Western will comply with any additional NEPA requirements for this resource pool.

Dated: December 10, 2010.

Timothy J. Meeks,

Administrator.

[FR Doc. 2010–31749 Filed 12–16–10; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–EFL–8994–2]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements.

Filed 12/06/2010 through 12/10/2010.

Pursuant to 40 CFR 1506.9.

Notice: In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has included its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the website satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

EIS No. 20100462, Draft EIS, FWS, CA, Santa Clara Valley Habitat Plan, To Protect and Enhance Ecological Diversity and Function in the Greater Portion of Santa Clara County, Implementation, Santa Clara County, CA, Comment Period Ends: 01/31/2011, Contact: John Robles 916–414–6731.

EIS No. 20100463, Draft EIS, HUD, WA, Sunset Area Community Planned Action, Proposal to Redevelopment of the Sunset Terrace Public Housing Community and Associated Neighborhood Growth and Revitalization, City of Renton, WA, Comment Period Ends: 01/31/2011, Contact: Erika Conkling 415–430–6578.

EIS No. 20100464, Final EIS, NPS, FL, Everglades National Park Tamiami Trail Modifications: Next Steps Project, To Restore More Natural Water Flow to Everglades National Parks and Florida Bay, FL, Wait Period Ends: 01/18/2011, Contact: Dan Kimball 305–242–7712.

EIS No. 20100465, Final EIS, NRC, NY, Generic—License Renewal of Nuclear Plants, Supplement 38 to NUREG–1437, Regarding Indian Point Nuclear Generating Unit Nos. 2 and 3, Westchester County, NY, Wait Period Ends: 01/18/2011, Contact: Andrew Stuyvenberg 301–415–4006.

EIS No. 20100466, Draft EIS, BLM/DOE, 00, Programmatic—Solar Energy Development in Six Southwestern States, To Establish a New BLM Solar Energy Program applicable to Utility-Scale Solar Energy Development and DOE's Proposed Action to Develop new Program Guidance Relevant to DOE Supported Solar Project, AZ, CA, CO, NV, NM and UT, Comment Period Ends: 03/17/2011, Contact: Linda Resseguie 202–912–7337. BLM and DOE are Joint Lead Agencies for the above project contact for BLM is Linda Resseguie, 202–912–7337 and contact for DOE is Jane Summerson, 202–287–6188.

EIS No. 20100467, Final EIS, BLM, NV, Emigrant Mine Project, Proposed Open Pit Gold Mine, Plan-of-Operation, South of Carlin in Elko County, NV, Wait Period Ends: 01/18/2011, Contact: Tom Schmidt 775–753–0200.

EIS No. 20100468, Draft EIS, USACE, MS, Mississippi River Gulf Outlet (MRGO) Ecosystem Restoration Study, To Develop a Comprehensive Ecosystem Restoration Plan to Restore the Lake Borgne, Implementation, MS, Comment Period Ends: 01/31/2011, Contact: Tammy Gilmore 504–862 –1002.

EIS No. 20100469, Final EIS, BR, CA, South Coast Conduit/Upper Reach Reliability Project, Construction of a Second Water Pipeline for Improving Water Supply, US Army COE Section 10 and 404 Permits, Santa Barbara County, CA, Wait Period Ends: 01/18/2011, Contact: Rain Healer 559–487–5196.

EIS No. 20100470, Draft EIS, GSA, DC, Department of Homeland Security Headquarters Consolidation at St. Elizabeths Master Plan Amendment—East Campus North Parcel, St. Elizabeths Campus in Southeast Washington, DC., Comment Period Ends: 02/02/2011, Contact: Denise Decker 202–538–5643.

EIS No. 20100471, Final EIS, BLM, 00 Southern California Edison's Eldorado-Ivanpah Transmission Line Project, Construction and Operation, Right-of-Way Application, Clark County, NV and San Bernardino County, CA, Wait Period Ends: 01/18/2011, Contact: Tom Hurshman 970–240–5345.

Amended Notices

EIS No. 20100322, Draft EIS, USAF, 00, Powder River Training Complex Project, Proposal to Improve Airspace for Training, Primarily, B–1 Aircrews at Ellsworth AFB, South Dakota, and B–52 Aircrews at Minot AFB, North Dakota, Comment Period Ends: 01/20/2011, Contact: Linda Devine 757–964–9434.

Revision to FR Notice Published 08/20/2010: Extending Comment Period from 11/15/2010 to 01/20/2011.

EIS No. 20100339, Final EIS, BLM, CA, Adoption—Genesis Solar Energy Project, Application for a Right-of-Way Grant to Construct, Operate and Decommission a Solar Thermal Facility on Public Lands, California Desert Conservation Area Plan, Riverside County, CA, Wait Period Ends: Contact: Matthew McMillen 202–586–7248.

Revision to FR Notice Published 08/27/2010: The US Department of Energy's has adopted the Department of Interior's Bureau of Land Management FEIS #20100339, filed 08/20/2010. DOE was a cooperating agency for the above project. Recirculation of the FEIS is not necessary under 40 CFR 1506.3(c).

EIS No. 20100438, Draft EIS, USA, CO, Programmatic—Growth, Realignment, and Stationing of Army Aviation Assets, Evaluates Environmental Impacts of Stationing Army Combat Aviation Brigade at Fort Carson, CO and Joint Base Lewis-McChord, WA, Comment Period Ends: 01/07/2011, Contact: Mike Ackerman 210–295–2273.

Revision to FR Notice Published 11/05/2010; Extending Comment Period from 12/20/2010 to 01/07/2011.

Dated: December 14, 2010.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2010–31793 Filed 12–16–10; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 2010–0036]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

Form Title: U.S. Beneficiary Certificate and Agreement EIB 92–37.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995. Our customers will be able to submit this form on paper or electronically.

This form is used when the beneficiary of the letter of credit, the recipient of a funding under a direct buyer credit loan, or the recipient of payment under a reimbursement loan or a payment under a supplier credit is not the exporter. If the need to use this form arises, the insured holds it in the event of a claim, at which time it would submit it to Export-Import Bank along with all other claim documentation. The form provides Export-Import Bank staff with the information necessary to make a determination of the eligibility of the claimed export transaction for coverage.

DATES: Comments should be received on or before January 18, 2011 to be assured of consideration.

ADDRESSES: Comments may be submitted through *http://www.regulations.gov* or mailed to the Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20038 attn: OMB 3048–0022.

SUPPLEMENTARY INFORMATION:

Titles and Form Number: EIB 92–37 U.S. Beneficiary Certificate and Agreement.

OMB Number: 3048–0022.

Type of Review: Regular.

Need and Use: If the need to use this form arises, the insured holds it in the event of a claim, at which time it would submit it to Export-Import Bank along with all other claim documentation.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 10.

Estimated Time per Respondent: 1 hour.

Government Annual Burden Hours: 2.5 hours.

Frequency of Reporting or Use: Once.

Sharon A. Whitt,

Agency Clearance Officer.

[FR Doc. 2010–31720 Filed 12–16–10; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

December 3, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501—3520. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before February 15, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information contact Leslie F. Smith, (202) 418–0217, *Leslie.Smith@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0713.

Title: Alternative Broadcast Inspection Program (ABIP) Compliance Notification.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents and Responses: 53 respondents; 2,650 responses.

Estimated Time per Response: 5 minutes (0.084 hours).

Frequency of Response: On occasion reporting requirement; third party disclosure.

Obligation to Respond: Voluntary. Statutory authority for this collection of information is contained in 47 U.S.C. 303(n) and 47 CFR 73.1225.

Total Annual Burden: 223 hours.

Total Annual Cost: $0.00.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission. If the Commission requests that respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459. [or similar language—OMB won't allow us to use "N/A" anymore]

Needs and Uses: The Alternative Broadcast Inspection Program (ABIP) is a series of agreements between the Federal Communications Commission's (FCC) Enforcement Bureau and a private entity, usually a state broadcast association, whereby the private entity agrees to facilitate inspections (and re-inspections, where appropriate) of participating broadcast stations to determine station compliance with FCC regulations. Broadcast stations participate in ABIP on a voluntary basis. The private entities notify their local FCC District Office or Resident Agent Office in writing of those stations that pass the ABIP inspection and have been issued a Certificate of Compliance by the ABIP inspector. The FCC uses this information to determine which broadcast stations have been certified in compliance with FCC Rules and will not be subject to certain random FCC inspections.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–31759 Filed 12–16–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notice

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, December 14, 2010, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g. Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2010–31533 Filed 12–16–10; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Notice

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, December 9, 2010, at 9:15 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g. Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Ccnmission.

[FR Doc. 2010–31535 Filed 12–16–10; 8:45 am]

BILLING CODE 6715–01–M

GENERAL SERVICES ADMINISTRATION

[2010–PBS–2; Docket 2010–0005; Sequence 15]

Notice of Intent To Prepare an Environmental Assessment, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting

AGENCY: Public Building Services (PBS); General Services Administration (GSA).

ACTION: Notice of intent to prepare an Environmental Assessment, request for comments on Environmental Issues, and Notice of Public Scoping Meeting.

SUMMARY: The General Services Administration (GSA) will prepare an Environmental Assessment (EA) that will analyze and discuss the environmental impacts of constructing and operating a proposed new Downtown Federal Building in Kansas City, Missouri. Through the project, GSA proposes to relocate its current operations from the Bannister Federal Complex in Kansas City, Missouri, and co-locate with other federal tenants at a proposed new Downtown Federal Building. The target property(ies) subject to this proposed action are those within an area bounded by 11th Street on the north, 12th Street on the south, Charlotte Street on the east, and Cherry Street on the west (known as city blocks 99 and 100), and could also include some level of development of 701 E. 12th Street, bounded by 12th Street, on the north, 13th Street, on the south, Holmes Street, on the west and Charlotte Street on the east. City blocks 99 and 100 lie within the downtown East Village development and tax increment financing (TIF) district, on the East-side of downtown, in Missouri's 5th Congressional District. In the EA, GSA will discuss impacts that could occur as a result of the construction and operation of the proposed project. GSA will also evaluate the "No Action" and other reasonable alternatives to the proposed project, or portions of the project, and consider how to lessen or avoid impacts on the various resource areas.

DATES: *Comment date:* Submit comments on or before January 31, 2011.

Public meeting date is: January 19, 2011, 9:30 a.m. to 12:30 p.m., St. Mary's Episcopal Church, 1307 Holmes, Kansas City, MO 64106.

ADDRESSES: Submit comments identified by Notice 2010–PBS–2, by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "Notice 2010–PBS–2" under the heading "Enter Keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "Notice 2010–PBS–2" Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Notice 2010–PBS–2" on your attached document.

• Comments can also be filed electronically, by e-mail, to *r06nepa@gsa.gov.*

Instructions: Please submit comments only and cite "Notice 2010–PBS–2", in all correspondence related to this case. 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: Chris Powers, GSA Regional NEPA Coordinator, 1500 East Bannister Road, Room 2135 (6PTA), Kansas City, MO 64131; Telephone (816) 823–5799.

SUPPLEMENTARY INFORMATION: *General:* This EA is being prepared pursuant to the National Environmental Policy Act, 42 U.S.C. 4321, (NEPA), and regulations implementing NEPA issued by the Council on Environmental Quality (40 CFR 1500–1508), GSA ADM 1095.1, the GSA PBS NEPA Desk Guide and other applicable regulations and policies. The EA will inform GSA in its decision-making process. Compliance with the National Historic Preservation Act (NHPA), including NHPA Section 106, and other laws and requirements, will be coordinated with this EA process, and government agencies that are affected by the proposed actions or have special expertise will be consulted, whether or not they are cooperating agencies. GSA is already involved in discussions with other jurisdictional agencies to identify their issues and concerns. With this notice, GSA is asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with GSA 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, above. An independent analysis of the issues will be presented in the EA. The EA will be placed in the public record and a comment period will be allotted on the Draft EA. GSA will consider all comments on the EA before making a final decision.

Purpose of Notice: The purpose of this notice is to: (1) Announce GSA's intent to prepare an EA; (2) announce the initiation of the public scoping process; (3) invite public participation during the scoping process and at the public scoping meeting; and (4) request public comments on the scope of the EA, including the potential environmental impacts associated with the proposed action.

Further Information on Public Participation and Dates: The public is encouraged to provide GSA with specific comments or concerns about the project. Comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts.

In addition to the above methods for submission of comments, those interested may also file a paper copy of comments, by regular mail, to Chris Powers, GSA Region 6 NEPA Coordinator, 1500 E. Bannister Road, Room 2135, Kansas City, Missouri 64131 or verbally offer comments to GSA's Region 6 NEPA Coordinator by calling (816) 823–5799.

Again, comments should be sent to GSA on or before January 31, 2011. With any comments, before including address, phone number, e-mail address, or other personal identifying information in your comment, be advised that the entire comment, including personal identifying information, may be made publicly available at any time. While you can ask in your comment to withhold from public review personal identifying information, GSA cannot guarantee that it will be able to do so.

Finally, in lieu of or in addition to sending written comments, GSA also invites you to attend the public scoping meeting scheduled and discussed in the body of this notice, above. Comments made at the public scoping meeting will also be considered in the EA process.

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 GSA will be made available at the Public Scoping Meeting and will be posted to a GSA Project Web site (*http://www.gsa.gov/r6news*), thereafter.

Dated: December 10, 2010.

Kevin D. Rothmier,

Director of Portfolio Management (6PT), U.S. General Services Administration, PBS, Heartland Region.

[FR Doc. 2010–31724 Filed 12–16–10; 8:45 am]

BILLING CODE 6820–CG–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–11–0765]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Fellowship Management System, (OMB No. 0920–0765 exp. 2/28/2011),—Revision—Scientific Education and Professional Development Program Office (SEPDPO), Office of Surveillance, Epidemiology and Laboratory Services (OSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

SEPDPO requests an additional three years to continue CDC's use of the online Fellowship Management System (FMS), and a revision to include two additional CDC fellowship applications and ten additional CDC fellowship directories. FMS allows applicants to apply to fellowships online and tracks fellowship applicants and alumni in one integrated database.

FMS provides an efficient and effective way for processing application data, selecting qualified candidates, maintaining a current alumni database, documenting the impact of the fellowships on alumni's careers, and generating reports. FMS reduces duplicate applicant records as well as agency resources to administer and

process paper records. The application process includes the following: Submission of responses to the questions in the online application; submission of academic transcripts and letters of recommendation; a review by selected programmatic staff and panel member experts; selection of qualified candidates for interview; interview of candidates; and selection of trainees for the fellowship programs.

The online application questions ask for academic history, professional experience, names of references, and description of professional goals. The application questions and data collected are necessary to the application process to determine programmatic eligibility and to ensure that the most highly qualified candidates are chosen for the training programs.

The alumni directory will allow CDC to maintain a current, centralized electronic database. Questions include updates to include email and other contact information, professional responsibilities, medical certifications, qualifications, and scientific skills in the event that it becomes necessary to contact alumni possessing mission-critical skills to meet a national public health emergency or an urgent public health need. Alumni data will also be used by CDC to document the impact of the fellowships on the career paths of participants, and thus, on the science and practice of public health, and by the alumni for maintaining their professional networks for finding jobs, staffing jobs, collaborating, and interacting with their fellow alumni.

Alumni will have two options for the level of information they wish to be visible to other alumni of their fellowship. They will have the option of displaying only their name, fellowship year, and professional information or all of their information. The default is to display only their name, fellowship year, and professional information. This information is already in the public domain.

The annual burden table has been updated to reflect an increase in the number of fellowships participating in FMS.

The estimated annualized burden for all nine fellowship applications is 748 hours (1,122 respondents × 40 minutes for completing the application), and the estimated annualized burden for all twelve directories is 114 hours (454 respondents × 15 minutes for updating their information). **Note:** Some alumni are deceased or cannot be located. Response burden assumes response from an individual responding alumnus, on average, every 3 years (which is likely an overestimate of frequency). There is no cost to respondents other than their time. The total estimated annualized burden hours are 862.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Frequency of Response	Average annualized burden per response (in hours)
Fellowship applicants	1122	1	40/60
Fellowship alumni	454	1	15/60

Dated: December 9, 2010.

Carol E. Walker,

CDC Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–31672 Filed 12–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–11–11BB]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Carol Walker, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Crime Prevention Through Environmental Design: Linking Observed School Environments With Student and School-Wide Experiences of Violence and Fear—New—Division of Violence Prevention (DVP), National Center for Injury Prevention (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Among the goals of the Centers for Disease Control and Prevention (CDC), National Center for Injury Prevention and Control (NCIPC) is to reduce the prevalence of violence among youth. Several important priorities included in the Center's published research agenda focus on studying how physical environments influence behavior and risk for violence. The CDC has developed an observational tool called the Crime Prevention Through Environmental Design (CPTED) School Assessment (CSA) to assess the extent to which the physical characteristics of schools are consistent with Crime Prevention Through Environmental Design (CPTED) principles. The proposed research will allow an assessment of the validity of the CSA by examining the extent to which the CSA subscales, total CSA scores, and CPTED principles are related to fear and violence, and related variables. If the CSA tool is shown to measure characteristics of the school environment that are associated with fear and violence-related behaviors in

school, then it may be used as the basis for research, design, and evaluation of interventions for schools seeking to prevent or reduce the occurrence of crime and violence by providing information related to (re)designing physical features of the environment and changing policies and procedures related to using the school environment.

In addition, an exploratory purpose of this research is to determine whether the CSA items can be divided reliably into supposedly distinct variables reflecting each of the CPTED principles. If we produce practical support for the assessment of these "CPTED variables," then we will also assess validity by determining whether these variables are logically related to our measures of fear, violence and climate in schools.

Survey data from 75 students (25 each from 6th, 7th, and 8th grades) per school site will be collected from 50 middle schools selected and recruited from 13 school districts in the metro-Atlanta, Georgia area (approximately 3,750 total student participants), in addition to the observational (CSA) data collection. The student survey will assess variables such as school climate, and actual and perceived levels of school violence at each school. In addition, archival/administrative data will be collected from each of the 50 schools on a School Site Data Form providing information on neighborhood and school characteristics from various sources (*e.g.,* school site information reported by the school administrator, school district data available on the Web, U.S. Census data, and school disciplinary records). There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden response (in hours)	Total burden (in hours)
CPTED Student Survey	3,750	1	1	3750
CPTED Student Survey Data Collection Checklist (DCC)	150	1	0.5	75
CPTED School Site Data Form	50	1	2	100
Total				3925

Dated: December 9, 2010.

Carol E. Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–31674 Filed 12–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Centers for Disease Control and Prevention/Health Resources and Services Administration (CDC/HRSA) Advisory Committee on HIV and STD Prevention and Treatment: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the CDC/HRSA Advisory Committee on HIV and STD Prevention and Treatment, Department of Health and Human Services, has been renewed for a 2-year period through November 25, 2012.

Contact Person for More Information: Kevin Fenton, M.D., PhD, Designated Federal Officer, CDC/HRSA Advisory Committee on HIV and STD Prevention and Treatment, Department of Health and Human Services, CDC, 1600 Clifton Road, NE., Mailstop E07, Atlanta, Georgia 30333, telephone (404)639–8000 or fax (404)639–8600.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 13, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–31785 Filed 12–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Pilot Longitudinal Data Collection To Inform Public Health—Fragile X Syndrome, DD11–007, Initial Review

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 aforementioned meeting:

Time and Date: 11 a.m.–5 p.m., April 15, 2011 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of "Pilot Longitudinal Data Collection to Inform Public Health—Fragile X Syndrome, DD11–007, initial review."

Contact Person for More Information: Donald Blackman, PhD, Scientific Review Officer, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office of the Director, Extramural Research Program Office, 4770 Buford Highway, NE., Mailstop K–92, Atlanta, GA 30341, Telephone: (770) 488–3023, E-mail: *DBY7@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 13, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–31787 Filed 12–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Addressing Global TB Prevention and Control in all Populations and Strengthening Health Facilities, Laboratories, Prisons and Other Community Settings, Funding Opportunity Announcement (FOA) PS11–002; and Addressing TB Control and Lung Health Activities through the Vietnam National Lung Hospital/ National TB Program (NLH/NTP), FOA PS11–004, Initial Review

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 aforementioned meeting:

TIME AND DATE: 12 p.m.—2 p.m., March 10, 2011 (Closed).

PLACE: Teleconference.

STATUS: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

MATTERS TO BE DISCUSSED: The meeting will include the initial review, discussion, and evaluation of applications received in response to "Addressing Global TB Prevention and Control in all Populations and Strengthening Health Facilities, Laboratories, Prisons And Other Community Settings, FOA PS11–002" and "Addressing TB Control and Lung Health Activities through the Vietnam National Lung Hospital/National TB Program (NLH/NTP), FOA PS11–004, initial review."

CONTACT PERSON FOR MORE INFORMATION: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road, NE., Mailstop E60, Atlanta, Georgia 30333, Telephone: (404) 498–2293.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Dated: December 13, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–31798 Filed 12–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee on Procedures Review, Advisory Board on Radiation and Worker Health (ABRWH), 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 for the aforementioned subcommittee:

Time and Date: 9 a.m.–5 p.m., January 5, 2011.

Place: Cincinnati Airport Marriott, 2395 Progress Drive, Hebron, Kentucky 41018. Telephone (859) 334–4611, Fax (859) 334–4619.

Status: Open to the public, but without a public comment period. To access by conference call, dial the following information: (866) 659–0537, Participant Pass Code 9933701.

Background: The ABRWH 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 compensation program. Key functions of the ABRWH include providing advice on the development of probability of causation guidelines that 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 ABRWH to HHS, which subsequently delegated this authority to 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: The ABRWH 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 a reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee on Procedures Review was established to aid the ABRWH in carrying out its duty to advise the Secretary, HHS, on dose reconstructions. The Subcommittee on Procedures Review is responsible for overseeing, tracking, and participating in the reviews of all procedures used in the dose reconstruction process by the NIOSH Division of Compensation Analysis and Support (DCAS) and its dose reconstruction contractor.

Matters To Be Discussed: The agenda for the Subcommittee meeting includes: Review of draft prototype documents for informing the public on completed Subcommittee procedure reviews; discussion of the following ORAU & OCAS procedures: ORAUT–RPRT–0044 ("Analysis of Bioassay Data with a Significant Fraction of Less-Than Results"), OCAS TIB–0013 ("Special External Dose Reconstruction Considerations for Mallinckrodt Workers"), OTIB–014 ("Rocky Flats Internal Dosimetry Co-Worker Extension"), OTIB–019 ("Analysis of Coworker Bioassay Data for Internal Dose Assignment"), OTIB–0029 ("Internal Dosimetry Coworker Data for Y–12"), OTIB–0047 (External Radiation Monitoring at the Y–12 Facility During the 1948–1949 Period"), OTIB–0049 ("Estimating Doses for Plutonium Strongly Retained in the Lung"), OTIB–0052 ("Parameters to Consider When Processing Claims for Construction Trade Workers"), OTIB–0054 ("Fission and Activation Product Assignment for Internal Dose-Related Gross Beta and Gross Gamma Analyses"), and OTIB–0070 ("Dose Reconstruction During Residual Radioactivity Periods at Atomic Weapons Employer Facilities"); and a continuation of the comment-resolution process for other dose reconstruction procedures under review by the Subcommittee.

The agenda is subject to change as priorities dictate.

This meeting is open to the public, but without a public comment period.

In the event an individual wishes to provide comments, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below in advance of the meeting.

Contact Person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road, Mailstop E–20, Atlanta, GA 30333, Telephone (513) 533–6800, Toll Free 1 (800) CDC–INFO, E-mail *dcas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Dated: December 13, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–31784 Filed 12–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Maternal Vitamin D Status and Preterm Birth, DP11–002, Initial Review

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 aforementioned meeting:

Time and Date: 11 a.m.–5 p.m., April 1, 2011 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of "Maternal Vitamin D Status and Preterm Birth, DP11–002, initial review."

Contact Person for More Information: Donald Blackman, PhD, Scientific Review Officer, CDC, National Center for Chronic Disease Prevention and Health Promotion, Office of the Director, Extramural Research Program Office, 4770 Buford Highway, NE., Mailstop K–92, Atlanta, GA 30341, Telephone: (770) 488–3023, E-mail: *DBY7@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 13, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–31781 Filed 12–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Centers for Autism and Developmental Disabilities Research and Epidemiology (CADDRE), Funding Opportunity Announcement (FOA) DD11–002, Initial Review

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 aforementioned meeting:

Time and Date: 10 a.m.–5 p.m., March 10, 2011 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of "Centers for Autism and Developmental Disabilities Research and Epidemiology (CADDRE), FOA DD11–002."

Contact Person for More Information: Donald Blackman, PhD, Scientific Review Officer, Extramural Research Program Office, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, NE., Mailstop K–92, Atlanta, Georgia 30341, Telephone: (770) 488–3023, e-mail: *DBY7@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 13, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–31778 Filed 12–16–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–18F5 and CMS–R–26]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Application for Hospital Insurance; *Use:* Individuals who are not entitled to or eligible for railroad retirement board (RRB) or Social Security Administration benefits must file an application for Part A. This group includes individuals who defer filing an application for monthly benefits, individuals who are transitionally insured, government employees who pay only the Hospital Insurance portion of the Federal Insurance Contributions Act tax and individuals eligible for Premium Part A for the Working Disabled. The Application for Hospital Insurance-CMS–18F5 was designed to capture all the information needed to make a determination of an individual's

entitlement to Part A and Supplementary Medical Insurance (Part B). *Form Number:* CMS–18F5 (OMB#: 0938–0251); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 50,000; Total *Annual Responses:* 50,000; *Total Annual Hours:* 12,495. (For policy questions regarding this collection contact Naomi Rappaport at 410–786–2175. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendment (CLIA) of 1988 and Supporting Regulations in 42 CFR 493.1–.2001; *Use:* The information collection requirements in 42 CFR part 493 outline the requirements necessary to determine an entity's compliance with CLIA. CLIA requires laboratories that perform testing on human beings to meet performance requirements (quality standards) in order to be certified by the Department of Health and Human Services (DHHS). DHHS conducts inspections to determine a laboratory's compliance with CLIA requirements. CLIA implements the certificate, laboratory standards and inspection requirements; *Form Number:* CMS–R–26 (OMB#: 0938–0612); *Frequency:* Occasionally; *Affected Public:* Federal Government; State, Local, or Tribal Governments; Private Sector: Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 168,688; *Total Annual Responses:* 756,240; *Total Annual Hours:* 11,363,280. (For policy questions regarding this collection contact Raelene Perfetto at 410–786–6876. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *January 18, 2011.*

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974. E-mail: *OIRA_submission@omb.eop.gov.*

Dated: December 10, 2010.

Martique Jones,

Director, Regulations Development Division-B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2010–31599 Filed 12–16–10; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–102 and CMS–105, CMS–10241, CMS–10261, CMS–10185, and CMS–10340]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments of 1988 (CLIA) Budget Workload Reports and Supporting Regulations in 42 CFR 493.1-.2001; *Use:* The collected information will be used by CMS to determine the amount of Federal reimbursement for surveys conducted. Use of the information includes program evaluation, audit, budget formulation and budget approval. Form CMS–102 is a multi-purpose form designed to capture and record all budget and expenditure data. Form CMS–105 captures the annual projected CLIA workload that the State survey agency will accomplish. It is also used by the CMS regional office to approve the annual projected CLIA workload. The information is required as part of the section 1864 agreement with the State; *Form Numbers:* CMS–102 and CMS–105 (OMB#: 0938–0599); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 50; *Total Annual Responses:* 50; *Total Annual Hours:* 4,500. (For policy questions regarding this collection contact Carla Ausby at 410–786–2153. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Annual State Report and Annual State Performance Rankings; *Use:* Section 6001(f) of the Deficit Reduction Act (DRA) requires CMS to contract with a vendor to conduct a monthly national survey of retail prescription drug prices and to report the prices to the States. These national average prices may be used as a benchmark by the States for the management of their prescription drug programs. The DRA also requires that the States submit pricing information for the 50 most widely prescribed drugs so that the States' prices can be compared to the national average prices obtained from the survey. The States pricing information will be compared and the States will be ranked. The Act also requires that States report their drug utilization rates for noninnovator multiple source (generic) drugs, their payment rates under their State plan, and their dispensing fees. The template has been developed to facilitate data collection; *Form Number:* CMS–10241 (OMB#: 0938–1041); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 51; *Total Annual Hours:* 765. (For policy questions regarding this collection contact Joseph Fine at 410–786–2128. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* Revision of currently approved collection; *Title of Information Collection:* Part C Medicare Advantage (MA) Reporting Requirements and Supporting Regulations; *Use:* CMS has authority to establish reporting requirements for Medicare Advantage Organizations (MAO's) as described in 42 CFR § 422.516 (a). Each MAO must have an effective procedure to develop, compile, evaluate, and report to CMS, to its enrollees, and to the general public, at the times and in the manner that CMS requires, and while safeguarding the confidentiality of the doctor-patient relationship, statistics and other information with respect to the cost of its operations, patterns of service utilization, availability, accessibility,

and acceptability of its services, developments in the health status of its enrollees, and other matters that CMS may require. Data collected via Medicare Part C Reporting Requirements will be an integral resource for oversight, monitoring, compliance and auditing activities necessary to ensure quality provision of the benefits provided by MA plans to enrollees. *Form Number:* CMS–10261 (OMB# 0938–1054); *Frequency:* Yearly, Quarterly; Affected *Public:* Business or other for-profits; *Number of Respondents:* 588; *Total Annual Responses:* 1158; *Total Annual Hours:* 245,528. (For policy questions regarding this collection contact Terry Leid at 410–786–8973. For all other issues call 410–786–1326.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Part D Reporting Requirements and Supporting Regulations; *Use:* 42 CFR part 423, § 423.514, requires each Part D Sponsor to have an effective procedure to provide statistics indicating: the cost of its operations, the patterns of utilization of its services, the availability, accessibility, and acceptability of its services, information demonstrating it has a fiscally sound operation and other matters as required by CMS. In addition, subsection 423.505 of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA), establishes as a contract provision that Part D Sponsors must comply with the reporting requirements for submitting drug claims and related information to CMS. Data collected via Medicare Part D Reporting Requirements will be an integral resource for oversight, monitoring, compliance and auditing activities necessary to ensure quality provision of the Medicare Prescription Drug Benefit to beneficiaries. Data will be validated, analyzed, and utilized for trend reporting by the Division of Clinical and Operational Performance (DCOP) within the Medicare Drug Benefit Group. *Form Number:* CMS–10185 (OMB#: 0938–0992); *Frequency:* Yearly, Quarterly, Semi-Annually; *Affected Public:* Private sector, business or other for-profit; *Number of Respondents:* 2993; Total *Annual Responses:* 48,490; *Total Annual Hours:* 128,754. (For policy questions regarding this collection contact LaToyia Grant at 410–786–5434. For all other issues call 410–786–1326.)

5. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Collection of Encounter Data from Medicare Advantage Organizations; *Use:* The Centers for Medicare and Medicaid Services (CMS) intends to collect encounter data, or data on each item or service delivered to an enrollee, from Medicare Advantage Organizations. Medicare Advantage organizations will obtain this data from providers. CMS would collect the data electronically from Medicare Advantage Organizations via the Health Insurance Portability and Accountability Act (HIPAA) compliant standard Health Care Claims transactions for professional data and institutional data. The information is used to submit health care claims or equivalent health encounter information, carry out health plan enrollments and disenrollments, determine health plan eligibility, send and receive health care payment and remittance advices, transmit health plan premium payments, determine health care claim status, provide referral certifications and authorizations, and coordinate the benefits for individuals who have more than one health plan. *Form Number:* CMS–10340 (OMB#: 0938–New); *Frequency:* Weekly; *Affected Public:* Private sector; businesses or other for-profits; *Number of Respondents:* 678; Total *Annual Responses:* 384,041,063; *Total Annual Hours:* 768. (For policy questions regarding this collection contact Sean Creighton at 410–786–9302 or Deondra Moseley at 410–786–4577. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *February 15, 2011:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 10, 2010.

Martique Jones,

Director, Regulations Development Division-B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2010–31541 Filed 12–16–10; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0627]

Agency Information Collection Activities; Proposed Collection; Comment Request; Application for Food and Drug Administration Approval to Market a New Drug

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements governing applications for FDA approval to market a new drug.

DATES: Submit either electronic or written comments on the collection of information by February 15, 2011.

ADDRESSES: Submit electronic comments on the collection of information to: *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal

Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Application for FDA Approval to Market a New Drug—(OMB Control Number 0910–0001)—Extension

Under section 505(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(a)), a new drug may not be commercially marketed in the United States, imported or exported from the United States, unless an approval of an application filed with FDA under section 505(b) or 505(j) of the FD&C Act is effective with respect to such a drug. Under the FD&C Act, it is the sponsor's responsibility to provide the information needed by FDA to make a scientific and technical determination whether the product is safe and effective for use.

This information collection approval request is for all information requirements imposed by the regulations under part 314 (21 CFR 314) on sponsors who apply for approval of a new drug application (NDA) or abbreviated new drug application (ANDA) in order to market or to continue to market a drug.

Section 314.50(a) requires that the applicant submit an application form (Form FDA 356h) that includes introductory information about the drug as well as a checklist of enclosures.

Section 314.50(b) requires that the applicant submit an index with the archival copy of the application and that it reference certain sections of the application.

Section 314.50(c) requires that the applicant submit a summary of the application that presents a good general synopsis of all the technical sections and other information in the application.

Section 314.50(d) requires that the NDA contain the following technical sections about the new drug: Chemistry, manufacturing, and controls; nonclinical pharmacology and toxicology; human pharmacokinetics and bioavailability; microbiology; clinical data; statistical; and pediatric use sections.

Section 314.50(e) requires that the applicant submit samples of the drug if requested by FDA. In addition, the archival copy of the application must include copies of the label and all labeling for the drug.

Section 314.50(f) requires that the applicant submit case report forms and tabulations with the archival copy.

Section 314.50(h) requires that the applicant submit patent information, as described under § 314.53, with the application. (The burden hours for § 314.50(h) are already approved by OMB under OMB control number 0910–0513 and are not included in the burden estimates in table 1 of this document.)

Section 314.50(i) requires that the applicant submit patent certification information in section 505(b)(2) applications for patents claiming the drug, drug product, or method of use.

Section 314.50(j) requires that applicants that request a period of marketing exclusivity submit certain information with the application.

Section 314.50(l) requires that the applicant submit an archival, review, and field copy of the application.

Section 314.52 requires that a section 505(b)(2) applicant that relies on a listed drug send any notice of certification of invalidity or noninfringement of a patent to each patent owner and the NDA holder . At the time notice is provided, a 505(b)(2) applicant is required to amend its application to include a statement certifying that the required notice has been provided. A section 505(b)(2) applicant also is required to amend its application to document receipt of the required notice.

Section 314.54 sets forth the content requirements for applications filed under section 505(b)(2) of the FD&C Act. (The information collection burden estimate for section 505(b)(2) applications is included in table 1 of this document under the estimates for § 314.50(a), (b), (c), (d), (e), (f), and (k)).

Section 314.60 sets forth reporting requirements for sponsors who amend an unapproved application.

Section 314.65 states that the sponsor must notify FDA when withdrawing an unapproved application.

Sections 314.70 and 314.71 require that applicants submit supplements to FDA for certain changes to an approved application.

Section 314.72 requires that sponsors report to FDA any transfer of ownership of an application.

Section 314.80(c)(1) and (c)(2) sets forth requirements for expedited adverse drug experience postmarketing reports and followup reports, as well as for periodic adverse drug experience postmarketing reports (Form FDA 3500A). (The burden hours for § 314.80(c)(1) and (c)(2) are already approved by OMB under OMB control numbers 0910–0230 and 0910–0291 and are not included in the burden estimates in table 1 of this document.)

Section 314.80(i) establishes recordkeeping requirements for reports of postmarketing adverse drug experiences. (The burden hours for § 314.80(i) are already approved by OMB under OMB control numbers 0910–0230 and 0910–0291 and are not included in the burden estimates in table 1 of this document.)

Section 314.81(b)(1) requires that applicants submit field alert reports to FDA (Form FDA 3331).

Section 314.81(b)(2) requires that applicants submit annual reports to FDA (Form FDA 2252).

Section 314.81(b)(3)(i) requires that applicants submit drug advertisements and promotional labeling to FDA (Form FDA 2253).

Section 314.81(b)(3)(iii) sets forth reporting requirements for sponsors who withdraw an approved drug product from sale. (The burden hours for § 314.81(b)(3)(iii) are already approved by OMB under OMB control number 0910–0045 and are not included in the burden estimates in table 1 of this document.)

Section 314.90 sets forth requirements for sponsors who request waivers from FDA for compliance with §§ 314.50 through 314.81. (The information collection burden estimate for NDA waiver requests is included in table 1 of this document under estimates for §§ 314.50, 314.60, 314.70, and 314.71.)

Section 314.93 sets forth requirements for submitting a suitability petition in accordance with 21 CFR 10.20 and 10.30. (The burden hours for § 314.93 are already approved by OMB under OMB control number 0910–0183 and are not included in the burden estimates in table 1 of this document.)

Section 314.94(a) and (d) requires that an ANDA contain the following information: Application form; table of contents; basis for ANDA submission; conditions of use; active ingredients; route of administration, dosage form, and strength; bioequivalence; labeling; chemistry, manufacturing, and controls; samples; patent certification.

Section 314.95 requires that ANDA applicants send any notice of certification of invalidity or noninfringement of a patent to each patent owner and the NDA holder.

Section 314.96 sets forth requirements for amendments to an unapproved ANDA.

Section 314.97 sets forth requirements for submitting supplements to an approved ANDA for changes that require FDA approval.

Section 314.98(a) sets forth postmarketing adverse drug experience reporting and recordkeeping requirements for ANDAs. (The burden hours for § 314.98(a) are already approved by OMB under OMB control numbers 0910–0230 and 0910–0291 and are not included in the burden estimates in table 1 of this document.)

Section 314.98(c) requires other postmarketing reports for ANDAs: Field alert reports (Form FDA 3331), annual reports (Form FDA 2252), and advertisements and promotional labeling (Form FDA 2253). (The information collection burden estimate for field alert reports is included in table 1 of this document under § 314.81(b)(1); the estimate for annual reports is included under § 314.81(b)(2); the estimate for advertisements and promotional labeling is included under § 314.81(b)(3)(i).)

Section 314.99(a) requires that sponsors comply with certain reporting requirements for withdrawing an unapproved ANDA and for a change in ownership of an ANDA.

Section 314.99(b) sets forth requirements for sponsors who request waivers from FDA for compliance with §§ 314.92 through 314.99. (The information collection burden estimate for ANDA waiver requests is included in table 1 of this document under estimates for § 314.94(a) and (d) and §§ 314.96 and 314.97.)

Section 314.101(a) states that if FDA refuses to file an application, the applicant may request an informal conference with FDA and request that the application be filed over protest.

Section 314.107(c) requires that the first applicant who submits a substantially complete ANDA containing a certification that a relevant patent is invalid, unenforceable, or will not be infringed submit notice to FDA of the date of first commercial marketing of its drug product.

Section 314.107(e) requires that an applicant submit a copy of the entry of the order or judgment to FDA within 10 working days of a final judgment.

Section 314.107(f) requires that ANDA or section 505(b)(2) applicants notify FDA immediately of the filing of any legal action filed within 45 days of receipt of the notice of certification. A patent owner may also notify FDA of the filing of any legal action for patent infringement. If the patent owner or approved application holder who is an exclusive patent licensee waives its opportunity to file a legal action for patent infringement within the 45-day period, the patent owner or approved application holder must submit to FDA a waiver in the specified format.

Section 314.110(b)(3) states that, after receipt of an FDA complete response letter, an applicant may request an opportunity for a hearing on the question of whether there are grounds for denying approval of the application. (The burden hours for § 314.110(b)(3) are included under parts 10 through 16 (21 CFR parts 10 and 16) hearing regulations, in accordance with § 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.110(c) states that, after receipt of a complete response letter, an applicant may notify FDA that it agrees to an extension of the review period so that it can determine whether to respond further.

Section 314.122(a) requires that an ANDA or a suitability petition that relies on a listed drug that has been voluntarily withdrawn from sale must be accompanied by a petition seeking a determination whether the drug was withdrawn for safety or effectiveness reasons. (The burden hours for § 314.122(a) are already approved by OMB under OMB control number 0910–0183 and are not included in the burden estimates in table 1 of this document.)

Section 314.122(d) sets forth requirements for relisting petitions for unlisted discontinued products. (The burden hours for § 314.122(d) are already approved by OMB under OMB control number 0910–0183 and are not included in the burden estimates in table 1 of this document.)

Section 314.126(c) sets forth requirements for a petition to waive criteria for adequate and well-controlled studies. (The burden hours for § 314.126(c) are already approved by OMB under OMB control number 0910–0183 and are not included in the burden estimates in table 1 of this document.)

Section 314.151(a) and (b) sets forth requirements for the withdrawal of approval of an ANDA and the applicant's opportunity for a hearing and submission of comments. (The burden hours for § 314.151(a) and (b) are included under parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.151(c) sets forth the requirements for withdrawal of approval of an ANDA and the applicant's opportunity to submit written objections and participate in a limited oral hearing. (The burden hours for § 314.151(c) are included under parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.153(b) sets forth the requirements for suspension of an ANDA when the listed drug is voluntarily withdrawn for safety and effectiveness reasons, and the applicant's opportunity to present comments and participate in a limited oral hearing. (The burden hours for § 314.152(b) are included under parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.161(b) and (e) sets forth the requirements for submitting a petition to determine whether a listed drug was voluntarily withdrawn from sale for safety or effectiveness reasons. (The burden hours for § 314.161(b) and (e) are already approved by OMB under OMB control number 0910–0183 and are not included in the burden estimates in table 1 of this document.)

Section 314.200(c), (d), and (e) requires that applicants or others subject to a notice of opportunity for a hearing who wish to participate in a hearing file a written notice of participation and request for a hearing as well as the studies and data on which they relied. Other interested persons may also submit comments on the notice. The section also sets forth the content and format requirements for the applicants' submission in response to notice of opportunity for hearing. (The burden hours for § 314.200(c), (d), and (e) are included under parts 10 through 16 hearing regulations, in accordance with

§ 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.200(f) states that participants in a hearing may make a motion to the presiding officer for the inclusion of certain issues in the hearing. (The burden hours for § 314.200(f) are included under parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.200(g) states that a person who responds to a proposed order from FDA denying a request for a hearing provide sufficient data, information, and analysis to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing. (The burden hours for § 314.200(g) are included under parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.420 states that an applicant may submit to FDA a drug master file in support of an application, in accordance with certain content and format requirements.

Section 314.430 states that data and information in an application are disclosable under certain conditions, unless the applicant shows that extraordinary circumstances exist. (The burden hours for § 314.430 are included under parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.530(c) and (e) states that if FDA withdraws approval of a drug approved under the accelerated approval procedures, the applicant has the opportunity to request a hearing and submit data and information. (The burden hours for § 314.530(c) and (e) are included under parts 10 through 16 hearing regulations, in accordance with § 314.201, and are not included in the burden estimates in table 1 of this document.)

Section 314.530(f) requires that an applicant first submit a petition for stay of action before requesting an order from a court for a stay of action pending review. (The burden hours for § 314.530(f) are already approved by OMB under OMB control number 0910–0194 and are not included in the burden estimates in table 1 of this document.)

Section 314.610(b)(1) requires that applicants include a plan or approach to postmarketing study commitments in applications for approval of new drugs when human efficacy studies are not ethical or feasible, and that applicants provide status reports of postmarketing study commitments. (The information collection burden estimate for § 314.610(b)(1) is included in table 1 of this document under the estimates for §§ 314.50 (a), (b), (c), (d), (e), (f), and (k) and 314.81(b)(2)).

Section 314.610(b)(3) requires that in applications for approval of new drugs when human efficacy studies are not ethical or feasible applicants propose labeling to provide to patient recipients. (The information collection burden estimate for § 314.610(b)(3) is included in table 1 of this document under the estimates for § 314.50(e)).

Section 314.630 requires that applicants provide postmarketing safety reporting for applications for approval of new drugs when human efficacy studies are not ethical or feasible. (The burden hours for § 314.630 are already approved by OMB under OMB control numbers 0910–0230 and 0910–0291 and are not included in the burden estimates in table 1 of this document.)

Section 314.640 requires that applicants provide promotional materials for applications for approval of new drugs when human efficacy studies are not ethical or feasible. (The information collection burden estimate for § 314.640 is included in table 1 of this document under the estimates for § 314.81(b)(3)(i)).

Respondents to this collection of information are all persons who submit an application or abbreviated application or an amendment or supplement to FDA under part 314 to obtain approval of a new drug, and any person who owns an approved application or abbreviated application.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section; [Form Number]	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
314.50 (a), (b), (c), (d), (e), (f), and (k)	92	1.36	126	1,917	241,542
314.50(i) and 314.94(a)(12)	96	9.61	923	2	1,846
314.50(j)	71	4.02	286	2	572
314.52 and 314.95	71	3.66	260	16	4,160
314.60	349	21.67	7,564	80	605,120
314.65	10	1.20	12	2	24
314.70 and 314.71	620	4.91	3,050	150	457,500
314.72	104	2.98	310	2	620
314.81(b)(1) [3331]	147	2.57	378	8	3,024
314.81(b)(2) [2252]	656	13.84	9,084	40	363,360
314.81(b)(3)(i) [2253]	490	61.48	30,130	2	60,260
314.94(a)(1)–(11) and (d)	110	7.83	862	480	413,760
314.96	292	35.82	10,461	80	836,880
314.97	197	26.23	5,169	80	413,520
314.99(a)	53	2.30	122	2	244
314.101(a)	1	1	1	.50	.50
314.107(c)—	56	4.1	230	.50	115
314.107(e)—	25	3.92	98	.50	49
314.107(f)—	56	4.1	230	.50	115
314.110(c)	11	1.36	15	.50	7.5
314.420	524	1.98	1,038	61	63,318
Total					3,466,037

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 13, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–31693 Filed 12–16–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0235]

Ehigiator O. Akhigbe: Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Ehigiator O. Akhigbe, MD for 25 years from providing services in any capacity to a person that has an approved or pending drug product application. We base this order on a finding that Dr. Akhigbe was convicted of 17 felonies for conduct involving fraud, false statement and falsification or destruction of records. Dr. Akhigbe was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. Dr. Akhigbe failed to respond. Dr. Akhigbe's failure to respond constitutes a waiver of his right to a hearing concerning this action.

DATES: This Order is effective December 17, 2010.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 240–632–6844.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(2)(B)(ii)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(ii)(I)) permits FDA to debar an individual if it finds that the individual has been convicted of a felony which involves bribery, payment of illegal gratuities, fraud, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records, or interference with, obstruction of an investigation into, or prosecution of, any criminal offense, and it finds, on the basis of the conviction and other information, that such individual has demonstrated a pattern of conduct sufficient to find that there is reason to believe that individual may violate requirements under the Act relating to drug products.

On March 19, 2010, the United States District Court for the District of Columbia entered judgment against Dr. Akhigbe for one count of health care fraud in violation of 18 U.S.C. 1347, and 16 counts of false statements in health care matters in violation of 18 U.S.C. 1035.

FDA's finding that debarment is appropriate is based on the felony convictions referenced herein. The factual basis for those convictions is as follows: Dr. Akhigbe was a medical doctor with licenses to practice in the District of Columbia, Maryland, Pennsylvania, and Virginia. The District of Columbia Medicaid Program contracted with Amerigroup Corp. (Amerigroup) to act as its fiscal agent for the processing and payment of claims submitted by Medicaid providers. On or about December 6, 2001, Dr. Akhigbe entered into a Participating Physician Agreement with Amerigroup whereby he agreed to provide healthcare services to District of Columbia Medicaid beneficiaries.

Dr. Akhigbe prepared and submitted his own billing to Amerigroup for medical services he purportedly provided to his patients. For each billed visit, Dr. Akhigbe or others acting at his direction, generated insurance claim forms which included his certification that all of the information on the claim forms was accurate. From on or about December 6, 2001, until the termination of his contract with Amerigroup on June 24, 2004, Dr. Akhigbe submitted approximately 3,957 claims to Amerigroup for services he purportedly provided to Medicaid patients and sought approximately $807,347.00 from Amerigroup.

Beginning in approximately December 2002, and continuing to approximately May 2005, in the District of Columbia and elsewhere, Dr. Akhigbe knowingly, willfully, and with intent to defraud, executed a scheme and artifice to defraud Amerigroup as to material matters in connection with the delivery of any payment for health care benefits, items, and services, and to obtain money from Amerigroup by means of material false and fraudulent pretenses and representations and the concealment of material facts in connection with the delivery of and payment for health care benefits, items, and services. As part of his scheme, Dr. Akhigbe repeatedly prepared and submitted false claims in which he purported to have performed surgical or invasive medical procedures on District of Columbia Medicaid patients that were never performed, he billed for office visits that never occurred, and he continued to bill for a period of time after a minor or major procedure during which no additional bills could be submitted. In order to conceal from Amerigroup that he was billing for procedures that he had not performed, Dr. Akhigbe created false progress notes indicating the dates, times and medical procedures that he claimed to have performed and inserted the false progress notes into his patients' medical files to corroborate a number of false claims.

As a result of his convictions, on September 13, 2010, FDA sent Dr. Akhigbe a notice by certified mail proposing to debar him for 25 years from providing services in any capacity to a person that has an approved or pending drug product application. The proposal was based on a finding, under section 306(b)(2)(B)(ii)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(ii)(I)), that Dr. Akhigbe was convicted of felonies for conduct involving fraud, false statement and falsification or destruction of records and that Dr. Akhigbe has demonstrated a pattern of conduct sufficient to find that there is reason to believe that individual may violate requirements under the FD&C Act relating to drug products. The proposal also offered Dr. Akhigbe an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Dr. Akhigbe failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Director, Office of Enforcement, Office of Regulatory Affairs, under Section 306(b)(2)(B)(ii)(I) of the FD&C Act (21 U.S.C. 335a(b)(2)(B)(ii)(I)) under authority delegated to him (Staff Manual Guide 1410.35), finds that Ehigiator O. Akhigbe has been convicted of felonies for conduct involving fraud, false statement and falsification or destruction of records.

As a result of the foregoing finding, Dr. Akhigbe is debarred for 25 years from providing services in any capacity to a person with an approved or

pending drug product application under sections 505, 512, or 802 of the FD&C Act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective (see **DATES**), (see section 306(c)(1)(B), (c)(2)(A)(iii), and 201(dd) of the FD&C Act (21 U.S.C. 335a(c)(1)(B), (c)(2)(A)(iii), and 321(dd))). Any person with an approved or pending drug product application who knowingly employs or retains as a consultant or contractor, or otherwise uses the services of Dr. Akhigbe, in any capacity during Dr. Akhigbe's debarment, will be subject to civil money penalties (section 307(a)(6) of the FD&C Act (21 U.S.C. 335b(a)(6))). If Dr. Akhigbe provides services in any capacity to a person with an approved or pending drug product application during his period of debarment he will be subject to civil money penalties (section 307(a)(7) of the FD&C Act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Akhigbe during his period of debarment (section 306(c)(1)(B) of the FD&C Act (21 U.S.C. 335a(c)(1)(B)).

Any application by Dr. Akhigbe for termination of debarment under section 306(d)(4) of the FD&C Act should be identified with Docket No. FDA–2010–N–0235 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 19, 2010.

Howard R. Sklamberg,

Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2010–31776 Filed 12–16–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Council on Graduate Medical Education; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Council on Graduate Medical Education (COGME).

Dates and Times: January 19, 2011, 8:30 a.m.–4 p.m., January 20, 2011, 8:30 a.m.–12:15 p.m.

Place: Hilton Washington DC/Rockville Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852. Telephone: (301) 468–1100.

Status: The meeting will be open to the public.

Agenda: On the morning of January 19, following welcoming remarks from the COGME Chair, HRSA senior management, and the Executive Secretary of COGME, there will be an introduction of COGME members.

The rest of the first day will consist of presentations covering various aspects of graduate medical education, Bureau of Health Professions activities concerning health workforce issues, a study of primary care physician projections by state, and work of the Medicare Payment and Advisory Commission on GME issues.

On January 20, there will be presentations on the findings and recommendations of COGME's 20th report, *Advancing Primary Care* (cover date December 2010). It is expected that the rest of the morning will be taken up in discussions in exploring the topic for COGME's next report.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Anyone interested in obtaining a roster of members or other relevant information should write or contact Jerald M. Katzoff, Executive Secretary, COGME, Division of Medicine and Dentistry, Bureau of Health Professions, Parklawn Building, Room 9A–27, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–4443. The Web address for information on the Council and the January 19–20, 2011 meeting agenda is *http://cogme.gov.*

Dated: December 9, 2010.

Robert Hendricks,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–31712 Filed 12–16–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Transfusion-Transmitted Retrovirus and Hepatitis Virus Rates and Risk Factors: Improving the Safety of the U.S. Blood Supply Through Hemovigilance

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on September 28, 2010, Volume 75, No. 187, pages 59724–59725 and allowed 60 days for public comment. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a current valid OMB control number.

Proposed Collection: Title: Transfusion-transmitted retrovirus and hepatitis virus rates and risk factors: Improving the safety of the U.S. blood supply through hemovigilance. Type of Information Collection Request: NEW. Need and Use of Information Collection: Information on current risk factors in blood donors as assessed using analytical study designs is largely unavailable in the U.S. Studies of risk factor profiles among HIV-infected donors were funded by the CDC for approximately 10 years after implementation of serologic screening in the mid-1980s, whereas studies of HTLV- and HCV-seropositive (and indeterminate) donors, funded by NIH, were conducted in the early 1990s, but unfortunately, none of these studies is ongoing. Infection trend analyses have been conducted by the American Red Cross (ARC). The findings show continued HIV risk with the prevalence of HIV in first time donors hovering around 10 per 100,000 donations in each of the last 10 years and the incidence in repeat donors increasing from 1.49 per 100,000 person-years in 1999–2000 to 2.16 per 100,000 persons-years in 2007–2008. While the prevalence of HCV in first time donors decreased over this time interval from 345 to 163 per 100,000 donations, the incidence in repeat donors did not decrease and evidence of incident infection in first time donors increased. Moreover specific age, gender and race/ethnicity groups were over-represented. Significantly increased incidence of both HIV and HCV were observed in 2007/2008 compared to 2005/2006. Similar analyses for HBV have shown an incidence in all donors of 3.4 per 100,000 person-years which is lower

than earlier estimates, but remains higher than for HIV and HCV.

This project represents a collaborative pilot research study that will include a comprehensive interview study of viral infection positive blood donors at the American Red Cross (ARC), Blood Systems Inc. (BSI) and New York Blood Center (NYBC) in order to identify the current predominant risk factors for virus positive donations and will also establish a donor biovigilance capacity that currently does not exist in the U.S. At this time it is not easy to integrate risk factor data and disease marker surveillance information within or across different blood collection organizations because common interview procedures and laboratory confirmation procedures are not being used and so we cannot easily tabulate and analyze behavioral risks or viral infections in U.S. blood donors. This creates the potential for gaps in our understanding of absolute incidence and prevalence as well as risks that could lead to transfusion-transmitted disease. Combined data are critical for appropriate national surveillance efforts. For example, this information could be used to target educational interventions to reduce donations from persons with high risk behaviors. This is particularly important in the case of behaviors associated with incident (recently acquired) infections because these donations have the greatest potential transmission risk because they could be missed during routine testing. As part of the project a comprehensive research-quality biovigilance database will be created that integrates existing operational information on blood donors, disease marker testing and blood components collected by participating organizations into a research database. The combined database will capture infectious disease and risk factor information on nearly 60% of all blood donors and donations in the country. Following successful completion of the risk factor interviews and research database development, the biovigilance network pilot can be expanded to include additional blood centers and/or re-focused on other safety threats as warranted, such as XMRV. This pilot biovigilance network will thereby establish a standardized process for integration of information across blood collection organizations.

The Specific Aims are to:

(1) Define consensus infectious disease testing classification algorithms for HIV, HCV, HBV, and HTLV that can be used to consistently classify donation testing results across blood collection organizations in the U.S. This will allow for better estimates of infection disease marker prevalence and incidence in the U.S.

(2) Determine current behavioral risk factors associated with prevalent and incident (when possible) HIV, HCV, HBV and HTLV infections in blood donors, including parenteral and sexual risks, across the participating blood collection organizations using a case-control study design.

(3) Determine nationally-representative infectious disease marker prevalence and incidence for HIV, HCV, HBV, and HTLV overall and by demographic characteristics of donors. This will be accomplished by forming research databases from operational data at BSI and NYBC into formats that can be combined with the ARC research database.

(4) Analyze integrated risk factor and infectious marker testing data together because when taken together these may show that blood centers are not achieving the same degree of success in educational efforts to prevent donation by donors with risk behaviors across all demographic groups.

Frequency of Response: Once. Affected Public: Individuals. Type of Respondents: Adult blood donors. The annual reporting burden is as follows: Estimated Number of Respondents:4150; Estimated Number of Responses per Respondent: 1; Average Burden of Hours per Response: 0.58 and Estimated Total Annual Burden Hours Requested: 2407. The annualized cost to respondents is estimated at: $43,326 (based on $18 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1–1—ESTIMATES OF HOUR BURDEN

Type of respondents	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Cases	1650	1	0.58	957
Controls	2500	1	0.58	1450
Total	4150			2407

TABLE 1–2—ANNUALIZED COST TO RESPONDENTS

Type of respondents	Number of respondents	Frequency of response	Average time per respondents	Hourly wage rate	Respondent cost
Cases	1650	1	0.58	$18	17,226
Controls	2500	1	0.58	18	26,100
Total	4150				43,326

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated

public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Simone Glynn, Project Officer, NHLBI, Two Rockledge Center, Room 9142, 6701 Rockledge Drive, Bethesda, MD 20892–7950, or call 301–435–0065, or E-mail your request to *glynnsa@nhlbi.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: December 16, 2010.

Simone Glynn,

Branch Chief, Transfusion Medicine and Cellular Therapeutics Branch, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, NIH.

[FR Doc. 2010–31734 Filed 12–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Study of Substance Abuse doc.com Module Project

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Study of Substance Abuse doc.com Module Project. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* This is a request for a two-year generic clearance to a conduct research study to assess the efficacy of a specific interactive web-based teaching module in the field of professional education of healthcare providers. This online module was developed as a work product by the same team of investigators from Drexel University College of Medicine (DUCOM) and University of Pennsylvania School of Medicine (Penn Med) under a contract as part of NIDA's Center of Excellence (CoE) for Physician Information. This project will assess efficacy of the NIDA CoE online teaching module with educational interventions in enhancing: (1) The knowledge of healthcare professionals about substance use disorders; (2) attitudes of healthcare professionals toward patients with these disorders and (3) communication skills in providing assessment and referral to treatment for patients who abuse substances. The overall goal of this project is to assess the efficacy of an educational intervention, which should result in an increase in the involvement of primary care providers in the screening, managing and, when appropriate, referring patients with substance use disorders. This effort is made according to Executive Order 12862, which directs Federal agencies that provide significant services directly to the public to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.

The project will utilize a randomized cluster controlled trial design that compares the group that receives educational exposure to the set of new educational interventions (NIDA online teaching module plus educational adjuncts) to a control group that receives exposure to the standard medical school or residency educational curriculum related to substance use disorders. The project will use a repeated measures approach to assess the educational intervention's efficacy (*i.e.,* individuals will take surveys before and after exposure to the intervention or to the control curriculum). The outcomes of the study will be based on changes in knowledge, attitudes and indirect measures of communication skills before and after the intervention, compared to the changes in these parameters in the control group.

Frequency of Response: This project will be conducted annually or biennially. *Affected Public:* Individuals and businesses. *Type of Respondents:* medical students and resident physicians. The annual reporting burden is calculated as follows: *Estimated Total Annual Number of Respondents:* 708; *Estimated Number of Responses per Respondent:* 4 for medical students; 2 for resident physicians; *Average Burden Hours per Response:* 0.17. *Estimated Total Annual Burden Hours Requested:* 377; There are no Capital Costs to report. There are no Operating or Maintenance Costs to report. The estimated annualized burden is summarized below.

Respondents	Estimated number of subjects	Estimated number of surveys per subject	Average burden hours per survey	Estimated total burden hours
Medical Students	400	4	0.17	272
Primary Care Resident Physicians	308	2	0.17	105
Total	708			377

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) 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; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFROMATION CONTACT: To request more information on the proposed projects or to obtain a copy of the information collection plans, contact Elisabeth Davis, Project Officer, National Institute on Drug Abuse, NIDA/NIH/DHHS, 6001 Executive Boulevard, MSC 9591, Bethesda, MD 20852; or call non-toll-free number (301) 594–6317; fax (301) 480–2485; or e-mail your request, including your address to: *davise2@nida.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: December 9, 2010.

Mary Affeldt,

Executive Officer, (OM Director) NIDA.

[FR Doc. 2010–31737 Filed 12–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Questionnaire Cognitive Interview and Pretesting (NCI)

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Questionnaire Cognitive Interview and Pretesting. Type of Information Collection Request: Extension. Need and Use of Information Collection: The purpose of the data collection is to conduct cognitive interviews, focus groups, Pilot household interviews, and experimental research in laboratory and field settings, both for applied questionnaire evaluation and more basic research on response errors in surveys. The most common evaluation method is the cognitive interview, in which a questionnaire design specialist interviews a volunteer participant. The interviewer administers the draft survey questions as written, but also probes the participant in depth about interpretations of questions, recall processes used to answer them, and adequacy of response categories to express answers, while noting points of confusion and errors in responding. Interviews are generally conducted in small rounds of 10–15 interviews. When possible, cognitive interviews are conducted in the survey's intended mode of administration. Cognitive interviewing provides useful information on questionnaire performance at minimal cost and respondent burden. Similar methodology has been adopted by other Federal agencies, as well as by academic and commercial survey organizations. There are no costs to respondents other than their time. The total estimated annualized burden hours are 600. Frequency of Response: Once. Affected Public: Individuals and households, Private Sector (business or other for-profits, not-for-profit institutions) and possibly, State, Local or Tribal Governments. The table below represents the burden over a three-year data collection period, which is a typical request for a generic submission.

Type of respondents	Projects	Number of respondents	Frequency of responses/participant	Average hours per response	Burden hours over 3 years
Questionnaire Development Volunteers.	(1) Survey questionnaire development.	1,200	1	75/60 1.25)	1,500.0
General Volunteers	(2) Research on the cognitive aspects of survey methodology.	600	1	75/60 (1.25)	750.0
Computer User Volunteers	(3) Research on computer-user interface design.	600	1	75/60 (1.25)	750.0
Household Interview Volunteers	(4) Pilot Household interviews	1,200	1	30/60 (0.5)	600.0
Totals		3,600			3,600.0

The estimated total annual burden hours requested is 1,200 which amounts to approximately 3,600 hours over three years. There are no annualized costs to respondents. The annualized costs to the Federal Government are estimated at $264,000 and include cost of NCI staff to plan, conduct, and analyze outcomes of questionnaire development, contracting for pretesting activities and research, travel costs, and additional materials needed to conduct and recruit participants for the research.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) 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.

For Further Information Contact: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Gordon Willis, Ph.D., Cognitive Psychologist, Applied Research Program, DCCPS, NCI/NIH, 6130 Executive Blvd., MSC 7344, EPN 4005, Bethesda, MD 20892 or call non-toll-free number 301–594–6652 or e-mail your request, including your address to: *willis@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: December 13, 2010.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2010–31735 Filed 12–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the NCI Special Emphasis Panel, Experimental Therapeutics Program (NExT), January 6, 2011, 8:30 a.m.–4:30 p.m., Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Rockville, MD 20852 which was published in the **Federal Register** on November 24, 2010, 75 FR 71712.

This notice is amending the location of the meeting from the Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814 to the

Marriott North Conference Center, 5701 Marinelli Road, Rockville, MD 20852. The meeting is closed to the public.

Dated: December 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–31739 Filed 12–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Education.

Date: January 25, 2011.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Timothy C. Meeker, M.D., PhD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8103, Bethesda, MD 20892, (301) 594–1279. *meekert@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel. SPORE in Glioma, Head and Neck, Lymphoma, Myeloid Leukemia, and Myeloma.

Date: February 2–3, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shamala K. Srinivas, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8123, Bethesda, MD 20892. 301–594–1224. *ss537t@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel. Alternative Biospecimen Stabilization and Storage Solutions.

Date: March 10, 2011.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 706, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Donald L. Coppock, PhD, Scientific Review Officer, Scientific Review and Logistic Branch, Division of Extramural Activities, NCI, National Institutes of Health, 6116 Executive Blvd., Rm. 7151, Bethesda, MD 20892. 301–451–9385. *donald.coppock@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, In vivo Cellular and Molecular Imaging Centers (ICMICs).

Date: March 15–16, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Kenneth L. Bielat, PhD, Scientific Review Officer, Special Review Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7147, Bethesda, MD 20892–8329. 301–496–7576. *bielatk@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel. Development of Devices for Point of Care Analysis of Circulating Tumor Cells.

Date: March 17–18, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select) 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Donald L. Coppock, PhD, Scientific Review Officer, Scientific Review and Logistic Branch, Division of Extramural Activities, NCI, National Institutes of Health, 6116 Executive Blvd., Rm. 7151, Bethesda, MD 20892. 301–451–9385. *donald.coppock@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel. Development of Anticancer Agents.

Date: March 23–25, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Joyce C. Pegues, B.S., B.A., PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892–8329. 301–594–1286. *peguesj@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel. Small Grants Program for Cancer Epidemiology.

Date: April 28–29, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Joyce C. Pegues, B.S., B.A., PhD, Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892–8329. 301–594–1286. *peguesj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 13, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–31733 Filed 12–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee G—Education.

Date: January 25, 2011.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Jeannette F. Korczak, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer nstitute, NIH, 6116 Executive Blvd., Room 8115, Bthesda, MD 20892. 301–496–9767. *Korczakj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology

Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, (HHS)

Dated: December 13, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–31732 Filed 12–16–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Participant Feedback on Training Under the Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program (OMB No. 0930–0195)—Extension

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) intends to continue to conduct a multi-site assessment for the Mental Health Care Provider Education in HIV/AIDS Program. The education programs funded under this cooperative agreement are designed to disseminate knowledge of the psychological and neuropsychiatric sequelae of HIV/AIDS to both traditional (*e.g.,* psychiatrists, psychologists, nurses, primary care physicians, medical students, and social workers) and non-traditional (*e.g.,* clergy, and alternative health care workers) first-line providers of mental health services, in particular to providers in minority communities.

The multi-site assessment is designed to assess the effectiveness of particular training curricula, document the integrity of training delivery formats, and assess the effectiveness of the various training delivery formats. Analyses will assist CMHS in documenting the numbers and types of traditional and non-traditional mental health providers accessing training; the content, nature and types of training participants receive; and the extent to which trainees experience knowledge, skill and attitude gains/changes as a result of training attendance. The multi-site data collection design uses a two-tiered data collection and analytic strategy to collect information on (1) the organization and delivery of training, and (2) the impact of training on participants' knowledge, skills and abilities.

Information about the organization and delivery of training will be collected from trainers and staff who are funded by these cooperative agreements/contracts, hence there is no respondent burden. All training participants will be asked to complete a brief feedback form at the end of the training session. CMHS anticipates funding 10 education sites for the Mental Health Care Provider Education in HIV/AIDS Program. The annual burden estimates for this activity are shown below:

Form	Responses per respondent	Estimated number of respondents (× 10 sites)	Hours per response	Total hours
Session Report Form	1	60 × 10 = 600	0.080	48
Participant Feedback Form (General Education).	1	500 × 10 = 5,000	0.167	835
Neuropsychiatric Participant Feedback Form	1	400 × 10 = 1,600	0.167	668
Adherence Participant Feedback Form	1	100 × 10 = 1,000	0.167	167
Ethics Participant Feedback Form	1	200 × 10 = 2,000	0.167	125
Total		12,600		1,843

Written comments and recommendations concerning the proposed information collection should be sent by January 18, 2011 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–7285.

Dated: December 13, 2010.

Elaine Parry,

Director, Office of Management, Technology and Operations.

[FR Doc. 2010–31722 Filed 12–16–10; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Cross-Site Evaluation for the Benefit of Homeless Individuals (GBHI)—NEW

SAMHSA's Center for Substance Abuse Treatment (CSAT) is conducting a cross-site external evaluation of the impact of the Grants for the Benefit of Homeless Individuals (GBHI) program. GBHI is a grant program that links substance abuse and mental health treatment with housing and other needed services and expands and strengthens these services for people with substance use and co-occurring mental health problems who are homeless. The national cross-site evaluation will assess the effectiveness, efficiency and sustainability of the GBHI project services for client abstinence, housing stability, homelessness, and related employment, criminal justice and services outcomes, as well as lessons learned to inform future efforts.

The CSAT GBHI Client Interview—Baseline and the CSAT GBHI Client Interview—6-Month Follow-up have been developed to assess program impact on client outcomes based on review of the literature and consultation with a panel of national experts, GBHI grantees and SAMHSA. The CSAT GBHI Client Interview is composed of questions unique from the Government Performance and Results Act (GPRA) Tool that measure the outcomes of interest and subpopulations of focus: homelessness, housing, treatment history, readiness to change, trauma symptoms, housing and treatment choice, burden and satisfaction, military service, employment, and criminal justice involvement. Immediately following the SAMHSA-required administration of the GPRA CSAT Discretionary Services Client Level Tool, which is completed by enrolled accepted clients for each grantee project at baseline and 6-month follow-up, the paper and pencil CSAT GBHI Client Interview will be administered face-to-face by the GPRA interviewer. Questions regarding perception of care and treatment coercion will be self-administered by participating clients and returned to the interviewer in a sealed envelope to be included in the full package mailed to the cross-site evaluation coordinating center by the interviewer. Client participation is voluntary; non-cash incentives will be given at baseline worth a $10 value and at 6-month follow-up worth a $25 value. Clients will be assigned unique identifiers by local projects; responses will be recorded on a fill-in-the-bubble answer sheet, mailed by the grantee project to the cross-site evaluation coordinating center, and scanned into a secure dataset. This process will eliminate the need for data entry, reduce cost and data entry error, and ensure confidentiality for cross-site data.

The CSAT GBHI Stakeholder Survey will be conducted with GBHI program stakeholders via a web survey to assess the types of stakeholder partnerships involved in the GBHI program and the barriers and strategies developed to overcome barriers to facilitate the implementation and sustainability of project activities under the GBHI program. Each survey respondent will be issued a username and password to login to and complete the secure web-based survey. The web-based survey format will reduce burden on the respondent and minimize potential for measurement error.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Instrument/activity	Number of respondents	Number of responses per respondent	Total number of responses	Average burden per response	Total burden hours per collection
CSAT GBHI Client Interview:					
Baseline Data Collection	5,885	1	5,885	.33	1,942
6-month Follow-up Data Collection (80% of baseline)	4,708	1	4,708	.40	1,883
CSAT GBHI Stakeholder Survey	648	1	648	.28	181
Total	11,241		11,241		4,006

Written comments and recommendations concerning the proposed information collection should be sent by January 18, 2011 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–5806.

Dated: December 13, 2010.

Elaine Parry,

Director, Office of Management, Technology and Operations.

[FR Doc. 2010–31721 Filed 12–16–10; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5383–N–27]

Notice of Proposed Information Collection for Public Comment for the Family Unification Program (FUP)

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 15, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Colette Pollard, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll free number), or e-mail Ms. Pollard at *Colette.Pollard@hud.gov* for information on the data collected. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. (Other than the HUD USER information line and TTY numbers, telephone numbers are not toll-free.)

FOR FURTHER INFORMATION CONTACT: Arlette A. Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 470 L'Enfant Plaza, SW., Suite 2206, Washington, DC 20024, telephone 202–402–4109 (this is not a toll-free number), or e-mail at *Arlette.A.Mussington@hud.gov*.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate

whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

This Notice also lists the following information:

Title of Proposal: Family Unification Program (FUP).

OMB Control Number: 2577–0259.

Description of the Need for the Information and Proposed Use: The Family Unification Program (FUP) is a program, authorized under section 8(x) of the United States Housing Act of 1937 {42 U.S.C. 1437(X)}, that provides housing choice vouchers to PHAs to assist families for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care; or the delay in the discharge of the child, or children, to the family from out-of-home care. Youths at least 18 years old and not more than 21 years old (have not reached 22nd birthday) who left foster care at age 16 or older and who do not have adequate housing are also eligible to receive housing assistance under the FUP. As required by statute, a FUP voucher issued to such a youth may only be used to provide housing assistance for the youth for a maximum of 18 months.

Vouchers awarded under FUP are administered by PHAs under HUD's regulations for the Housing Choice Voucher program (24 CFR Part 982).

Agency Form Numbers: HUD–52515 (OMB Approval # 2577–0169), HUD 50058 (OMB approval # 2577–0083), HUD–2993 (OMB Approval # 2577–0259), HUD–96010 (OMB Approval # 2535–0114), HUD 96011 (OMB approval # 2535–0118), HUD–2990, HUD–2991 (OMB Approval # 2506–0112) and HUD 2880 (OMB Approval # 2510–0011), SF–424 (OMB Approval # 0348–0043), SF LLL (OMB Approval # 0348–0043).

Members of the Affected Public: Public Housing Agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents: The total burden for data collection is estimated at 6,101.95 hours. It is anticipated that approximately 265 PHAs will apply for FUP vouchers each year the program is funded. The estimate of the total annual cost burden to respondents/record keepers resulting from the collection of this information is: 6,101.95 burden hours × $34.34 = $209,540.96; assuming a Manager's hourly rate at the GS–13/Step 1 level.

*Burden hours for forms showing zero burden hours in this collection are reflected in the OMB approval number cited or do not have a reportable burden. The burden hours for this collection is 6,101.95.

Status of the Proposed Information Collection: Revision of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: December 13, 2010.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary for Policy, Program and Legislative Initiatives.

[FR Doc. 2010–31794 Filed 12–16–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5375–N–49]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 9, 2010.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2010–31365 Filed 12–16–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2010–N225; 1112–0000–81420–F2]

Santa Clara Valley Habitat Conservation Plan and Natural Community Conservation Plan, CA; Availability of Draft Environmental Impact Statement, Public Meeting, and Receipt of Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of Draft Environmental Impact Statement, notice of public meeting, and receipt of applications.

SUMMARY: This notice advises the public that we, the U.S. Fish and Wildlife Service (Service), have received applications for incidental take permits pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act) from the County of Santa Clara; Cities of San Jose, Gilroy, and Morgan Hill; Santa Clara Valley Transportation Authority, and Santa Clara Valley Water District (Applicants). The Applicants prepared the Draft Santa Clara Valley Habitat Conservation Plan and Natural Community Conservation Plan (HCP/NCCP) pursuant to section 10(a)(1)(B) of the Act and the California Natural Community Conservation Planning Act of 2002 (NCCPA).

This notice announces the availability of the permit applications, Draft HCP/NCCP, Draft Implementing Agreement (IA), and Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) for public review and comment. The Service is considering the issuance of a 50-year incidental take permit for 21 Covered Species in a 509,883-acre Permit Area. A seventh applicant will also be considered for permit coverage; the Implementing Entity (likely a joint powers agency) that will form prior to permit issuance. The Implementing Entity is described in the Draft HCP/NCCP and Draft IA and would be composed of representatives from each of the Applicants. The Applicants are requesting a permit to incidentally take 11 animal species and

are seeking assurances for 10 plant species. The permit is needed because take of species could occur as a result of proposed Covered Activities.

DATES: Written comments must be received by 5 p.m. on April 18, 2011. We will accept comments at two public meetings:

1. Wednesday, February 9, 2011, 6:30 p.m. to 8:30 p.m., Morgan Hill, CA.
2. Tuesday, February 15, 2011, 6:30 p.m. to 8:30 p.m., Palo Alto, CA.

ADDRESSES: Please send written comments to Cori Mustin, Senior Fish and Wildlife Biologist, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, CA 95825. You may also submit comments by e-mail to *R8SCVHPcomments@fws.gov* or by facsimile to (916) 414–6713. If you choose to submit comments via e-mail, please ensure that the file size does not exceed 10 megabytes. E-mails that exceed the maximum file size may not be properly transmitted to the Service.

Please send comments related specifically to the Draft EIR and California Environmental Quality Act (CEQA) process to the County of Santa Clara Executive's Office, Kenneth Schreiber, HCP/NCCP Program Manager, County Government Center, East Wing, 11th Floor, 70 West Hedding Street, San Jose, CA 95110. You may also submit comments by facsimile to (408) 295–1613.

The public meeting locations follow:

1. Wednesday, February 9, 2011, at the Morgan Hill Community and Cultural Center, El Toro Room, 17000 Monterey Road, Morgan Hill, CA 95037.
2. Tuesday, February 15, 2011, at the Peninsula Conservation Center, Raptor Room, 3921 East Bayshore Road, Palo Alto, CA 94303.

FOR FURTHER INFORMATION CONTACT: Mike Thomas, Branch Chief, Conservation Planning; or Eric Tattersall, Deputy Assistant Field Supervisor/Division Chief, Conservation Planning and Recovery; 2800 Cottage Way, W–2605, Sacramento, CA 95825, or telephone (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Availability of Documents

All documents are available for viewing at the HCP/NCCP's Web site: *http://www.scv-habitatplan.org/www/default.aspx.* Individuals wishing copies of the applications, Draft HCP/NCCP, Draft EIR/EIS, and/or Draft IA, should contact the Service by telephone (see **FOR FURTHER INFORMATION CONTACT**). Copies of the subject documents are also available for public inspection during regular business hours at the Sacramento Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT**). In addition, copies of all documents are available at the following library locations:

1. Almaden Branch Library. 6445 Camden Avenue, San Jose, CA 95120.
2. Dr. Martin Luther King, Jr. Library. 150 E San Fernando Street, San Jose, CA 95112.
3. Gilroy Library. 7387 Rosanna Street, Gilroy, CA 95020.
4. Morgan Hill Library. 660 West Main Avenue, Morgan Hill, CA 95037.
5. Central Park Library. 2635 Homestead Road, Santa Clara, CA 95051.
6. City of Palo Alto Main Library. 1233 Newell Road, Palo Alto, CA 94303.
7. Fremont Main Library. 2400 Stevenson Boulevard, Fremont, CA 94538.

Background Information

Section 9 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and Federal regulations prohibit the "take" of fish and wildlife species federally listed as endangered or threatened. Take of federally listed fish or wildlife is defined under the Act as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or attempt to engage in such conduct (16 U.S.C. 1538). "Harm" includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3(c)). Under limited circumstances, we may issue permits to authorize incidental take, which is defined under the Act as take that is incidental to, and not the purpose of, otherwise lawful activities. Although take of plant species is not prohibited under the Act, and therefore cannot be authorized under an incidental take permit, plant species are proposed to be included on the permits in recognition of the conservation benefits provided to them under the HCP/NCCP. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively. All species included on the incidental take permits, if issued, would receive assurances under the Service's "No Surprises" regulation (50 CFR 17.22(b)(5) and 17.32(b)(5)).

In order to comply with the requirements of the Act, California Endangered Species Act, and the NCCPA, the Draft HCP/NCCP defines biological goals and objectives; evaluates the effects of Covered Activities on Covered Species, including indirect and cumulative effects; describes a conservation strategy; describes a monitoring and adaptive management program; identifies changed circumstances and responsive actions; identifies funding sources; and identifies alternative actions to the proposed impacts. The Draft HCP/NCCP is intended to be a comprehensive and multijurisdictional document that will facilitate regional species conservation and assist the Applicants to better manage anticipated growth and development. The Draft HCP/NCCP will also provide a coordinated process for permitting and mitigating the incidental take of Covered Species as an alternative to the current project-by-project review process.

The Draft HCP/NCCP addresses 21 Covered Species, including 11 animal species (2 federally endangered, 3 federally threatened, and 6 unlisted) and 10 plant species (4 federally endangered and 6 unlisted). The permit would provide take authorization for all animal species and assurances for all plant species identified by the Draft HCP/NCCP as Covered Species. Take authorized for listed covered animal species would be effective upon permit issuance and adoption of all applicable local ordinances. Take authorization for currently unlisted covered animal species would become effective concurrent with listing, should the species be listed under the Act during the Permit Term.

The proposed permit would include the following five federally listed animal species: The threatened Bay checkerspot butterfly (*Euphydryas editha bayensis*), threatened California tiger salamander (Central California Distinct Population Segment) (*Ambystoma californiense*), threatened California red-legged frog (*Rana draytonii*), endangered least Bell's vireo (*Vireo bellii pusillus*), and endangered San Joaquin kit fox (*Vulpes macrotis mutica*). The proposed permit would include assurances for the following four federally listed plant species: The endangered Tiburon Indian paintbrush (*Castilleja affinis* ssp. *neglecta*), endangered coyote ceanothus (*Ceanothus ferrisae*), endangered Santa Clara Valley dudleya (*Dudleya setchellii*), and endangered Metcalf Canyon jewelflower (*Streptanthus albidus* ssp. *albidus*).

The unlisted species proposed for coverage under the Draft HCP/NCCP are the foothill yellow-legged frog (*Rana boylii*), western pond turtle (*Clemmys marmorata*), golden eagle (*Aquila chrysaetos*), western burrowing owl (*Athene cunicularia hypugaea*), tricolored blackbird (*Agelaius tricolor*),

Townsend's western big-eared bat (*Corynorhinus townsendii townsendii*), Mount Hamilton thistle (*Cirsium fontinale* var. *campylon*), San Francisco collinsia (*Collinsia multicolor*), fragrant fritillary (*Fritillaria liliacea*), Loma Prieta hoita (*Hoita strobilina*), smooth lessingia (*Lessingia micradenia* var. *glabrata*), and most beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*).

The Applicants are requesting coverage for incidental take resulting from the following seven categories of Covered Activities:

1. Urban Development,
2. Instream Capital Projects,
3. Instream Operation and Maintenance Activities,
4. Rural Capital Projects,
5. Rural Operation and Maintenance Activities,
6. Rural Development, and
7. Conservation Strategy Implementation.

The proposed 509,883-acre Permit Area is the area where incidental take of Covered Species resulting from Covered Activities could occur and includes the Pajaro River and all or a portion of the Llagas, Uvas, Pescadero, and Pacheco subwatersheds and the Coyote Creek watershed within Santa Clara County. A large portion of the Guadalupe watershed is also contained within the Permit Area, as well as small areas outside of each of these watersheds. The Permit Area excludes existing State Park lands.

Contained within the 509,883-acre Permit Area is the 48,464-acre *Expanded Permit Area for Burrowing Owl Conservation,* which includes the northern portion of Santa Clara County and a small portion of both San Mateo and Alameda Counties (see Figure 1–2 of the HCP/NCCP). Incidental take in the *Expanded Permit Area for Burrowing Owl Conservation* will be limited to capture, harm, and harassment of burrowing owls as a result of implementing the conservation strategy.

Covered Activities would result in the permanent loss of up to 25,864 acres in the Permit Area. Habitat models were developed for most Covered Species and used in the impacts analysis. Land cover surrogates were used to identify maximum impacts to species for which habitat models could not be developed. The Draft HCP/NCCP also describes conditions on Covered Activities to avoid or minimize take of Covered Species.

The proposed conservation strategy includes establishing a reserve system that would be composed of an estimated 58,000 acres of large contiguous blocks of land that would be permanently preserved, monitored, and managed. The conservation strategy would remain in rough step with impacts, and the Reserve System would be assembled according to predefined milestones throughout the Permit Term.

National Environmental Policy Act Compliance

The Service prepared the EIS, which is the Federal portion of the Draft EIR/EIS, to analyze the impacts of issuing incidental take permits based on the Draft HCP/NCCP. Santa Clara County facilitated the preparation of the EIR portion of the Draft EIR/EIS, in compliance with the CEQA, but all Applicants share the CEQA Lead Agency role. The California Department of Fish and Game is a CEQA Trustee and Responsible Agency. The Draft EIR/EIS was developed to inform the public of the Proposed Action, alternatives, and associated impacts; address public comments received during the scoping period for the Draft EIR/EIS; and disclose irreversible commitments of resources.

The proposed permit issuance triggers the need for compliance with NEPA. The Service published a Notice of Intent (NOI) to prepare an EIR/EIS in the **Federal Register** on September 6, 2007 (72 FR 51247). The NOI announced a public scoping period during which time the public was invited to provide written comments and attend a public scoping meeting, which was held on September 26, 2007, in Morgan Hill, California.

The Service is now providing notice of the availability of the Draft EIS, which evaluates the impacts of the Proposed Action described above (i.e., issuance of the permits and implementation of the Draft HCP/NCCP), as well as the No Action Alternative and Alternative A, which are described below.

No Action Alternative: Under the No Action Alternative, the Service would not issue incidental take permits to the Applicants, and the Draft HCP/NCCP would not be implemented. Under this alternative, projects that may adversely affect federally listed species would require project-level consultation with the Service pursuant to section 7 or section 10 of the Act. This project-level approach would preclude landscape-level conservation planning and would not streamline the current permitting process.

Alternative A (Reduced Permit Term): Under Alternative A, the Service would issue incidental take permits, and the Applicants would implement a habitat conservation plan and natural communities conservation plan that is similar to the Draft HCP/NCCP described in the Proposed Action; however, the proposed Permit Term would be reduced to 30 years. The extent of Covered Activities and the conservation strategy would be subsequently reduced relative to the Proposed Action.

Comments

The Service invites the public to comment on the permit applications, Draft HCP/NCCP, Draft IA, and Draft EIR/EIS during the public comment period (see **DATES**). Please direct written comments to contacts listed in the **ADDRESSES** section and questions to the Service contacts listed in the **FOR FURTHER INFORMATION CONTACT** section. All comments and materials we receive, including names and addresses, will become part of the administrative record and may be released to the public. 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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Reasonable Accommodation

The public meetings are physically accessible to people with disabilities. Please make requests for specific accommodations to Karen Molinari, ICF International, at (408) 375–9979 or *kmolinari@icfi.com,* at least 5 working days prior to the meeting date.

Next Steps

This notice is provided under section 10(a) of the Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). We will evaluate the applications, associated documents, and comments submitted thereon to prepare a Final EIR/EIS. A permit decision will be made no sooner than 30 days after the publication of the NOA of for the Final EIR/EIS and completion of the Record of Decision.

Dated: December 6, 2010.

Robert Clarke,

Acting Deputy Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2010–31425 Filed 12–16–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVE02000.L19900000.EX0000; MO: 4500011512; 10–08807; TAS: 14X1109]

Notice of Availability of the Final Environmental Impact Statement for the Newmont Mining Corporation Emigrant Project Plan of Operation, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) 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 Newmont Mining Corporation Emigrant Project Plan of Operations and by this notice is announcing its availability.

DATES: The BLM will not issue a final decision on the proposal for a minimum of 30 days from the date that the Environmental Protection Agency publishes this notice in the **Federal Register**.

ADDRESSES: Copies of the EIS for the Newmont Mining Corporation Emigrant Project Plan of Operation are available for public inspection at the BLM Tuscarora Field Office, 3900 East Idaho Street, Elko, Nevada. Interested persons may also review the Final EIS at the following Web site: *http://www.blm.gov/nv/st/en/fo/elko_field_office.html.*

FOR FURTHER INFORMATION CONTACT: Tom Schmidt, BLM Project Manager (775) 753–0200; by mail at Bureau of Land Management, Tuscarora Field Office, *Attn:* Emigrant Mine Project Manager, 3900 East Idaho Street, Elko, Nevada 89801; or by e-mail *tom_schmidt@blm.gov.*

SUPPLEMENTARY INFORMATION: The Newmont Mining Corporation submitted a proposed Plan of Operations to the BLM on February 4, 2004 to open the Emigrant Mine about 10 miles south of Carlin, Nevada. The proposed Emigrant Mine would include developing and operating an open pit mine, constructing a waste rock disposal facility, storing waste rock in mined out areas of the pit, developing an oxide heap leach pad; constructing ancillary facilities, rerouting intermittent stream flows in the pit area, and conducting concurrent reclamation. Proposed mining operations would last for approximately 10 years with an additional 4 years of closure operations. Approximately 1,170 acres of public land and 248 acres of private land would be disturbed.

The issues analyzed in the Final EIS include the potential impacts to wildlife and cultural resources, the potential for waste rock, heap leach, and pit walls to produce acid rock drainage and/or heavy metals, and the proposed diversion of a drainage. Indirect and cumulative impacts are addressed for air quality, water, soil, vegetation, wildlife, fisheries and aquatic resources, threatened, endangered, candidate, and sensitive species recreation, livestock grazing, social and economic values, visual resources, cultural and Native American religious site concerns. Additional resource analysis includes geology and minerals, paleontology, lands and realty, wilderness, weeds and environmental justice.

The analysis in the Final EIS reflects modifications to the proposed plan of operations as a result of new information. As a result of the NEPA review process, an Adaptive Management Plan was developed to monitor performance of the operations plan and prevent impacts. The BLM originally published a Notice of Availability of the Draft EIS in the **Federal Register** on March 25, 2005 (70 FR 15346). In response to substantive comments on the 2005 Draft EIS, the BLM issued a revised Draft EIS in 2008 that replaced the 2005 Draft EIS. A Notice of Availability for the 2008 Draft EIS was published in the **Federal Register** on November 19, 2008 (73 FR 69675). The 2008 Draft EIS incorporated revisions made in response to substantive comments received on the 2005 Draft EIS. The 2008 Draft EIS analyzed the proposed action and no action alternatives. Other alternatives considered and reasons why they were eliminated from detailed analysis are discussed in the Final EIS. Measures to avoid or minimize environmental impacts and to assure the proposed action does not result in undue or unnecessary degradation of public lands are also included. The BLM received 15 comments from the public. These comments included concerns about what methods would be used to classify waste rock as potentially acid generating and non-potentially acid generating. In response to these comments, the Final EIS includes an Adaptive Management Plan in the monitoring program to continually monitor and evaluate the performance of the waste rock management plan proposed for this project and respond to any unforeseen surface and/or groundwater impacts.

Comments on the 2008 Draft EIS received from the public and from an internal BLM review were considered and incorporated as appropriate into the proposed plan of operations and the Final EIS. Public comments resulted in the addition of clarifying text and the inclusion of the Adaptive Management Plan.

Authority: 40 CFR 1506.6 and 1506.10.

Kenneth E. Miller,

Manager, Elko District.

[FR Doc. 2010–31646 Filed 12–16–10; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNV912000.L10200000.PH0000.LXSS006F241A; 11–08807; MO# 4500019213; TAS: 14X1109]

Notice of public meeting: Resource Advisory Councils, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Nevada will hold a joint meeting of its three Resource Advisory Councils (RACs), the Sierra Front-Northwestern Great Basin RAC, the Northeastern Great Basin RAC, and the Mojave-Southern Great Basin RAC in Sparks, Nevada. The meeting is open to the public and a public comment period will be available.

DATES AND TIMES: Thursday, January 20, 2011, from 8 a.m. to 5 p.m. and Friday, January 21, 2011, from 7:30 a.m. to 12:30 p.m. A public comment period will be held early in the afternoon on Thursday, January 20. The time for the comment period will be posted on the Web and the agenda will be available two weeks days prior to the meeting at *http://www.blm.gov/nv.*

FOR FURTHER INFORMATION CONTACT: Rochelle Francisco, telephone: (775) 861–6588, e-mail: *rochelle_francisco@blm.gov.*

SUPPLEMENTARY INFORMATION: The three 15-member Nevada councils advise the Secretary of the Interior, through the BLM Nevada State Director, on a variety of planning and management issues associated with public land management in Nevada. The meeting will be held at John Ascuaga's Nugget, 1100 Nugget Avenue, Sparks, Nevada. Agenda topics include a presentation and discussion of accomplishments

during 2010 and the outlook for 2011 for the BLM in Nevada; opening remarks and closeout reports of the three RACs; breakout meetings of each group category; breakout meetings of the three RACs; discussion of a recreation subgroup of the existing RACs; and setting of schedules for meetings of the individual RACs for the upcoming year. The public may provide written comments to the three RAC groups or the individual RACs. Individuals who plan to attend and need further information about the meeting or need special assistance such as sign language interpretation or other reasonable accommodation may contact Rochelle Francisco.

Ron Wenker,

State Director, Nevada.

[FR Doc. 2010–31786 Filed 12–16–10; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK910000 L13100000.DB0000 LXSINSSI0000]

Notice of Public Meeting, North Slope Science Initiative—Science Technical Advisory Panel

AGENCY: Bureau of Land Management, Alaska State Office, North Slope Science Initiative, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, North Slope Science Initiative (NSSI)—Science Technical Advisory Panel (STAP) will meet as indicated below:

DATES: The meeting will be held January 24–27, 2011, in Fairbanks, Alaska. The meetings will begin at 9 a.m. each day, at the University of Alaska Fairbanks, International Arctic Research Center, Room 401. Public comment will be received between 3 and 4 p.m. on Wednesday, January 26, 2011.

FOR FURTHER INFORMATION CONTACT: John F. Payne, Executive Director, North Slope Science Initiative, AK–910, c/o Bureau of Land Management, 222 W. Seventh Avenue, #13, Anchorage, AK 99513, (907) 271–3431 or e-mail *john_f_payne@blm.gov.*

SUPPLEMENTARY INFORMATION: The NSSI–STAP provides advice and recommendations to the NSSI Oversight Group regarding priority information needs for management decisions across the North Slope of Alaska. These priority information needs may include recommendations on inventory, monitoring, and research activities that contribute to informed land management decisions. The topics to be discussed at the meeting include:

- Emerging issue summaries from the STAP, including restoration/reclamation, cultural and Arctic fisheries.
- Planning for an NSSI workshop to be held in Barrow on March 29–31, 2011.
- Update on the project tracking system, database and public Web site.
- NSSI priority recommendations on implementing the emerging issues.
- Other topics the Oversight Group or STAP may raise.

All meetings are open to the public. The public may present written comments to the Science Technical Advisory Panel through the Executive Director, North Slope Science Initiative. Each formal meeting will also have time allotted for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, transportation, or other reasonable accommodations, should contact the Executive Director, North Slope Science Initiative.

Before including your address, phone number, e-mail address, or other personal indentifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 9, 2010.

Bud C. Cribley,

Alaska State Director.

[FR Doc. 2010–31663 Filed 12–16–10; 8:45 am]

BILLING CODE 1310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA02000–L1430000.ET0000; NMNM77967]

Notice of Proposed Withdrawal Extension and Opportunity for Public Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary of the Interior for Land and Minerals Management proposes to extend the duration of Public Land Order (PLO) No. 6845 for an additional 20-year term. PLO No. 6845 withdrew 200 acres of public land from settlement, sale, location, or entry under the general land laws, including the United States mining laws, to protect the archaeological values at the Arroyo del Tajo Pictograph Site. This notice gives an opportunity to comment on the proposed action and request a public meeting.

DATES: Comments and requests for a public meeting must be received by March 17, 2011.

ADDRESSES: Comments and meeting requests should be sent to the Bureau of Land Management (BLM) Socorro Field Office Field Manager, 901 S. Hwy 85, Socorro, New Mexico 87801.

FOR FURTHER INFORMATION CONTACT: Ann D. Sullivan, BLM Socorro Field Office, 901 S. Hwy 85, Socorro, New Mexico 87801, or at 575–835–0412.

SUPPLEMENTARY INFORMATION: The withdrawal created by PLO No. 6845 (56 FR 14865 (1991)) will expire April 11, 2011, unless extended. PLO No. 6845 is incorporated herein by reference. The BLM has filed a petition/application to extend PLO No. 6845 for an additional 20-year term. The withdrawal was made to protect the archaeological values at the Arroyo del Tajo Pictograph Site and surrounding area from deterioration, for research purposes, and for interpretation as described in the PLO. The area aggregates 200 acres in Socorro County, New Mexico.

The use of a right-of-way, interagency, or cooperative agreement would not adequately constrain nondiscretionary uses which could result in the permanent loss of significant values and irreplaceable cultural resources.

No water rights would be needed to fulfill the purpose of the requested withdrawal extension.

There are no suitable alternative sites available since the lands described herein have specific archaeological values that are not found in any nearby areas.

Records relating to the application may be examined by contacting Ann D. Sullivan or Danita Burns of the BLM Socorro Field Office at the above address or phone number.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal extension may present their views in writing to the BLM Socorro Field Office Field

Manager at the address noted above. Comments, including names and street addresses of respondents, will be available for public review at the BLM Socorro Field Office during regular business hours, which are 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays.

Individual respondents may request confidentiality. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal extension. All interested persons who desire a public meeting for the purpose of being heard on the proposed extension must submit a written request to the BLM Socorro Field Office Field Manager at the address above within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place of any public meetings will be published in the **Federal Register** and at least one local newspaper at least 30 days before the scheduled date of the meeting.

This application will be processed in accordance with the regulations set forth in 43 CFR 2310.4.

Authority: 43 CFR 2310.3–1;2310.4.

Danita Burns,

Field Manager, BLM Socorro Field Office.

[FR Doc. 2010–31701 Filed 12–16–10; 8:45 am]

BILLING CODE 4310–MW–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLID102000–L58740000 EU0000LXSS026D0000; DGG–10–0001]

Notice of Realty Action: Proposed Sale of Public Lands in Bear Lake County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes the sale of 26 parcels of public lands totaling 1,543.14 acres in Bear Lake County, Idaho, under the authority of the Federal Land Policy and Management Act of 1976 (FLPMA) at no less than the appraised fair market value. This notice segregates the lands being considered for sale from all forms of appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA for a period of up to 2 years.

DATES: To ensure consideration of your comments regarding the proposed action, comments must be received by January 31, 2011.

ADDRESSES: Address all comments concerning this notice to Field Manager, Pocatello Field Office, Bureau of Land Management, 4350 Cliffs Drive, Pocatello, Idaho 83204.

FOR FURTHER INFORMATION CONTACT: You may contact the Pocatello Field Office at above address or by phone (208) 478–6357.

SUPPLEMENTARY INFORMATION: The following described public lands in Bear Lake County, Idaho, are proposed for sale under the authority of Sections 203 and 209 of FLPMA (90 Stat. 2750, 43 U.S.C. 1713 and 1719):

Boise Meridian

Parcel #85, T. 10 S., R. 43 E., sec. 34, SW¼SE¼. T. 11 S., R. 43 E., sec. 3, lot 2.
Parcel #91, T. 11 S., R. 43 E., sec. 14, E½SW¼.
Parcel #92, T. 11 S., R. 43 E., sec. 20, NE¼NW¼.
Parcel #94, T. 11 S., R. 43 E., sec. 27, NE¼SE¼.
Parcel #97, T. 11 S., R. 43 E., sec. 33, SW¼NW¼.
Parcel #110, T. 12 S., R. 44 E., sec. 23, S½SE¼.
Parcel #101, T. 12 S., R. 46 E., sec. 4, lot 4.
Parcel #114, T. 13 S., R. 46 E., sec. 5, SW¼NE¼.
Parcel #122, T. 13 S, R. 44 E., sec. 18, SW¼SE¼.
Parcel #125, T. 13 S., R. 45 E., sec. 21, NE¼NE¼; sec. 22, NW¼NW¼.
Parcel #132, T. 13 S., R 44 E., sec. 34, SW¼SW¼.
Parcel #133, T. 14 S., R. 43 E., sec. 18, lot 3.
Parcel #134, T. 14 S., R. 46 E., sec. 17, NW¼SW¼.
Parcel #135, T. 14 S., R. 45 E., sec. 20, NW¼NW¼.
Parcel #136, T. 14 S., R. 46 E., sec. 20, SW¼NW¼.
Parcel #137, T. 14 S., R. 46 E., sec. 19, lots 2 and 3.
Parcel #138, T. 14 S., R. 45 E., sec. 19, SE¼SE¼; sec. 20, SW¼SW¼.
Parcel #139, T. 14 S., R. 43 E., sec. 27, N½NW¼.
Parcel #142, T. 14 S., R. 46 E., sec. 31, NW¼NE¼.
Parcel #143, T. 14 S., R. 46 E., sec. 31, NW¼SE¼.
Parcel #144, T. 15 S., R. 43 E., sec. 3, SW¼NW¼ and W½SW¼ ; sec. 4, SE¼NE¼.
Parcel #159, T. 15 S., R. 46 E., sec. 27, SE¼SE¼.
Parcel #163, T. 16 S., R. 43 E., sec. 10, SE¼NW¼ and NE¼SW¼.
Parcel #165, T. 16 S., R. 45 E., sec. 11, E½SE¼.
Parcel #167, T. 16 S., R. 46 E., sec. 20, NW¼NW¼.
Parcel #176, T. 14 S., R. 46 E., sec. 27, SE¼NE¼.

The areas described aggregate 1,543.14, acres more or less, in Bear Lake County. The lands are not needed for any Federal purpose and disposal would be in the public interest. The 1988 BLM Pocatello Resource Management Plan identified these parcels of public land as suitable for disposal. Conveyance of the identified public lands will be subject to valid existing rights and encumbrances of record, including but not limited to, rights-of-way for roads and public utilities. A decision regarding the method of sale (competitive, modified competitive, or direct) along with a decision regarding conveyance of any mineral interests pursuant to Section 209 of the FLPMA will be analyzed for each parcel during processing of the proposed sale. The BLM Pocatello Field Office anticipates publication of a follow-up notice in the **Federal Register** detailing these specifics when they have been determined.

On December 17, 2010, the above-described lands will be segregated from all forms of appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale, the BLM will not accept land use applications affecting the identified public lands, except applications for the amendment of previously-filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or December 17, 2012, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

Public Comments

For a period until January 31, 2011, interested parties and the general public may submit comments concerning the lands being considered for sale, including notification of any encumbrances or other claims relating to the identified lands, to the Field Manager, Pocatello Field Office, Bureau of Land Management, 4350 Cliffs Drive,

Pocatello, Idaho 83204. In order to ensure consideration in the environmental analysis of the proposed sale, comments must be in writing and postmarked or delivered within 45 days of the initial date of publication of this notice. Comments transmitted via e-mail will not be accepted. Comments, including names and street addresses of respondents, will be available for public review at the BLM Pocatello Field Office during regular business hours, except holidays.

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.

Authority: 43 CFR 2711.1–2.

David Pacioretty,

Pocatello Field Manager.

[FR Doc. 2010–31702 Filed 12–16–10; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–476 and 731–TA–1179 (Preliminary)]

Multilayered Wood Flooring From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of multilayered wood flooring, provided for in subheadings 4409.10, 4409.29, 4412.31, 4412.32, 4412.39, 4412.94, 4412.99, 4418.71, 4418.72, 4418.79.00, and 4418.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of China.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

These investigations are being instituted in response to a petition filed on October 21, 2010, on behalf of the Coalition for American Hardwood Parity ("CAHP"), an ad hoc association of U.S. manufacturers of multilayered wood flooring. The following companies are members of the CAHP: Anderson Hardwood Floors, LLC, Fountain Inn, SC; Award Hardwood Floors, Wausau, WI; Baker's Creek Wood Floors, Inc., Edwards, MS; From the Forest, Weston, WI; Howell Hardwood Flooring, Dothan, AL; Mannington Mills, Inc., Salem, NJ; Nydree Flooring, Forest, VA; and Shaw Industries Group, Inc., Dalton, GA. Accordingly, effective October 21, 2010, the Commission instituted countervailing duty investigation No. 701–TA–476 and antidumping duty investigation No. 731–TA–1179 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 27, 2010 (75 FR 66126). The conference was held in Washington, DC, on November 12, 2010, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on December 6, 2010. The views of the Commission are contained in USITC Publication 4206 (December 2010), entitled *Multilayered Wood Flooring from China: Investigation Nos. 701–TA–476 and 731–TA–1179 (Preliminary).*

Issued: December 13, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 2010–31694 Filed 12–16–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

Notice is hereby given that on December 9, 2010, a proposed Consent Decree in *United States* v. *James Matteo & Sons, Inc.* (D.N.J.) No. 1:10–cv–06405 (NLH–JS) was lodged with the United States District Court for the District of New Jersey.

In this action, the United States sought the recovery of response costs pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation, and Recovery Act, as amended ("CERCLA"), 42 U.S.C. 9607(a), from Defendant for response costs incurred at the James Matteo & Sons, Inc. Superfund Site (the "Site"), located in Gloucester County, New Jersey. Pursuant to the proposed Consent Decree, the Settling Defendant will pay to the United States $820,000 in reimbursement of past response costs incurred by the United States with respect to the Site. The proposed Consent Decree provides the Settling Defendant with a covenant not to sue pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC

20044–7611, and should refer to *United States* v. *James Matteo & Sons, Inc.* (D.N.J.) No. 1:10–cv–06405 (NLH–JS); D.J. Ref. 90–11–3–09689.

During the public comment period, the Consent Decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31726 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Proposed Consent Decree Modification Under the Clean Air Act

Notice is hereby given that on December 13, 2010, four proposed Consent Decree amendments in *United States, et al.* v. *Motiva Enterprises LLC, et al.,* Civil Action No. H–01–0978, were lodged with the United States District Court for the Southern District of Texas.

The original settlement, entered on August 20, 2001, was for civil penalties and injunctive relief pursuant to Section 113(b) of the Clean Air Act ("CAA"), 42 U.S.C. 7413(b) covering nine petroleum refineries located in California, Delaware, Louisiana, Texas and Washington. These refineries were owned and operated by Motiva Enterprises LLC ("Motiva"), Equilon Enterprises LLC ("Equilon") and Deer Park Refining Limited Partnership ("Deer Park"), which were subsidiaries or joint ventures of Shell Oil Company ("Shell"). The 2001 settlement was therefore embodied in four interlocking Consent Decrees covering each of the Shell companies that owned and operated the nine refineries. The four Consent Decree amendments lodged on December 13, 2010, would each make certain technical and administrative revisions, would reflect a transfer in ownership of one of the facilities covered by the settlement, and would make certain other minor modifications to each of the four interlocking Consent Decrees.

The Department of Justice will receive comments relating to the proposed Consent Decree amendments for a period of thirty (30) days from the date of this publication. The proposed amendments may be examined at the Office of the United States Attorney, Southern District of Texas, U.S. Courthouse, 515 Rusk, Houston, Texas 77002, and at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to the matter as *United States, et al.* v. *Motiva Enterprises LLC, et al.,* DOJ Ref. No. 90–5–2–1–07209.

During the public comment period, the proposed amendments may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the proposed amendments may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting from the Consent Decree Library a copy of the consent decree amendments for *United States et al.* v. *Motiva Enterprises LLC, et al.,* Civil Action No. H–01–0978 (S.D. Tex.), please enclose a check in the amount of $17.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31727 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0006]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Revision 30-day notice of information collection under review: Application and Permit for Importation of Firearms, Ammunition and Implements of War.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 200, page 63860 on October 18, 2010, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 18, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application and Permit for Importation of Firearms, Ammunition and Implements of War.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 6, Part II (5330.3B). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other for-profit, Federal Government, State, Local, or Tribal Government. *Abstract:* The information collection is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. The information is used to secure authorization to import such articles. The form is used by persons who are members of the United States Armed Forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 9,000 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 4,500 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, Room 2E–502, 145 N Street, NE., Washington, DC 20530.

Dated: December 14, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–31755 Filed 12–16–10; 8:45 am]

BILLING CODE 4810–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review: Report of Multiple Sale or Other Disposition of Certain Rifles.

The Department of Justice, Office of Justice Programs, will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by January 5, 2011. This notice requests comments from the public and affected agencies concerning the proposed information collection. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Barbara A. Terrell, *Barbara.Terrell@atf.gov* Firearms Industry Programs Branch, Fax (202) 648–9640, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue, NE., Washington DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

—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 agencies 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 submission of responses.

Summary of Collection:

(1) *Type of information collection:* New.

(2) *The title of the form/collection:* Report of Multiple Sale or Other Disposition of Certain Rifles.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: ATF F 3310.12. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or For-Profit Other: None.

Need for Collection

The purpose of the information is to require Federal Firearms Licensees to report multiple sales or other dispositions whenever the licensee sells or otherwise disposes of two or more rifles within any five consecutive business days with the following characteristics: (a) Semi automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: It is estimated that 8,479 respondents will complete a 12 minute form.

(6) An estimate of the total public burden (in hours) associaed with the collection: The estimated total public burden associated with this information collection is 1,696 hours.

If additional information is required contact: Lynn Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, 145 N Street, NE., Two Constitution Square, Room 2E–502, Washington, DC 20530.

Dated: December 14, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–31761 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0005]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Revision 30-Day Notice of Information Collection Under Review: Application and Permit for Importation of Firearms and Ammunition and Implements of War.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 200, page 63861 on October 18, 2010, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 18, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)-395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application and Permit for Importation of Firearms and Ammunition and Implements of War.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 6, Part 1 (5330.3A). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Other: Business or other for-profit, Federal Government, State, Local or Tribal Government. Abstract: The form is used to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. It is also used to secure authorization to import such articles and serves as authorization to the U.S. Customs Service to allow these articles entry into the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 11,000 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 5,500 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, Room 2E–502, 145 N Street, NE., Washington, DC 20530.

Dated: December 14, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–31758 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0084]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Revision 30-Day Notice of Information Collection Under Review: Application and Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 200, page 63859 on October 18, 2010, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 18, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application and Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 6NIA (5330.3D). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* none. *Abstract:* This information collection is needed to determine if the firearms or ammunition listed on the application qualify for importation and to certify that a nonimmigrant alien is in compliance with 18 U.S.C. 922(g)(5)(B). This application will also serve as the authorization for importation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 15,000 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 7,500 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, 2 Constitution Square, Room 2E–502, 145 N Street, NE., Washington, DC 20530.

Dated: December 14, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–31764 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0007]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Revision 30-Day Notice of Information Collection under Review: Release and Receipt of Imported Firearms, Ammunition and Implements of War.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 200, page 63861 on October 18, 2010, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 18, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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 agencies 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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Release and Receipt of Imported Firearms, Ammunition and Implements of War.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 6A (5330.3C). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other for-profit, not-for-profit institutions. Abstract: The data provided by this information collection request is used by ATF to determine if articles imported meet the statutory and regulatory criteria for importation and if the articles shown on the permit application have been actually imported.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 20,000 respondents, who will complete the form within approximately 35 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 11,667 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, 2 Constitution Square, Room 2E–502, 145 N Street, NE., Washington, DC 20530.

Dated: December 14, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–31752 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on November 15, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), ODVA, Inc. ("ODVA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actul damages under specified circumstances. Specifically, Process Automation International Ltd., New Territories, Hong Kong-China; Secure Crossing Research and Development, Inc., Dearborn, MI; Vacon Plc, Vassa, Finland; Tappan Wire and Cable, Inc., Blauvelt, NY; Leuze Electronic GmbH & Co. KG, Owen, Germany; MK Precision Co., Ltd., Seoul, Republic of Korea; Monaghan Engineering, Inc., Dripping Springs, TX; Samsung Electronics Co., Ltd., Suwon City, Republic of Korea; Actel Corporation, Mountain View, CA; OES, Inc., London, Ontario, Canada; Hokuyo Automatic Co., Ltd., Osaka, Japan; Omron Scientific Technologies, Inc. (formerly Scientific Technologies, Inc.), Fremont, CA; Eilersen Electric A/S, Kokkedal, Denmark; and Han Yang System, Shihung-Shi, Republic of Korea, have been added as parties to this venture.

Also, Schweitzer Engineering Laboratories, Pullman, WA; Meidensha Corporation, Tokyo, Japan; Altera Corporation, San Jose, CA; SICK Stegmann GmbH, Donaueschingen, Germany; Sick Stegnann Inc., Dayton, OH; RocKontrol Industry Co., Ltd., Taiyuan, People's Republic of China; GE Fanuc Automation North America, Inc., Charlottesville, VA; Unipulse Corporation, Tokyo, Japan; Matric Limited Inc., Seneca, PA; and Wittenstein AG, Igersheim, Germany, have withdrawn as parties to this venture.

In addition, Invensys Process Systems has changed its name to Invensys Operations Management, Piano, TX.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on June 30, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 2, 2010 (75 FR 45155).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2010–31593 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on High-Efficiency Dilute Gasoline Engine II

Notice is hereby given, on November 4, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute—Cooperative Research Group on High-Efficiency Dilute Gasoline Engine II ("HEDGE II") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Toyota Motor Corporation, Shizuoka, JAPAN, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HEDGE II intends to file additional written notifications disclosing all changes in membership.

On February 19, 2009, HEDGE II filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 2, 2009 (74 FR 15003).

The last notification was filed with the Department on September 1, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 12, 2010 (75 FR 62569).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2010–31598 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Connected Media Experience, Inc.

Notice is hereby given that, on November 1, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Connected Media Experience, Inc. ("CMX") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the . Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Samsung Electronics Co., LTD, Gyeonggi-Do, Republic of Korea; and Xertive, Tel Aviv, Israel, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CMX intends to file additional written notifications disclosing all changes in membership.

On March 12, 2010, CMX filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 16, 2010 (75 FR 20003).

The last notification was filed with the Department on August 17, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 12, 2010 (75 FR 62569).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2010–31602 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on November 4, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Cable Television Laboratories, Inc. ("CableLabs") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Sjoberg's Inc., Thief River Falls, MN, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. The membership in this group research project remains open, and CableLabs intends to file additional written notifications disclosing all changes in membership.

On August 8, 1988, CableLabs filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 7, 1988 (53 FR 34593).

The last notification with respect to membership changes was filed with the Department on July 27, 2010. A notice in the **Federal Register** pursuant to Section 6(b) of the Act was published on September 8, 2010 (75 FR 54651).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2010–31603 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program

Notice is hereby given that, on November 29, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), National Shipbuilding Research Program ("NSRP") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Atlantic Marine Holding Company, Jacksonville, FL, has been removed as a party to this venture. Additionally, BAE Systems Southeast Shipyards AMHC, Inc., Jacksonville, FL, has been added to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSRP intends to file additional written notification disclosing all changes in membership.

On March 13, 1998, NSRP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4708).

The last notification was filed with the Department on September 15, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 25, 2010 (75 FR 65511).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2010–31600 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Limo Foundation

Notice is hereby given that, on November 2, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), LiMo Foundation ("LiMo") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adobe Systems Incorporated, San Jose, CA; Gemalto SA, Meudon, France; and Samsung SDS, Suwon, Republic of Korea, have been added as parties.

Also, Azingo, Inc., Sunnyvale, CA; Casio Hitachi, Tokyo, JAPAN; and Motorola, Inc., Libertyville, IL, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of this group research project. Membership in this group research project remains open, and LiMo intends to file additional written notifications disclosing all changes in membership.

On March 1, 2007, LiMo filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 9, 2007 (72 FR 17583).

The last notification was filed with the Department on July 1, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 9, 2010 (75 FR 54914).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2010–31596 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Wireless Industrial Technology Konsortium, Inc.

Notice is hereby given that, on November 2, 2010, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Wireless Industrial Technology Konsortium, Inc. ("WITECK") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Software Technologies Group, Westchester, IL, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and WITECK intends to file additional written notifications disclosing all changes in membership.

On August 8, 2008, WITECK filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the

Act on September 18, 2008 (73 FR 54170).

The last notification was filed with the Department on March 12, 2010. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 16, 2010 (75 FR 20003).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2010–31592 Filed 12–16–10; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Ventilation Plan and Main Fan Maintenance Record

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, "Ventilation Plan and Main Fan Maintenance Record," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before January 18, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–4816/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Federal Mine Safety and Health Act of 1977 section 103(h), 30 U.S.C. 813, authorizes the MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Underground mines usually present harsh and hostile working environments. Pursuant to the statutory authority, the MSHA has issued regulations under which a mine operator is required to prepare a written plan of the mine ventilation system. The plan is required to be updated at least annually. Upon written request of the MSHA District Manager, the plan or revisions must be submitted to the MSHA for review and comment. In addition, the main ventilation fans for an underground mine must be maintained either according to manufacturers' recommendations or a written periodic schedule. Upon request of an authorized representative of the Secretary of Labor, this fan maintenance schedule must be made available for review. The records assure compliance with the standard and may serve as a warning mechanism for possible ventilation problems before they occur.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1219–0016. The current OMB approval is scheduled to expire on December 31, 2010; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on September 16, 2010, (75 FR 56562).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference OMB Control Number 1219–0016. The OMB is particularly interested in comments that:

- 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 submission of responses.

Agency: Mine Safety and Health Administration (MSHA).

Title of Collection: Ventilation Plan and Main Fan Maintenance Record.

OMB Control Number: 1219–0016.

Affected Public: Private sector, Business or other for-profit.

Total Estimated Number of Respondents: 245.

Total Estimated Number of Responses: 272.

Total Estimated Annual Burden Hours: 5894.

Total Estimated Annual Costs Burden: $0.

Dated: December 13, 2010.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2010–31681 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employer's First Report of Injury or Occupational Disease and Employer's Supplementary Report of Accident or Occupational Illness

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) titled, "Employer's First Report of Injury or Occupational Disease and Employer's Supplementary Report of Accident or Occupational Illness," to the Office of Management and Budget (OMB) for

review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before January 18, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Office of Workers' Compensation Programs (OWCP), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The OWCP administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employee in loading, unloading, repairing or building a vessel. In addition, several acts extend coverage to certain other employees.

Longshore Act section 30(a) provides that an employer having knowledge of a disease or injury related to an employee's employment must file a report of the disease or injury to the Secretary of Labor within 10 days after the date of injury or death. *See also* 20 CFR 702.201. Form LS–202 requests information the employer must report regarding the injury. Longshore Act section 30(b) provides that the employer is required to furnish additional necessary reports regarding an employee's injury. Form LS–210 is used as a supplementary report after the employer's first report to report additional periods of lost-time from work. Proper filing of Forms LS–202 and LS–210 meet the statutory requirements.

These information collections are subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for these information collections under OMB Control Number 1240–0003. The current OMB approval is scheduled to expire on December 31, 2010; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on July 30, 2010 (75 FR 44991).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1240–0003. The OMB is particularly interested in comments that:

- 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 submission of responses.

Agency: Office of Workers' Compensation Programs (OWCP).

Title of Collection: Employer's First Report of Injury or Occupational Disease and Employer's Supplementary Report of Accident or Occupational Illness.

OMB Control Number: 1240–0003.

Affected Public: Private sector, businesses or other for profits and not-for-profit institutions.

Total Estimated Number of Respondents: 21,083.

Total Estimated Number of Responses: 21,083.

Total Estimated Annual Burden Hours: 5271.

Total Estimated Annual Costs Burden: $9909.

Dated: December 13, 2010.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2010–31696 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the "Current Population Survey (CPS)." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before February 15, 2011.

ADDRESSES: Send comments to Carol Rowan, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Carol Rowan, BLS Clearance Officer,

202–691–7628 (this is not a toll free number). (*See* **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The CPS has been the principal source of the official Government statistics on employment and unemployment for 70 years. The labor force information gathered through the survey is of paramount importance in keeping track of the economic health of the Nation. The survey is the only source of monthly data on total employment and unemployment. The Employment Situation report contains data from this survey and is designated as a Principle Federal Economic Indicator (PFEI). Moreover, the survey also yields data on the basic status and characteristics of persons not in the labor force. The CPS data are used monthly, in conjunction with data from other sources, to analyze the extent to which, and with what success, the various components of the American population are participating in the economic life of the Nation.

The labor force data gathered through the CPS are provided to users in the greatest detail possible, in conjunction with the demographic information obtained in the survey. In brief, the labor force data can be broken down by sex, age, race, ethnicity, marital status, family composition, educational level, and other characteristics. Since 2009, a breakdown by disability status has also been possible. Through such breakdowns, one can focus on the employment situation of specific population groups as well as on general trends in employment and unemployment. Information of this type can be obtained only through demographically oriented surveys such as the CPS.

The basic CPS data also are used as an important platform on which to base the data derived from the various supplemental questions that are administered in conjunction with the survey. By coupling the basic data from the monthly survey with the special data from the supplements, one can get valuable insights on the behavior of American workers and on the social and economic health of their families.

There is wide interest in the monthly CPS data among Government policymakers, legislators, economists, the media, and the general public. While the data from the CPS are used in conjunction with data from other surveys in assessing the economic health of the Nation, they are unique in various ways. Specifically, they are the basis for much of the monthly Employment Situation report, a PFEI. They provide a monthly, nationally representative measure of total employment, including farm work, self-employment, and unpaid family work; other surveys are generally restricted to the nonagricultural wage and salary sector, or provide less timely information. The CPS provides data on all jobseekers, and on all persons outside the labor force, while payroll-based surveys cannot, by definition, cover these sectors of the population. Finally, the CPS data on employment, unemployment, and on persons not in the labor force can be linked to the demographic characteristics of the many groups that make up the Nation's population, while the data from most other surveys are devoid of demographic information. Many groups, both in the government and in the private sector, are eager to analyze this wealth of demographic and labor force data.

II. Current Action

Office of Management and Budget clearance is being sought for the Current Population Survey (CPS). A reinstatement, without change, of this previously approved collection for which approval has expired is needed to provide the Nation with timely information about the labor force status of the population.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- 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.
- 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.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Type of Review: Reinstatement of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Current Population Survey (CPS).

OMB Number: 1220–0100.

Affected Public: Households.

Total Respondents: 55,000 per month.

Frequency: Monthly.

Total Responses: 660,000.

Average Time per Response: 7.5 minutes.

Estimated Total Burden Hours: 82,500 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Signed at Washington, DC, this 13th day of December 2010.

Kimberley Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2010–31697 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0044]

Proposed Extension of Existing Information Collection; Self-Contained Self-Rescue Devices (SCSRs)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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 [44 U.S.C. 3506(c)(2)(A)]. This program helps to assure 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection for 30 CFR 75.1714–3–Self-rescue devices; inspection, testing, maintenance, repair and recordkeeping, 30 CFR 75.1714–4 Additional self-contained self-rescuers (SCSRs), 30 CFR 75.1714–8 Reporting

SCSR inventory and malfunctions; retention of SCSRs.

DATES: All comments must be received by midnight Eastern Standard Time on *February 15, 2011.*

ADDRESSES: Comments must clearly be identified with the rule title and may be submitted to MSHA by any of the following methods:

(1) *Electronic mail:* zzMSHA-Comments@dol.gov.

(2) *Facsimile:* (202) 693–9441.

(3) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939.

(4) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Mario Distasio, Chief of the Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *distasio.mario@dol.gov* (e-mail), 202–693–9445 (voicemail), 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813, authorizes MSHA to collect information necessary to carryout its duty in protecting the safety and health of miners.

Title 30, CFR 75.1714–3 requires that self-rescue devices be inspected for damage after being worn or carried, and be tested regularly at intervals not to exceed 90 days by a qualified person who certifies by date and signature that the tests were conducted. A self-rescue device must be removed from service if its seal is broken, it is damaged so that it will not function properly, or it does not meet testing criteria. A record must be made when a self-rescue device is removed from service and when corrective action is taken as a result of an inspection or test. The records are used as an enforcement tool to assure that the self-rescue devices have been tested and inspected and are maintained in operable condition. In the event of a mine fire, mine explosion, or mine inundation, the use of self-rescuers can be the difference between life and death. Therefore it is essential that these devices be examined regularly and that they are maintained in usable and operative condition.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- 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 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by selecting "Rules & Regs", and then selecting "FedReg.Docs". On the next screen, select "Paperwork Reduction Act Supporting Statement" to view documents supporting the **Federal Register** notice.

III. Current Actions

This request for collection of information contains notification and recordkeeping provisions for the Proposed Information Collection Request Submitted for Public Comment and Recommendations; 30 CFR 75.1714–3–Self-rescue devices; inspection, testing, maintenance, repair and recordkeeping, 30 CFR 75.1714–4 Additional self-contained self-rescuers (SCSRs), 30 CFR 75.1714–8 Reporting SCSR inventory and malfunctions; retention of SCSRs. MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0044.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Cost to Federal Government: $0.00.

Total Burden Respondents: 595.

Total Number of Responses: 754,932.

Total Burden Hours: 12,664.

Total Hour Burden Cost (operating/maintaining): $1,072,641

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 13, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2010–31687 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0143]

Proposed Extension of Existing Information Collection; Request for MSHA Individual Identification Number (MIIN)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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 [44 U.S.C. 3506(c)(2)(A)]. This program helps to assure 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection for Request for MSHA Individual Identification Number (MIIN).

DATES: All comments must be received by midnight Eastern Standard Time on February 15, 2011.

ADDRESSES: Comments must clearly be identified with the rule title and may be submitted to MSHA by any of the following methods:

(1) *Electronic mail: zzMSHA-Comments@dol.gov.*

(2) *Facsimile:* (202) 693–9441.

(3) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939.

(4) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Mario Distasio, Chief of the Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *distasio.mario@dol.gov* (e-mail), 202–693–9445 (voicemail), 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(a) of the Federal Mine Safety and Health Act of 1977 (Mine Act) requires the Secretary to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines. Under section 103(a)(2), authorized representatives of the Secretary of Labor or Secretary of Health and Human Services must make frequent inspections and investigations in coal or other mines each year for the purpose of gathering information with respect to mandatory health or safety standards.

The Mine Safety and Health Administration (MSHA) issues certifications, qualifications and approvals (licenses) to the nation's miners to conduct specific work within the mines. Prior to the approval of this collection Social Security Numbers (SSNs) were used for tracking purposes within MSHA's data processing systems, in the absence of other reliable identification systems. In the effort to reduce use of SSNs both by MSHA and third parties, MSHA has changed the process to one in which miners requiring a license or benefit from MSHA will register for an "MSHA Individual Identification Number" (MIIN).

This unique number is used in place of individual SSNs for all licensing requirements within MSHA. This process has allowed MSHA to discontinue the past practice of individuals supplying their personally identifiable information to instructors, states or other entities, which in turn supplied that information to MSHA. Miners needing a license or benefit from MSHA will need to register only one time to obtain their MIINs from MSHA.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- 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 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by selecting "Rules & Regs", and then selecting "FedReg.Docs". On the next screen, select "Paperwork Reduction Act Supporting Statement" to view documents supporting the **Federal Register** notice.

III. Current Actions

This request for collection of information contains notification and recordkeeping provisions for the Proposed Information Collection Request Submitted for Public Comment and Recommendations; Request for MSHA Individual Identification Number (MIIN). MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0143.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Cost to Federal Government: $132,784.

Total Burden Respondents: 11,000.

Total Number of Responses: 11,000.

Total Burden Hours: 916.

Total Hour Burden Cost (operating/maintaining): $38,696.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 13, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2010–31688 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0009]

Proposed Extension of Existing Information Collection; Training Plans and Records of Training

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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 [44 U.S.C. 3506(c)(2)(A)]. This program helps to assure 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection for Training Plans and Records of Training, 30 CFR 48.3, 48.9, 48.23, and 48.29.

DATES: All comments must be received by midnight Eastern Standard Time on *February 15, 2011.*

ADDRESSES: Comments must clearly be identified with the rule title and may be submitted to MSHA by any of the following methods:

(1) *Electronic mail: zzMSHA-Comments@dol.gov.*

(2) *Facsimile:* (202) 693–9441.

(3) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939.

(4) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Mario Distasio, Chief of the Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *distasio.mario@dol.gov* (e-mail), 202–693–9445 (voicemail), 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 801 *et seq.,* recognizes that education and training in the improvement of miner health and safety is an important element of federal efforts to make the nation's mines safer places in which to work.

Title 30, CFR §§ 48.3 and 48.23 require training plans for underground and surface mines, respectively. The standards are intended to assure that miners will be effectively trained in matters affecting their health and safety, with the ultimate goal being the reduction of injuries and illness in the nation's mines. Training plans are required to be submitted for approval to the MSHA District Manager for the area in which the mine is located. Plans must contain the company name, mine name, and MSHA identification number of the mine; the name and position of the person designated by the operator who is responsible for health and safety training at the mine; a list of MSHA-approved instructors with whom the operator proposes to make arrangements to teach the courses and the courses each instructor is qualified to teach; the location where training will be given for each course; a description of the teaching methods and the course materials which are to be used in training; the approximate number of miners employed at the mine and the maximum number who will attend each session of training; the predicted time or periods of time when regularly scheduled refresher training will be given including the titles of courses to be taught, the total number of instruction hours for each course, and the predicted time and length of each session of training; and for new task training, a complete list of task assignments, the titles of personnel conducting the training, the outline of training procedures used, and the evaluation procedures used to determine the effectiveness of the training. Records of training are required for underground and surface mines under §§ 48.9 and 48.29.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- 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 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by selecting "Rules & Regs," and then selecting "FedReg.Docs." On the next screen, select "Paperwork Reduction Act Supporting Statement" to view documents supporting the **Federal Register** notice.

III. Current Actions

This request for collection of information contains notification and recordkeeping provisions for the Proposed Information Collection Request Submitted for Public Comment and Recommendations; Training Plans and Records of Training for Underground Miners and Miners Working at Surface Mines and Surface Areas of Underground Mines, 30 CFR 48.3, 48.9, 48.23, and 48.29. MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0009.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Cost to Federal Government: $428,239.

Total Burden Respondents: 3,017.

Total Number of Responses: 267,417.

Total Burden Hours: 27,793.

Total Hour Burden Cost (operating/maintaining): $1,082,165.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 13, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2010–31689 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0042]

Proposed Extension of Existing Information, Collection; Representative of Miners; Legal Identity Report; Opening and Closing of Metal and Nonmetal

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to assure 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection for 30 CFR 40.2, 40.3, 40.4, and 40.5, Representative of Miners; 30 CFR 41.20, Legal Identity Report; 30 CFR 56.1000 and 57.1000, Notification of Commencement of Operations and Closing of Mines.

DATES: All comments must be received by midnight Eastern Standard Time on February 15, 2011.

ADDRESSES: Comments must clearly be identified with the rule title and may be submitted to MSHA by any of the following methods:

(1) *Electronic mail: zzMSHA-Comments@dol.gov.*

(2) *Facsimile:* (202) 693–9441.

(3) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939.

(4) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Mario Distasio, Chief of the Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *distasio.mario@dol.gov* (e-mail), 202–693–9445 (voicemail), 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), as amended, 30 U.S.C. 813, authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners.

Representative of Miners

Section 103(f) of the Mine Act establishes miners' rights which may be exercised through a representative. Title 30 Code of Federal Regulations (30 CFR) Part 40 contains procedures which a person or organization must follow in order to be identified by the Secretary as a representative of miners. The regulation defines what is meant by "representative of miners," a term that is not defined in the Mine Act. Section 40.2 requires the representative of miners to file the information specified in § 40.3 with the Mine Safety and Health Administration (MSHA) district manager and the mine operator; § 40.3 requires the following information to be filed:

(1) The name, address, and telephone number of the representative or organization that will serve as representative;

(2) The name and address of the mine operator, and the name, address, and MSHA ID number, if known, of the mine;

(3) A copy of the document evidencing the designation of the representative;

(4) A statement as to whether the representative will serve for all purposes of the Act, or a statement of the limitation of the authority;

(5) The name, address, and telephone number of an alternate;

(6) A statement that all the required information has been filed with the mine operator; and

(7) Certification that all information filed is true and correct followed by the signature of the miners' representative.

Section 40.4 requires that a copy of the notice designating the miners' representative be posted by the mine operator on the mine bulletin board and maintained in current status. Under section 40.5, a representative who wishes to terminate his or her designation must file a written statement with the appropriate MSHA district manager terminating his or her designation.

Legal Identity Report

Section 109(d) of the Mine Act requires each operator of a coal or other mine to file with the Secretary of Labor (Secretary), the name and address of such mine, the name and address of the person who controls or operates the mine, and any revisions in such names and addresses. The legal identity for a mine operator enables the Secretary to properly ascertain the identity of persons and entities charged with violations of mandatory standards. It is also used in the assessment of civil penalties which, by statute, must take into account the size of the business, its economic viability, and its history of previous violations.

Notice of Commencement of Operations and Closing of Mines

Under 30 CFR 56.1000 and 57.1000, operators of metal and nonmetal mines must notify MSHA when the operation of a mine will commence or when a mine is closed. Openings and closings of mines are dictated by the economic strength of the mined commodity, and by weather conditions prevailing at the mine site during various seasons. Section 103(a) of the Mine Act, 30 U.S.C. 813, requires each underground mine to be inspected in its entirety at least four times a year, and each surface mine at least two times per year. Mines which operate only during warmer weather must be scheduled for inspection during the spring, summer, and autumn seasons.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the 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 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.

A copy of the information collection request can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or view on the Internet by selecting "Rules & Regs", and then selecting "FedReg.Docs". On the next screen, select "Paperwork Reduction Act Supporting Statement" to view documents supporting the **Federal Register** notice.

III. Current Actions

This notice contains the request for an extension of the existing collection of information in 30 CFR 40.2, 40.3, 40.4, and 40.5, Representative of Miners; § 41.20, Notification of Legal Identity; and §§ 56.1000 and 57.1000, Notification of Commencement of Operations and Closing of Mines. MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0042.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Cost to Federal Government: $41,023.

Total Burden Respondents: 14,065.

Total Number of Responses: 11,367.

Total Burden Hours: 2,517.5.

Total Hour Burden Cost (operating/maintaining): $67,863.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 13, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2010–31686 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0024]

Proposed Extension of Existing Information Collection; Application for Waiver of Surface Sanitary Facilities' Requirements (Pertaining to Coal Mines)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to assure 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection for applications for waiver of surface sanitary facilities' requirements at coal mines.

DATES: All comments must be received by midnight Eastern Standard Time on February 15, 2011.

ADDRESSES: Comments must clearly be identified with the rule title and may be submitted to MSHA by any of the following methods:

(1) *Electronic mail: zzMSHA–Comments@dol.gov.*

(2) *Facsimile:* (202) 693–9441.

(3) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939.

(4) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Mario Distasio, Chief of the Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *distasio.mario@dol.gov* (e-mail), 202–693–9445 (voicemail), 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813, authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners.

Title 30 CFR 71.400 through 71.402 and 75.1712–1 through 75.1712–3 require coal mine operators to provide bathing facilities, clothing change rooms, and sanitary flush toilet facilities in a location that is convenient for use of the miners. If the operator is unable to meet any or all of the requirements, he/she may apply for a waiver. Title 30 CFR 71.403, 71.404, 75.1712–4, and 75.1712–5 provide procedures by which an operator may apply for and be granted a waiver.

Waivers for surface mines may be granted by the District Manager for a period not to exceed one year. If the waiver is granted, surface mine operators may apply for annual extensions of the approved waiver. Waivers for underground mines may be granted by the District Manager for the period of time requested by the underground mine operator as long as the circumstances that were used to justify granting the waiver remain in effect. Waivers are not transferable to a successor coal mine operator.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- 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 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by selecting "Rules & Regs", and then selecting "FedReg.Docs". On the next screen, select "Paperwork Reduction Act Supporting Statement" to view documents supporting the **Federal Register** notice.

III. Current Actions

This notice contains the request for an extension of the existing collection of information in 30 CFR 71.403, 71.404, 75.1712–4, and 75.1712–5, concerning applications for waivers or extensions of waivers for surface sanitary facilities' requirements at coal mines. MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0024.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Cost to Federal Government: $3,044.

Total Burden Respondents: 933.

Total Number of Responses: 933.

Total Burden Hours: 357.

Total Hour Burden Cost (operating/maintaining): $19,612.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection extension request; they will also become a matter of public record.

Dated: December 13, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2010–31690 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0003]

Proposed Extension of Existing Information Collection; Radiation Sampling and Exposure Records (Pertains to Underground Metal and Nonmetal Mines)

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce

paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to assure 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection for Radiation Sampling and Exposure Records, 30 CFR 57.5037 and 57.5040.

DATES: All comments must be received by midnight Eastern Standard Time on *February 15, 2011.*

ADDRESSES: Comments must be identified clearly with the rule title and may be submitted to MSHA by any of the following methods:

(1) *Electronic mail: zzMSHA–Comments@dol.gov.*

(2) *Facsimile:* 202–693–9441.

(3) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939.

(4) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Mario Distasio, Chief of the Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *distasio.mario@dol.gov* (e-mail), 202–693–9445 (voicemail), 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of Section 103 of the Federal Mine Safety and Health Act of 1977, MSHA is required to—

> * * * issue regulations requiring operators to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any applicable mandatory health or safety standard promulgated under this Act.

Airborne radon and radon daughters exist in every uranium mine and can exist in several other mining commodities. Radon is radioactive gas. It diffuses into the underground mine atmosphere through the rock and the ground water. Radon decays in a series of steps into other radioactive elements, which are solids, called radon daughters. Radon and radon daughters are invisible and odorless. Decay of radon and its daughters results in emissions of alpha energy. Medical doctors and scientists have associated high radon daughter exposures with lung cancer. The health hazard arises from breathing air contaminated with radon daughters which are in turn deposited in the lungs. The lung tissues are sensitive to alpha radioactivity.

Standard 30 CFR 57.5037 establishes the procedures to be used by the mine operator in sampling mine air for the presence and concentrations of radon daughters. Operators are required to conduct weekly sampling where concentrations of radon daughters exceed 0.3 working levels (WL). Sampling is required bi-weekly where uranium mines have readings of 0.1 WL to 0.3 WL and every 3 months in non-uranium underground mines where the readings are 0.1 WL to 0.3 WL. Mine operators are required to make a record of the sampling and retain it for 2 years.

Standard 30 CFR 57.5040 requires mine operators to calculate, record, and report to MSHA individual exposures to radon daughters on MSHA Form 4000–9 "Record of Individual Exposure to Radon Daughters". The calculations are based on the results of the weekly sampling required by 30 CFR 57.5037.

II. Desired Focus of Comments

MSHA is particularly interested in comments that—

- 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 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by selecting "Rules & Regs," and then selecting "FedReg.Docs." On the next screen, select "Paperwork Reduction Act Supporting Statement" to view documents supporting the **Federal Register** notice.

III. Current Actions

This notice contains a request for public comment on the extension of the information collection for existing notification, recordkeeping, and reporting provisions for radiation sampling and exposure records. MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection.

There are no certification exceptions identified with this information collection and the collection of this information does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0003.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Cost to Federal Government: $747.

Total Burden Respondents: 5.

Total Number of Responses: 255.

Total Burden Hours: 502 hours.

Total Hour Burden Cost: $17,018.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 14, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2010–31750 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219–0046]

Proposed Extension of Existing Information Collection; Escape and Evacuation Plans (Pertains to Underground Metal and Nonmetal Mines)

AGENCY: Mine Safety and Health Administration.

ACTION: Notice of request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden,

conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps to assure 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 Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection for 30 CFR 57.11053, Escape and Evacuation Plans.

DATES: All comments must be received by midnight Eastern Standard Time on February 15, 2011.

ADDRESSES: Comments must clearly be identified with the rule title and may be submitted to MSHA by any of the following methods:

(1) *Electronic mail: zzMSHA-Comments@dol.gov.*

(2) *Facsimile:* 202–693–9441.

(3) *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939.

(4) *Hand Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2350, Arlington, VA 22209–3939. Sign in at the receptionist's desk on the 21st floor.

FOR FURTHER INFORMATION CONTACT: Mario Distasio, Chief of the Economic Analysis Division, Office of Standards, Regulations, and Variances, MSHA, at *distasio.mario@dol.gov* (e-mail), 202–693–9445 (voicemail), 202–693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813, authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners.

Title 30 of the Code of Federal Regulations 30 CFR 57.11053 requires the development of an escape and evacuation plan specifically addressing the unique conditions of each underground metal and nonmetal mine. Section 57.11053 also requires that revisions be made as mining progresses. The following information is required with each escape and evacuation plan submission:

(1) Mine maps or diagrams showing directions of principal air flow, location of escape routes, and locations of existing telephones, primary fans, primary fan controls, fire doors, ventilation doors, and refuge chambers;

(2) Procedures to show how the miners will be notified of an emergency;

(3) An escape plan for each working area in the mine including instructions showing how each working area should be evacuated;

(4) A firefighting plan;

(5) Surface procedures to be followed in an emergency, including the notification of proper authorities, preparing rescue equipment and other equipment which may be used in rescue and recovery operations; and

(6) A statement of the availability of emergency communication and transportation facilities, emergency power, and ventilation, and location of rescue personnel and equipment.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- 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 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.

A copy of the Supporting Statement for the proposed extension of the information collection can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by selecting "Rules & Regs", and then selecting "FedReg.Docs". On the next screen, select "Paperwork Reduction Act Supporting Statement" to view documents supporting the **Federal Register** notice.

III. Current Action

This notice contains the request for an extension of the existing collection of information on 30 CFR 57.11053, Escape and Evacuation Plans. MSHA does not intend to publish the results from this information collection and is not seeking approval to either display or not display the expiration date for the OMB approval of this information collection. This information collection does not contain certification exceptions and does not employ statistical methods.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

OMB Number: 1219–0046.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Cost to Federal Government: $17,545.

Total Burden Respondents: 234.

Total Number of Responses: 468.

Total Burden Hours: 3,978.

Total Hour Burden Cost (operating/maintaining): $248,513.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection extension; Comments will also become a matter of public record.

Dated: December 13, 2010.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2010–31691 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2008–0032]

Nationally Recognized Testing Laboratories; Supplier's Declaration of Conformity

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Based on its analysis of comments received in response to a Request for Information published in October 2008, the Occupational Safety and Health Administration will not initiate rulemaking to permit the use of a Supplier's Declaration of Conformity as a means of ensuring the safety of products currently requiring approval by Nationally Recognized Testing Laboratories.

FOR FURTHER INFORMATION CONTACT: *Press inquiries:* OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–1999. *General and technical information:* MaryAnn Garrahan, Director, Office of Technical

Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110. OSHA's Web page includes information about the NRTL Program (*see http://www.osha.gov,* select "N" in the site index).

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Background
A. Requirement for a High Degree of Protection for Product Approval Standards
B. Events Leading to the Second RFI on SDoC
C. Overview of OSHA's NRTL Program
D. Overview of the EU's SDoC System
E. The EC's Formal Proposal
F. OSHA's October 20, 2008, Request for Information on SDoC
III. Summary of Findings
A. Statistical Evidence Concerning Workplace Safety under an SDoC System
B. Analysis of the Components of an SDoC System
C. Proposed Alternatives
D. Use of SDoC in the U.S.
E. Post-Market Surveillance in NRTL v. SDoC Systems
F. The Costs of Administering an SDoC System
IV. Effects on Trade
A. Background
B. Analysis of the Trade-Barrier Issue
V. Concluding Remarks

I. Introduction

In a Request for Information published in the **Federal Register** on October 20, 2008 ("2008 RFI"), the Occupational Safety and Health Administration ("OSHA" or "Agency") requested comments on a proposal it received to permit use of a Supplier's Declaration of Conformity (SDoC) as an alternative to OSHA's current Nationally Recognized Testing Laboratories (NRTLs) product-approval process. (*See* 73 FR 62327.) OSHA received the proposal from the European Commission (EC), which advocated an SDoC system for specific electrical products. The European Union (EU) currently permits its Member States to use SDoC for these products. The EC's proposal stems from its belief that SDoC assures the safety of such products, and that OSHA's NRTL system constitutes a technical barrier to trade.

After thorough analysis of the comments received, and due consideration of the concerns, issues, positions, and suggestions set forth in comments to the 2008 RFI, OSHA finds, based on the record, that an SDoC system would not provide the high degree of protection required by the Occupational Safety and Health Act of 1970, 29 U.S.C. 651 *et seq.* ("OSH Act" or "Act"). By this determination, OSHA is not asserting or implying that the EU's SDoC system is deficient for the safety purposes and goals it serves in the EU. The EU, like all governments, must choose an approach to safety approvals that comports with its political and legal authority and that satisfies its needs and priorities. However, as explained in this notice, OSHA finds that the evidence in the record does not support a conclusion that SDoC is appropriate for U.S. workplaces, given OSHA's legal authority and responsibilities.

NRTLs are independent (*i.e.,* third-party) [1] laboratories that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. NRTLs test and certify (*i.e.,* approve) these products to determine whether they conform to appropriate U.S. product-safety standards. The NRTL issues a certificate to declare the product conforms to the particular standard(s). In contrast, in an SDoC system, the manufacturer issues a declaration attesting that the product meets the standard or other requirements. This manufacturer's declaration may be based on testing performed by the manufacturer, by a third-party, or by a user of the product. The EU's SDoC system allows manufacturers to rely on, but does not require, third-party testing. Manufacturers are responsible for maintaining a written declaration of conformity or other allowable evidence of conformity, and a technical file demonstrating that the manufacturer tested the product to assure conformity with the requirements specified in the applicable EU directive. (*See* section II.D of this notice, for more information.) Under SDoC, regulatory authorities must also have a system to audit, and to bring enforcement action against, product manufacturers and, possibly, product distributors, including retailers. In some cases, as in the EU, such a system involves post-market surveillance, under which the authority checks the conformity of products after they are already sold in the market. Several U.S. Federal agencies allow SDoC for the specific products they regulate.

The 2008 RFI is OSHA's second RFI addressing SDoC. The Agency issued a similar RFI in 2005 ("2005 RFI") in response to a proposal from an industry trade association for OSHA to use an SDoC system for information technology products. Much of the information submitted by the commenters in response to the 2005 RFI lacked the supporting data and details requested, or lacked adequate support or explanations for the data cited. OSHA found that the information provided by the commenters did not justify a decision to initiate rulemaking to adopt an SDoC system. Furthermore, OSHA believed that it lacked the legal authority and resources to adopt many of the enforcement measures required for an SDoC system, including product recalls, bans, and confiscation, among other measures. In view of these findings, which address only a few key areas of concern, OSHA decided to take no further action on the trade association's proposal, and announced its decision in the Spring 2007 Semi-Annual Regulatory Agenda, published on April 30, 2007. (*See* 72 FR 22870–02.) For more information on this matter, see the discussion of the 2005 RFI in the introduction to the 2008 RFI (73 FR 62328–29).

OSHA seldom publishes a notice discussing the results of an RFI. It is issuing a notice in this case because of the unique and complex issues involved, and, as a result, to provide interested parties with details on OSHA's reasoning on this decision. OSHA did not provide such rationale when it announced its decision on the 2005 RFI. In this **Federal Register** notice, OSHA provides a summary of the 2008 RFI, a discussion of its analysis of the comments to the RFI and the trade issues involved, and its conclusion. The Background section begins with a discussion of the OSH Act's standard-setting requirements, and then describes the events that led to the publication of the 2008 RFI. Next, the Background section provides an overview of both OSHA's NRTL Program and the EU's SDoC system, followed by the EU's rationale for its proposal and a discussion of the 2008 RFI.

II. Background

A. Requirement for a High Degree of Protection for Product-Approval Standards

The primary purpose of the OSH Act is to assure, so far as possible, safe and healthful working conditions for every American working man and woman. (*See* 29 U.S.C. 651(b).) To fulfill this purpose, Congress gave the Secretary of Labor the authority to promulgate,

[1] A third-party system is one of the three types of systems generally used for an attestation of conformity (*i.e.,* attesting that certain requirements are met). The other types are first-party attestation, which is issued by the supplier (*e.g.,* a manufacturer), and second-party attestation, which the user issues.

modify, and revoke mandatory occupational safety and health (OSH) standards.[2] (*See* 29 U.S.C. 655.) The Act, and the case law developed under it, establish a number of requirements that OSHA must meet before exercising this authority. Some of these requirements are procedural. For example, OSHA must support its findings with substantial evidence in the record developed through the rulemaking proceedings, and explain the basis for accepting or rejecting major suggestions for modification of a proposed OSH standard. (*See, e.g.,* "Supplemental Statement of Reasons" for the final rule on Control of Hazardous Energy Sources, 58 FR 16612 at 16621; *see also* 29 U.S.C. 655(b) and (f).) In addition, when OSHA decides to revise an OSH standard, it must provide a reasoned basis for the revision. (*International Union, UAW* v. *OSHA,* 37 F.3d 665, 669–70 (DC Cir. 1994) ("*Lockout/Tagout II*").)

OSHA also is constrained by substantive rulemaking requirements. The OSH Act requires that safety standards, like the NRTL product-approval (or product-conformity) requirements, must provide "a high degree of worker protection." (*Lockout/Tagout II,* 37 F.3d at 669 (quoting "Supplemental Statement of Reasons" for the final rule on Control of Hazardous Energy Sources, 58 FR 16612 at 16615).) Thus, for OSHA to adopt an SDoC system, it must find, on the basis of substantial evidence, that the SDoC product-approval system provides a high degree of protection to workers who use equipment that would be covered by the standard. The "high degree of protection" requirement allows OSHA to "deviate only modestly from the stringency required by section 6(b)(5) for health standards," which must eliminate significant risk, or reduce that risk to the maximum extent feasible. (*Lockout/Tagout II,* 37 F.3d at 669.) In this regard, OSHA is careful to ensure that modifications to its approach for product conformity maintain the required high degree of worker safety. (*See* 53 FR 12103.)

OSHA considered two approaches to determine whether an SDoC system would provide a high degree of protection. One approach is to examine whether there are valid statistical data that show a direct correlation between a method of protection and low rates of illness or injury. Another approach is to examine qualitatively the operation, attributes, and elements of the system to determine whether it is likely to provide a high degree of protection. By way of illustration, consider the use of a warning alarm on equipment that operates near power lines to provide adequate warning of possible contact with a line. Having valid statistical data demonstrating that such an alarm measurably reduces these types of contacts and resulting injuries could provide a basis for concluding that requiring the alarm would provide a high degree of worker protection. OSHA then would consider proposing a requirement that employers working near power lines install such alarms on cranes or other equipment that could contact these lines. Alternatively, OSHA could examine the method's operation and attributes. If the operation of the alarm under prescribed conditions showed that it consistently provides a timely warning, OSHA could conclude that requiring the alarm would contribute toward providing a high degree of worker protection, and could consider including it in a proposed rulemaking. However, if the elements of a method provided little or no assurance of safeguarding against a hazard, the method would not provide a high degree of worker protection. For example, if the alarm failed to operate in a predicable manner, and if safety testing provided inconsistent results, then OSHA would not have confidence that the alarm would contribute toward providing the required high degree of worker protection.

As discussed later in this notice, commenters to the 2008 RFI did not submit to the record valid statistical data for determining the degree of protection afforded by an SDoC system. In this regard, OSHA found that the data submitted to the record did not demonstrate the low risk of injury claimed for an SDoC system by its proponents. In addition, OSHA analyzed the elements of the SDoC system to determine whether these elements would provide assurance of a high degree of worker safety; this analysis showed that the elements of the SDoC system did not provide such assurance. We discuss the results of this analysis in Section III ("Summary of Findings") below.

B. Events Leading to the Second RFI on SDoC

On April 30, 2007, President Bush and his EU counterparts signed the Framework for Advancing Transatlantic Economic Integration Between the U.S. and the EU ("Framework Understanding" or "Framework"). (Exhibit OSHA–2008–0032–0002.) This trade-related understanding has a number of objectives, the foremost of which is "removing barriers to transatlantic commerce." (*See* section II of the Framework.) The Framework's Annex 1 lists a number of activities affecting different U.S. and EU agencies and sectors, including "initiating an exchange on conformity assessment[3] procedures for the safety of electrical equipment."

The Framework established a Transatlantic Economic Council (TEC) to monitor and advance progress toward meeting the goals of the Framework. As stated in the Framework, the TEC is "co-chaired, on the U.S. side, by a U.S. Cabinet-level official in the Executive Office of the President and on the EU side by a Member of the European Commission, collaborating closely with the EU Presidency." (*See* section IV of the Framework.) Through the TEC, in July 2007, the EC issued a brief statement proposing that OSHA adopt SDoC for "electrical and ICT equipment," claiming that this action would "reduce unnecessary costs for transatlantic trade." (Exhibit OSHA–2008–0032–0003.)

Working in part through the TEC, OSHA and the EC arranged a meeting to exchange information on conformity-assessment procedures for the safety of electrical equipment. The meeting was held on October 11, 2007. A summary of this meeting describes the key elements of each party's respective NRTL and SDoC systems. (Exhibit OSHA–2008–0032–0004.) At a subsequent meeting on November 9, 2007, the TEC issued a joint statement requesting OSHA to report, at the TEC's next meeting, on "progress made to facilitate trade in electrical products with respect to conformity assessment procedures for the safety of such products." (Exhibit OSHA–2008–0032–0009.) In March 2008, the EC issued another statement asking the "[U.S.] Government to allow the import and sale of any low-risk electrical and electronic product on the basis" of an SDoC.[4] (Exhibit OSHA–2008–0032–0005.)

[2] OSH standards contain requirements that are imposed on employers for ensuring safety and health in the workplace. They are different from a test standard, which we describe later in this notice, and which specify technical requirements that products must meet.

[3] While OSHA uses the term "approval" to describe the type of testing and certification activities performed by NRTLs, the international community often uses the term "conformity assessment" to describe these activities. ISO Guide 2 defines "conformity assessment" as "any activity concerned with determining directly or indirectly that requirements are fulfilled."

[4] OSHA does not regulate the "import and sale" of products, but its rules do affect whether employers may use specific products in the workplace, thus affecting, to some degree, whether those products may be sold or imported into the U.S.

At the second formal TEC meeting, held on May 13, 2008, the Secretary of Labor announced that OSHA would issue a second RFI on SDoC. (Exhibit OSHA–2008–0032–0009.) This second RFI would improve OSHA's understanding of SDoC and other related topics and issues not fully explored in the 2005 RFI. In June 2008, at OSHA's request, the EC submitted a formal rationale for its proposal that OSHA permit SDoC for electrical products.[5] During these events, OSHA noted that it received no convincing information demonstrating that NRTL approval and program requirements are barriers to trade. Section IV ("Effects on Trade") of this notice explains OSHA's position on these trade issues.

C. Overview of OSHA's NRTL Program

Since its inception, OSHA has required that electrical and other types of equipment be approved by qualified organizations as one means to ensure the safety of this equipment. Pursuant to the OSH Act, OSHA based this requirement on available consensus codes and standards. The requirements for NRTL approval of electrical equipment are detailed in 29 CFR 1910, subpart S. The provisions of this subpart require approval[6] of most electrical equipment used in the workplace. The purpose of the requirements is to ensure that the electrical products will, when used in the workplace, provide workers with a high degree of protection from the hazards associated with use of these products.

Following its normal rulemaking process, OSHA published a rule on April 12, 1988 that established the NRTL Program. (*See* 53 FR 12102.) The rule implements the elements of OSHA's product-approval approach, and requires that a testing laboratory must satisfy the following requirements to be recognized by OSHA as an NRTL: (1) Have the capability to perform the required testing; (2) have controls and services for assuring that tested equipment conforms to the appropriate test standards; (3) be independent from manufacturers, suppliers and vendors of tested products, and from other employers; and (4) have procedures for producing credible findings and reports, and for handling complaints. (*See* 29 CFR 1910.7, 53 FR 12102.)

OSHA found that each of these requirements was necessary to ensure that workers are safe when working with or exposed to electrical equipment. The capability requirement ensures that the NRTL has the requisite expertise to test specific products to the applicable standards. "Each NRTL's capability must be demonstrated in relation to the specific product being tested, the testing standards, methods and procedures being used * * *, and the quality of engineering decision making needed to reach a workplace safety determination for the product." (*See* 53 FR 12107.)

NRTLs also must conduct continued oversight of certified products to ensure that the products continue to conform with the test standard as production proceeds. Specifically:

> This part of the definition of NRTL has three elements: The implementation of control procedures for identifying the listed or labeled equipment; production line inspection to assure [continued] conformance with the test standard; and * * * post-marketing field inspections to monitor and assure proper use of the mark or label.

(*Id.*) Each of these three elements provides assurance that all units of the products approved by the NRTL continue to provide the same high degree of protection as the unit or prototype tested and certified initially by the NRTL.

The independence requirement is a particularly important component of the NRTL Program. "Absent the direct involvement of OSHA in testing laboratory decision making, this independence requirement is necessary to assure the integrity of the testing activities." (*Id.*) Thus, the independence requirement protects against self-dealing that may arise when an entity certifies a product it manufactures.

Implementing adequate internal controls also is critical to the NRTL Program. Each NRTL must establish internal controls to ensure that it produces credible findings and reports to support its certification determinations, and each NRTL must have set procedures for handling complaints and disputes. These controls provide assurance that the NRTL's testing and certification process is reliable.

To satisfy the approval requirement when an employer uses a product in the workplace, the NRTLs generally must approve the product for the manufacturer before the manufacturer initially sells or ships the product. An NRTL performs two major functions in the product-approval process: Testing and certification. First, the NRTL tests a representative unit or prototype of the product to ensure it meets the requirements of the applicable product safety-test standard(s). For this purpose, the NRTL may rely on testing that it conducted, or it may accept testing performed by parties that the NRTL qualifies for that purpose. These parties typically include independent testing laboratories, but also may include the product's manufacturer, which results in time and cost savings for a qualified manufacturer. Second, the NRTL authorizes the manufacturer to apply the NRTL's mark on the product, indicating that the product meets the requirements of the appropriate test standard(s). To ensure that the product continues to comply with the applicable requirements, and that the manufacturer is conducting production-line tests on the product required by the test standard(s), the NRTL will conduct follow-up inspections on a regular basis at each of the product manufacturer's factories or assembling facilities. NRTLs typically conduct these follow-up inspections two to four times per year at each facility. The NRTL may use a contractor under the NRTL's control to conduct these inspections.

OSHA's NRTL Program recognition process involves a thorough analysis of an NRTL applicant's policies and procedures, and a comprehensive onsite review of the applicant's testing and certification facilities, to ensure that the applicant meets these requirements. OSHA's staff also conduct annual onsite audits at each NRTL's facilities to ensure that the NRTLs adequately perform their testing and certification activities, and maintain the quality of these operations. Thus, through the NRTL Program, OSHA ensures that a qualified, independent testing laboratory certifies the equipment *before* it reaches the market.

In adopting the program's requirements, OSHA found that implementation of these criteria and procedures would "assure no diminution of worker safety." (53 FR 12103.) Since implementation, OSHA received no evidence challenging this conclusion or the conclusion that the NRTL product-approval requirements provide the high degree of worker protection required by the OSH Act.

D. Overview of the EU's SDoC System[7]

The Low Voltage Directive ("LVD" or "Directive") determines which products are covered by the EC's SDoC system for electrical safety (Exhibit OSHA–2008–0032–0017); the EC implemented it in 1973 to promote the free movement of goods across the EU. (The LVD does not

[5] While the EC distinguishes between electrical and electronic products, such products are electrical products for purposes of OSHA's approval requirements.

[6] That is, "accepted, or certified, or listed, or labeled, or otherwise determined to be safe" by an NRTL, as defined in 29 CFR 1910.399.

[7] Except as noted, the information in this section comes from the summary of the October 11, 2007, information-exchange meeting between OSHA and EC representatives (Ex. OSHA–2008–0032–0004) and research by OSHA staff.

apply to goods exported to countries outside the EU.) Directives are laws binding on the Member States enacted by the European Council and European Parliament. Generally, under the EU's system, the EC proposes these laws. (More information on these institutions and their functions is available at *http://europa.eu/index_en.htm*.) The LVD covers all equipment between 50 and 1,000 volts AC, and 75 and 1,500 volts DC, except as specifically excluded in Annex II of the LVD. This annex lists, among other types of equipment, "electrical equipment for use in an explosive atmosphere, those for radiology and medical purposes, and those for goods and passenger lifts." The lower and upper limits of the LVD were set to exclude electrical equipment of the telecommunication industry and electric-power industries, respectively. The EC's proposal asserts that all products covered under the LVD in the EU are "low-risk" because electrocutions have become rare in the EU since implementation of the LVD; the EC concludes that the low rate of electrocutions demonstrates the effectiveness of the EC's SDoC system. In general, the conformity-assessment approach used in the EU classifies products according to eight categories, with requirements ranging from the least stringent (Module A) to the most stringent (Module H). Module A, covering only the purportedly lowest-risk products, is the only category to which SDoC alone applies, *i.e.,* without other and stronger regulatory controls. (*See* Exhibit OSHA–2008–0032–0015 for an illustration of the safety requirements for products covered by each module.)

The Member States enforce the LVD through post-market surveillance. Each EU Member State must enact national laws to implement the LVD, and assign at least one agency (the "surveillance authority") to enforce these laws. In the United Kingdom, for example, approximately 250 local government agencies perform this function, whereas in other countries, one agency or one part of an agency may fill this role. The surveillance authority's inspections are a critical activity. Among the EU countries, the type and number of inspections vary depending on the number of available inspectors, the level of funding, and the type and number of problems prevalent in the Member State. Some Member States base inspections primarily on complaints and accidents, while other Member States base inspections primarily on a random selection of products. (*See* Exhibit OSHA–2008–0032–014, p. 40.) Once an inspection identifies a potential deficiency, the surveillance authority may require the manufacturer, if known, to submit to the authority a report by an independent testing organization (referred to as a "notified body" in the EU) demonstrating that the product conforms to the applicable test standard. For products that do not conform, the manufacturer must perform a risk assessment and propose corrective actions. Ultimately, the surveillance authority makes a final decision on risk, which can vary substantially across countries. The authority then decides what remedial action to take, which may include a product recall, ban, quarantine, or confiscation; assessing financial penalties; and, in more serious cases, assessing criminal penalties. If the authority cannot locate the manufacturer or its authorized representative, the authority may hold the retailer (or other party that places the product in that Member State's market) responsible, and impose the remedial action on that party.

For products posing immediate safety risks and affecting more than one Member State, the EU has a rapid alert system (RAPEX). Another notification system, ICSMS, also serves this purpose, but not every EU Member State uses ICSMS. The goal of recently promulgated EU legislation is to harmonize the notification systems used by the Member States.

Manufacturers must maintain technical files of products covered under the LVD for at least 10 years "after the last product has been manufactured." Under the LVD, a technical file must contain evidence that the product complies with the applicable safety standards or other requirements, either through accredited tests, or through other evidence such as a manufacturer's comprehensive safety analysis of the product's design. Bodies called "European Standardisation Organisations" (ESOs) are responsible for developing and maintaining the technical safety specifications for the products (commonly referred to as the "product safety test standard" or "test standard"). In addition, market-surveillance authorities accept products that conform to the ESO standards as being in compliance with the LVD. If challenged by a Member State's surveillance authority, a manufacturer must prove that it complied with the LVD, either by demonstrating compliance with the ESO standard or by other means. If the manufacturer is unknown, the burden of demonstrating compliance passes to the importer, which can be liable for penalties and applicable fines. However, there is no requirement that manufacturers or importers register with any Member States, making it difficult in some cases to identify the responsible party.

EU Member States cannot add safety-related requirements to the LVD. The LVD is binding on each Member State, which must codify it into national laws. If a Member State does not properly implement the LVD through legislation, it must nonetheless accept products declared by the manufacturers to comply with the Directive unless available evidence demonstrates that the products are noncompliant. Each Member State is responsible for imposing fines on manufacturers or importers for noncompliance with the LVD.

E. The EC's Formal Proposal

In its statement of March 2008 (Exhibit OSHA–2008–0032–0005), the EC called for OSHA to adopt an SDoC system, and supplemented this statement in its June 2008 rationale (Exhibit OSHA–2008–0032–0008), which formally requested that OSHA "review its conformity assessment procedures in the area of electrical and electronic products." According to the March 2008 statement, the EC advocated an SDoC system because it believes third-party conformity assessment of "low-risk electrical and electronic products" in the U.S. "imposes unnecessary additional costs and market-entry barriers on exporters of these goods * * *." The statement describes the types of products the EC considers to be outside the scope of its "'low-risk electrical and electronic product' definition," such as "electrical equipment for use in an explosive atmosphere, * * * for radiology and medical purposes, * * * [and] electricity meters, plugs, and socket outlets for domestic use * * *." The statement noted that such products present a level of risk that makes SDoC an inappropriate means of conformity assessment under EU law, and that the EU requires the use of third-party approvals in such cases.

In its June 2008 rationale, the EC noted that it has extensive experience with conformity-assessment regimes that do not require manufacturers to obtain third-party certification. The EC based its choice of an SDoC regime on its "assessment of the risk to consumers, workers and the general interest that non-compliant products would reach the market place that would pose danger." The EC then concluded that the risks for these products "are at a level that they can be satisfactorily managed by obliging manufacturers to demonstrate compliance and to keep such proof at the disposal of public

authorities for inspection at all times." According to the EC statement, such rules, along with product liability law, consumer protection legislation, and appropriate enforcement measures guarantee a high level of safety for European consumers.

Also in the June 2008 rationale, the EC contends that OSHA's third-party requirements cause an "imbalance in market access regimes governing transatlantic trade in electrical products," and an "imbalance in market access for the certification industry as U.S. certifiers can without any barrier offer their services to U.S. industry to comply with EU rules, whereas EU certifiers require either recognition as an NRTL by OSHA or be accepted as a test house by NRTLs." [8] According to the EC, these requirements increase the likelihood that countries importing products from the U.S. and the EU will establish different forms of testing and approval. The EC asserted that having OSHA adopt an SDoC system "is justified by the fact that European consumers and workers experience a high if not higher level of electrical safety as their counterparts in the U.S." It attributes this effect in part to "the high level of safety of electrical and electronic devices." Moreover, the EC contends that "[s]tatistics furthermore demonstrate that accidents can seldom be attributed to products, but are normally the result of 'live' wires and neglect. Where they can be attributed to products, there are no indications that in the EU there is a relationship between non-compliance and incidents." Finally the EC claims that "market mechanisms ensure that most electrical and electronic products and especially high technology products and high volume products follow rigid quality controls and have an excellent record of compliance."

F. OSHA's October 20, 2008, Request for Information on SDoC

In the 2008 RFI, OSHA posed 45 questions to elicit information OSHA needed to decide whether to initiate rulemaking to allow an SDoC system for ensuring a high degree of safety for electrical products in the workplace. OSHA stressed the importance of "specific detailed scientific, technical, statistical or similar data and studies, of a credible nature, supporting any claims made by commenters." (73 FR 62327.) OSHA requested information and comments from all interested parties on the issues raised in the RFI, or any other issues the public deemed relevant for OSHA's consideration.

In addition, OSHA specifically noted that the EC's proposal and rationale lacked sufficient evidence to support its contention that the safety risk of noncompliance was low under its LVD. Accordingly, in the 2008 RFI, OSHA requested evidence to support the EC's assertion that European consumers and workers "experience a high if not higher level of electrical safety as their counterparts in the U.S." without the safeguards required under the NRTL Program. (*See* 73 FR 62331 (quoting Exhibit OSHA–2008–0032–0008).) OSHA noted that it would need data in support of the EC's assertions regarding the safety of its SDoC system to enable OSHA to determine whether adopting an SDoC system in the U.S. would provide U.S. workers with the high degree of worker protection required by the OSH Act.

During the 90-day comment period, OSHA received 74 comments in response to the RFI. The relevant issues raised in these comments are discussed in Section III of this notice.

III. Summary of Findings

As noted earlier, two conceptual approaches applicable for evaluating the safety of a conformity-assessment system, such as SDoC, are: (1) An evaluation of statistics concerning the system's safety record, and (2) an evaluation of the operations and elements of the system. In subsections A and B of this section, OSHA analyzes the evidence [9] submitted using each of these approaches. OSHA finds that the record does not support the conclusion that, under either approach, SDoC would provide a high level of worker protection against the hazards of electrical equipment in U.S. workplaces.

The remainder of Section III addresses other arguments about SDoC raised in the record. Specifically, OSHA addresses alternative approaches recommended by commenters (subsection C), arguments relying on manufacturer-certification schemes used for other products in the U.S. (subsection D), arguments based on post-market surveillance required under each of the schemes (subsection E), and the costs of administering an SDoC system (subsection F). As discussed in detail below, OSHA decided that the record does not justify initiating a rulemaking to adopt SDoC for assuring the safety of electrical products used in the workplace.

A. Statistical Evidence Concerning Workplace Safety Under an SDoC System

No commenter submitted valid statistical data to the record, nor did OSHA find any such data, that demonstrate that SDoC presented the low risk claimed by its proponents. Indeed, commenters agreed that data do not exist, either in the U.S. or in Europe, to accurately differentiate between the safety of electrical equipment approved by a third party and products not approved by a third party. (*See, e.g.,* Exhibits OSHA–2008–0032–0044.1 at 8, 25; OSHA–2008–0032–0019; OSHA–2008–0032–0031.1; OSHA–2008–0032–0089.1; OSHA–2008–0032–0092.1.)

Moreover, the limited EU and U.S. workplace statistics that are available, while not conclusive, raise concerns about the relative safety of an SDoC system. For the year 2005, the most recent available for both jurisdictions, U.S. Bureau of Labor Statistics show that 510 private-sector employees had injuries that caused them to be away from work for three or more days from "contact with electric current of machine, tool, appliance, or light fixture." [10] A total of 1,960 employees had injuries causing them to be away from work for three or more days for "contact with electric current." According to EC's Directorate General for Employment, Social Affairs, and Equal Opportunities, a total of 1,584 employees sustained injuries at work causing them to be away from work for more than three days from "electrical problem due to equipment failure," and a total of 5,510 employees sustained the same degree of injuries from "direct contact with electricity, receipt of electrical charge in the body." European Commission, Directorate-General for Employment, Social Affairs, and Equal Opportunities, *Causes and Circumstances of Accidents at Work in the EU,* at 172–73 (2009) ("DG Report"; available at *http://ec.europa.eu/social/main.jsp?catId=787&langId=en* (last accessed 7/20/10) (hereafter *EU Workplace Statistics Report*).

BLS statistics show that, in 2005, there were roughly 111 million private-sector employees in the U.S. *See BLS Employment Situation, July 2005 & December 2005* (available at *http://www.bls.gov/schedule/archives/empsit_nr.htm#2005,* last accessed on 7/20/10). These statistics yield an incidence rate per 100,000 workers of 0.46 for

[8] *See* discussion under section IV of this notice.

[9] When multiple commenters raised a similar issue discussed in this notice, OSHA addresses the issue, but does not necessarily identify every commenter that raised the issue.

[10] These statistics are taken from the Bureau of Labor Statistic's database of Occupational Injuries and Illnesses and Fatal Injuries Profiles, which may be accessed at *http://data.bls.gov:8080/GQT/servlet/InitialPage* (last viewed 7/20/10).

equipment-related electrical injuries (≥3 days lost), and 1.76 for all electrical injuries (≥3 days lost). The corresponding population of EU workers is more difficult to determine because the DG Report gives numbers ranging from 106 million to 183 million, *EU Workplace Statistics Report* at 117; however, using the most favorable number for the EU, this yields an incident rate per 100,000 workers of 0.87 injuries (> 3 days) due to "electrical problem due to equipment failure," and 3.01 injuries (>3 days) due to direct contact with electricity. These data are summarized in Table 1 below.

TABLE 1—U.S. PRIVATE-SECTOR AND EU ELECTRICAL INJURIES 2005

	Injuries	Injuries/ 100,000 wkrs
U.S.—Contact with electric current of machine, tool, appliance, or light fixture, (private-sector injuries ≥ 3 days away from work)	510	0.46
U.S.—Contact with electric current, (private-sector injuries ≥ 3 days away from work)	1,960	1.76
EU—Electrical problem due to equipment failure, (injuries > 3 days lost)	1,584	0.87
EU—Direct contact with electricity, receipt of electrical charge in the body, (injuries > 3 days lost)	5,510	3.01

There are obvious problems involved with directly comparing the above data. BLS based this data on a survey of employers required to record occupational injuries on logs maintained for this purpose; the EU statistics are a compilation of member country data which is collected, depending on the country, either from insurance claims or reports by employers adjusted to account for non-reported injuries. The EU records only data concerning injuries that result in more than three days lost; the published U.S. data include injuries resulting in three or more days lost. It is unclear whether the EU classification "electrical problem due to equipment failure" is equivalent to the U.S. category "Contact with electric current of machine, tool, appliance, or light fixture." Regardless, the numbers do not directly measure injuries due to nonconforming electrical products. Nonetheless, the fact that the EU workplace electrical injury [11] rates for 2005 were nearly twice the rates for the U.S. suggests caution in considering whether to adopt the EU's electrical-product conformity scheme.

Other injury data submitted to the record also gives OSHA pause. The EC submitted the statistics from the European Injury Database (IDB), which compiled accident and emergency data from "selected member state hospitals" in Austria, Denmark, France, and Sweden for 2002–05, and from the UK and Ireland for 2002. (Exhibit OSHA–2008–0032–0044.1, Annex 5.) The IDB data show substantial numbers of injuries related to the use of consumer electrical products which are subject to a SDoC system: 6,115 injuries involving all electrical products, and 1,721 injuries involving ICT products. Although its methodology is not clear, the EC claims that, at most, 1,243 injuries involved electrical product nonconformance, and 325 injuries involved nonconforming ICT equipment.½ These are substantial numbers, especially given the limited geographic and temporal scope of the data; accordingly, these numbers do not support moving to an SDoC system.

The remaining statistical evidence provided by commenters was unconvincing. Although some proponents claimed that the data they submitted supported the safety of SDoC, they failed to submit source data or published studies to verify the statistics they cited. (*See, e.g.,* Exhibits OSHA–2008–0032–0041.1 and OSHA–2008–0032–0051.) In addition, commenters often failed to explain adequately the methodology underlying the statistics they provided. (*See, e.g.,* OSHA–2008–0032–0053.1.) Commenters also failed to address the limitations that OSHA described in Section IV of the 2008 RFI with respect to some items of information it previously received. For example, they failed to address adequately how SDoC controls the risks associated with non-compliant products. (*See, e.g.,* OSHA–2008–0032–0089.1.) Consequently, as discussed below in further detail, OSHA found unconvincing the data submitted to the record supporting the safety of products under an SDoC system.

An example of an unsupported claim in the record was a statement by the EC that the only electrical product to cause a fatal accident in the EU in the last 10 years was a steam iron tested by a third party, but modified during production, (Exhibit OSHA–2008–0032–44.1 at 8, 25). This comment did not explain what databases or records it searched to locate information about deaths from electrical products, nor is it clear that the EU surveyed all of the available sources of data. Published workplace statistics, noted above, show that EU workers had thousands of non-fatal accidents in 2005, and hundreds of fatal accidents between 2003 and 2005 related to contact with electricity or other electrical problems. (*See EU Workplace Statistics Report* at 172–73) Further, the steam-iron incident highlights the fact that the EU's SDoC system is not designed to prevent defective products from reaching the market because the surveillance authorities conduct few, if any, factory inspections to ensure that manufacturers continue to comply with the applicable safety requirements before products are sold or shipped. This point is discussed further in subsection II.B.1 below.

The EC also pointed to RAPEX data as evidence of "pre-emptive" measures taken by EU Member States to remove noncompliant products from the market. (Exhibit OSHA–2008–0032–44.1 at 8–9.) The EU's RAPEX is a system used by market-surveillance authorities to report sales bans, recalls, or orders to modify products they have issued. EU Member States use RAPEX for a number of "non-food consumer products," but do not typically use it for products having mainly industrial or commercial purposes. Member States also do not use RAPEX for notification of noncompliant products when "the effects do not or

[11] The EU report also gives a fatality number, but it is difficult to interpret because it is given for the period 2003–05. The number of member states reporting deaths for these classifications varied over this period, and, thus, these numbers are not comparable to the U.S. data. *See EU Workplace Statistics* at 118.

[12] The EC submission does not directly state the total number of accidents in the IDB. However, Annex 5 of the EC submission states that the 1,721 accidents attributed to ICT equipment constitute 0.18% of the accidents in the IDB, indicating that the total number of accidents was 956,111 (*i.e.,* 0.0018 × 956,111 = 1,721). The EC argues that these data should be analyzed as a percentage of all injuries, rather than an absolute number. OSHA does not agree with this argument because a small percentage of injuries may mask the magnitude of the injuries, which is best expressed as an absolute number. OSHA is concerned about the risk posed by electrical equipment, not the comparison of electrical equipment injuries to other types of injuries in the EU.

cannot go beyond the territory of a Member State * * *." (Exhibit OSHA–2008–0032–0017.) As a result, Member States may judge a number of actions that are of interest to OSHA to be outside the scope of RAPEX and, thus, not report them. Therefore, RAPEX results likely do not accurately capture the problems associated with some products, particularly products used in the workplace. Further, these notifications represent instances of noncompliant products reaching the market. As discussed in more detail below, this is a central feature of the EU's SDoC system that raises critical concerns for OSHA: an SDoC system detects nonconforming products only after products reach the market. These RAPEX data do not demonstrate that the EU's reactive SDoC system has the necessary elements to provide a high degree of worker protection for electrical safety in the U.S. workplace.

Several commenters cited a graph showing the number of fatalities from electrical incidents in the U.S. and Germany as evidence that such incidents are decreasing more rapidly in the EU than in the U.S. (*See, e.g.,* Exhibits OSHA–2008–0032–0044.1, Annex 4; OSHA–2008–0032–0045.1; OSHA–2008–0032–0054.1; OSHA–2008–0032–0060.1; OSHA–2008–0032–0087.1.) However, as OSHA noted in the 2008 RFI, "[t]he source of the data does not appear to be readily available in the U.S., the actual numbers of electrocutions per year and a stratification by causes are not provided in the graph, no reason is given why more recent data were not obtained, and it is unclear whether the data are normalized for the two populations." (73 FR 62320.) No commenters responded to these issues.

The Confederation of Danish Industry, while conceding that the question of whether SDoC is less safe than a third-party system is "difficult to answer," provided information showing that accidents with electrical equipment and installations trended downward from 1998 to 2007. (Exhibit OSHA–2008–0032–0089.1.) Similarly, a report from the Swedish National Electrical Safety Board provided statistics showing that the "number of products possessing a serious criticism risk has [been] reduced and the number of sales bans [also] have [been] reduced" from 1996 to 2006. (Exhibit OSHA–2008–0032–0092.1.) However, these statistics do not address directly the safety of these products in terms of fatalities and injuries, and, therefore, do not demonstrate that SDoC provides a sufficient level of worker protection to satisfy the requirements of the OSH Act.

Finally, several commenters argued that ICT equipment presents a low risk of workplace injuries. (Exhibits OSHA–2008–0032–0019; OSHA–2008–0032–0031.1; OSHA–2008–0032–0041.1; OSHA–2008–0032–0057.1.) The submitted data, however, did not adequately support this position. For example, a joint ICT industry submission presented numerous statistics demonstrating a decline in fatalities, injuries, and illnesses in U.S. workplaces since 1972 (although illness data would appear to be irrelevant), and also showing a relatively low rate of incidents associated with ICT equipment in the U.S. (Exhibit OSHA–2008–0032–0019, p.3.) These data do not demonstrate the safety of an SDoC system because OSHA required NRTL approval of electrical products in U.S. workplaces for most of the time period involved; the data instead appear to support the effectiveness of the NRTL Program in preventing workplace fatalities and injuries. As another example, the Federation of French Electrical Electronic and Communication Industry stated that "Certain product groups * * * are in many cases inherently safe," (Exhibit OSHA–2008–0032–0041.1, p.7) but provided no technical or other information to justify its claim.

Hewlett-Packard Company stated that "the data currently under the product category 'computer equipment' available on the United States Consumer Product Safety Commission (CPSC) Web site indicates there has not been a single recall for desktop personal computers, workstations, or servers dating back to 1990." (Exhibit OSHA–2008–0032–0031.1) This statistic, however, covers only a narrow subset of ICT equipment, and excludes laptop computers and computer peripherals such as printers, scanners, monitors, and fax machines. A review of CPSC recalls for ICT equipment between 2003 and March of 2009 shows a total of 60 product recalls, including laptop computers, scanners, monitors, printers, computer speakers, fax machines, and telephones. (*See http://www.cpsc.gov/cpscpub/prerel/prerel.html.*) Included with these recalls were reports of electric shock and product overheating that resulted in property damage and personal burns. (*Id.*) Moreover, in March 2009 (shortly after the 2008 RFI comment period closed), there was a recall of a desktop personal computer for overheating as a result of short circuiting; the overheating melted internal components and the external casing. (*Id.*)

In sum, the record contains no statistically sound evidence demonstrating that an SDoC system provides a high degree of protection for electrical safety in the workplace, and what evidence there is raises concerns that the SDoC system may be less protective than the NRTL system.

B. Analysis of the Components of an SDoC System

OSHA carefully reviewed the elements of the SDoC system. OSHA's analysis concluded that, for electrical safety, the system does not provide the high level of worker protection required by the OSHA Act. This statement would apply to any similar SDoC system. As explained in more detail below, OSHA determined that SDoC's protection is reactive, and, therefore, is less likely than the NRTL Program to find nonconforming products before the products reach the market. In addition, an SDoC system does not provide assurance that manufacturers are appropriately certifying products because it lacks an assessment of the manufacturers' competence, independence, and production control.

1. SDoC as a Reactive System

A substantial problem with SDoC is that it appears to allow nonconforming products to reach the market. While OSHA designed the NRTL Program to detect product noncompliance before products reach the market, the SDoC system is reactive in that its principal means of protection, post-market surveillance, relies on authorities to verify the adequacy of testing only after products reach the market, or worse, after an incident that causes injury or death. In addition, such product verification is done for only for a limited number of products by surveillance authorities. As a result, post-market surveillance provides a lower degree of assurance that products, in general, are conforming and safe.

Several studies noted in the 2008 RFI highlighted problems with "portable luminaires" (*i.e.,* portable lamps) and extension cords in the European market. (Exhibits OSHA–2008–0032–0011; OSHA–2008–0032–0012.) The SDoC system in the EU allowed these products to reach the EU market. The Low Voltage Directive Administrative Cooperation (LVD AdCo), an "independent Working Group run and chaired by the Member States" conducted the studies, with the Working Group described as "a forum for co-operation and exchange of information between national market surveillance authorities." (Exhibit OSHA–2008–0032–0011.) In 2006, LVD AdCo organized its first cross-border market-surveillance project, a multi-country cooperative and coordinated

effort involving surveillance authorities from 15 Member States.

The first of these studies targeted portable luminaires in part because these products "are relatively cheap to purchase," thus making this project feasible for "member states with small [market-surveillance] budgets." (*Id.,* p.6.) These products also had a large number of problem notifications as shown in a chart depicting past "safeguard clauses and RAPEX notifications." (*Id.*) The study results show that manufacturers were placing noncompliant products on the market. The study evaluated a total of 226 luminaires for conformance to applicable administrative and technical requirements. (*Id.,* p.4.) Of this total, 38% originated in the EU, 23% originated from China, 10% originated from other countries outside of the EU, and 29% had no country of origin specified. (*Id.,* p.15.) The study found that 72% (162) of the luminaires failed one or more of the technical requirements, nearly half (74) of which contained "serious" technical hazards, and 23% (53) of which had administrative nonconformities (missing "CE" marks, missing or incorrect technical files, missing or incorrect declarations of conformity, and similar problems). (*Id.,* p. 17.) According to the report of the study, the results obtained "do not give a dependable estimate of the percentages [of] non-compliant luminaires on the market." (*Id.,* p. 18.) However, the report indicates that the results of the project are consistent with the experiences of several EU Member States. (*Id.,* p. 19.) A summary of the report states:

> Many companies appear to neglect assuring conformity with the administrative requirements in the Directive. Declarations of conformity and technical files were often not available or did not fit the luminaires themselves. The LVD prescribes module A for conformity assessment, which amounts to self-certification by the manufacturer or importer into the EU. The choice for module A was made because of the relatively minor hazards associated with electrical products. However, the new and global approach is based on the assumption that the actors comply with the conformity assessment procedures before CE-marking the product in order to assure safe products on the markets. For fragmented markets like the one for luminaires, this assumption does not appear to be valid, if the results of this and previous national actions are indeed indicative.

(*Id.,* p. 19.) The report lacks any analysis of the underlying causes for the high rate of nonconformities found.

The second study addressed extension cords. A press release provided a summary of the study's results. (Exhibit OSHA–2008–0032–0012.) The press release indicated that 20 EU Member States participated in the study and tested 210 extension-cord sets. The results of the study showed that only one in six extension-cord sets fully complied with the LVD and the General Product Safety Directive (GPSD) requirements. (The GPSD specifies requirements for general consumer products used in the EU.) Although the noncompliant samples included products that exhibited only administrative failures, the authorities considered approximately 58% of the extension-cord sets to be sufficiently unsafe to justify a sales ban or product recall.

Both the luminaire and extension-cord studies show the difficulties that arise when moving to a system which depends so heavily on post-market surveillance for enforcement. When unscrupulous or incompetent manufacturers do not ensure that products meet the applicable safety standard, the first line of protection for workers does not occur until after the product reaches the market. In contrast, a third-party certification system is structured to find and correct such errors *before* manufacturers place the products on the market. In response to the discussion of these studies in the 2008 RFI, several commenters reiterated that the luminaire and extension-cord studies were not representative of typical rates of noncompliance for electrical products on the European market because the studies did not select luminaires and extension cords randomly for evaluation. (*See, e.g.,* Exhibits OSHA–2008–0032–0044.1; OSHA–2008–0032–0051; OSHA–2008–0032–0053.1; OSHA–2008–0032–0054.1; OSHA–2008–0032–0060.1; OSHA–2008–0032–0076.1.) Rather, the studies targeted luminaires and extension cords for evaluation because, in part, these products had high levels of noncompliance with SDoC requirements. (*Id.*) Whether these studies are broadly representative of SDoC noncompliance rates misses the point—which is that the data on luminaires and extension cords raise serious concerns for OSHA about the safety of the EU's SDoC system. These studies make clear that SDoC allowed significant numbers of nonconforming products to reach the market. Although the EC alleges that no incidents occurred because of these defective products, the studies concluded that nearly half of the luminaires tested had "serious" technical hazards, and 58% of the extension-cord sets tested were sufficiently unsafe to justify a sales ban or product recall. (Exhibits OSHA–2008–0032–0011, p. 17; OSHA–2008–0032–0012.) The EC also attempted to minimize the importance of these studies by noting that the studies addressed products that were inexpensive and involved low-level technology. (Exhibit OSHA–2008–0032–44.1.) This rationale seems to be a concession that manufacturers engaged in producing such items are less likely to ensure product conformity under an SDoC. OSHA cannot ignore the risks posed by these products when evaluating a conformity-assessment scheme. These data raise serious questions about whether an SDoC system would assure a high degree of protection for U.S. workers. We note that commenters presented no studies demonstrating that the rates of nonconforming products in the EU are low.

OSHA also reviewed a document prepared by EC staff (Exhibit OSHA–2008–0032–0013) which provided details about the EU's market-surveillance system, and served as the basis for associated legislation that the EU was considering. This document covers a wide range of issues in a number of areas in which the EU's system needs improvement. Under "What are the Problems to Tackle," the report states, "Experience with the implementation of [European] Community legislation in the area of free movement of goods has highlighted certain weaknesses and shown that the effectiveness of the system can still be improved." (Exhibit OSHA–2008–0032–0013, p. 12.) The document states further:

> It is generally noted that the enforcement of EU product legislation is unsatisfactory and a considerable number of non-compliant (and potentially dangerous) products reach the market. The share of non-compliant products can only be estimated and the situation differs very much from sector to sector and from Member State to Member State.

(*Id.,* p. 19.) This statement partially corroborates the findings in the report on luminaires, which indicated that the high level of nonconformities results from difficulties Member States have enforcing the LVD. In this regard, the staff document notes, "Currently, market surveillance does not operate effectively throughout the [European] Community. * * *" (*Id.,* p. 20.) The document continues, "In practice market surveillance authorities often experience difficulties in identifying the person who has actually manufactured and/or supplied the products * * *." (*Id.,* p. 23.) This EC document highlights the reliance of its SDoC system on post-market surveillance, and underscores

the risks to workers that would result without an adequate enforcement scheme.

In its proposal, the EC suggested that reliance on product liability laws would provide some assurance that an SDoC system functioned properly. However, none of the commenters demonstrated that such laws would contribute significantly to ensuring that an SDoC would provide a high degree of worker protection for electrical safety in the workplace. As noted by one commenter, liability laws would not be an effective deterrent against foreign manufacturers, and any remedy "depends on the injured or damaged party(ies) having knowledge, resources, evidence, time, and desire to initiate and follow through with legal action * * *." (*See* OSHA–2008–0032–0072.1.) As noted in the comment, any injuries would occur before invoking the laws, which would not provide a high degree of worker protection.

2. Competence and Independence of Testing Organizations, and Production Control by Manufacturers

Under the EU's SDoC system, the parties performing product testing do not have to demonstrate, either initially or continually, competence in determining whether a tested product complies with the applicable standard. Without assurance of competence, OSHA questions the degree to which that testing will be performed appropriately. Similarly, a manufacturer performing product certification has a financial interest in the profitability of the product, which provides an incentive for self-dealing when a manufacturer self-certifies its products. Although OSHA recognizes that many manufacturers would test products appropriately, it is concerned that allowing SDoC would increase the probability that at least some manufacturers would test products poorly, which would cause unsafe products to enter the workplace. In addition, the EU's SDoC system has no requirement for monitoring product design changes and for retesting products periodically to ensure continued safety. More importantly, no comparable requirement exists to perform multiple annual inspections at critical points of control (*i.e., every* factory making a certified product) to ensure that the products conform to the testing requirements.

Underwriters Laboratories (UL), an NRTL and standards-developing organization, submitted data to illustrate some of these issues. UL stated that "in a sampling of more than 25,000 investigations [of equipment installed in the field without third-party certification] carried out by UL, 63% of products reviewed had safety deficiencies." (Exhibit OSHA–2008–0032–0072.1.) In addition, UL reported for eight industries the percentage of products that failed to comply with the applicable standard when UL tested the products initially: 31% for appliances, 24% for components, 24% for insulating materials, 14% for fire protection equipment, 24% for industrial equipment, 16% for information technology equipment, 45% for lighting, 39% for power distribution equipment, and 34% for wires and cables. (*Id.*) UL cites these statistics as the basis for its estimate that "at least 20% of the products submitted to [UL] on a global basis would likely have been placed on the market with non-conformances if UL had not reviewed them." (*Id.*) Although UL did not explain the methodology it used to obtain these results, the data illustrate the risk to electrical safety that could result when products are not tested appropriately.

The American Council of Independent Laboratories (ACIL) also submitted similar data. (Exhibit OSHA–2008–0032–0037.1.) ACIL is a national trade association representing "independent scientific laboratory, testing, consulting, product certifying, and R&D firms; manufacturers' laboratories; and consultants and suppliers to the industry." (*Id.*) ACIL responded to OSHA's concerns, expressed in the 2008 RFI, that ACIL did not explain the methodology behind the data it submitted in response to the 2005 RFI. (Exhibit OSHA–2008–0032–0037.1.) In its comment for the 2008 RFI, ACIL explained that it presented data indicating a high level of nonconformance among initial product submissions made by manufacturers to its member laboratories. (*Id.*) ACIL also explained that these data came from a survey of its member laboratories. (*Id.*) To clarify its earlier submission, ACIL presented, in response to the 2008 RFI, updated data from a recent survey in which six of its member laboratories participated. (Exhibit OSHA–2008–0032–0037.2.) In conclusion, the ACIL and UL data raise the question of whether manufacturers are qualified to determine whether products conform to the applicable product-safety test standards.

The EC took issue with the implication that ACIL's initial submission data demonstrate that an NRTL system provides a higher level of safety than an SDoC system:

> We have heard arguments from the NRTLs that argue that, since substantial percentages of products fail the safety tests they perform, an SDoC system is likely to lead to substantial percentages of non-compliance. This rationale is not substantiated. Our reading is that during product development, manufacturers have prototypes evaluated in order to see whether they would meet safety standards. Also under an SDoC system, manufacturers would do such testing and would correct designs, when they would not pass. Manufacturers that intend to comply with the legislation will only market products that have passed such tests.

(Exhibit OSHA–2008–0032–0044.1, p. 6.) The EC does not, however, cite any data to support its assumption that manufacturers would be just as likely as NRTLs to detect and correct defects before putting a product on the market. OSHA believes that such an assumption is less likely to be appropriate when, as a general rule, the manufacturer may be unqualified to perform testing, lacks independence, and has financial incentives that could override the need to identify defects. However, OSHA recognizes that some manufacturers would take the necessary actions to test products appropriately.

The comment submitted by Bureau Veritas Consumer Products Services (BVCPS) further reinforce OSHA's concerns regarding SDoC.[13] (Exhibit OSHA–2008–0032–0038.1.) BVCPS asserted, "It is our experience based on testing over 5000 products per year in Asia with CE marking and FCC regulatory requirements that high levels of non compliance exceeding 50% exist." (*Id.,* p. 1.)¼ Although this statement is anecdotal, and not necessarily statistically valid, it nevertheless suggests that the SDoC system allows significant numbers of nonconforming products to reach the market. These data raise serious concerns regarding whether an SDoC system would provide a high degree of worker protection required by the OSH Act. Whereas, the NRTL Program detects product noncompliance *before* products reach the market, the luminaire and extension cord studies exemplify the main drawback of an SDoC system—that it detects noncompliant products only after products reach the market, and, therefore, fails to provide workers with a high degree of protection. The data in the record submitted by the EC and

[13] BVCPS is a testing laboratory accredited under the IECEE CB scheme that conducts technical folder reviews to determine CE compliance of European-based retailers having Asian supply chains. The IECEE CB scheme provides for health and safety testing through the IECEE (IEC System for Conformity Testing and Certification of Electrotechnical Equipment and Components).

[14] BVCPS recommended modifying the NRTL system rather than transitioning to an SDoC system. OSHA addresses this recommendation below.

others supporting an OSHA transition to SDoC fail to show that, despite these large numbers of noncompliant products on the market in the EU, the EU's reactive SDoC system is as safe as OSHA's proactive NRTL Program.

OSHA also received a comment from CSA International, an NRTL and provider of certification and testing services, which raised further concerns about the safety of the SDoC system. (Exhibit OSHA–2008–0032–0049.1.) This comment quoted from the Fourth Report of the Baltic Sea Network 2008 [15] (*See http://www.hamburg.de/contentblob/749300/data/kooperationsbericht-vierter-2008.pdf*):

> To date, market surveillance activities within the Baltic Sea Network have usually been carried out on the basis of the Low Voltage Directive and/or PPE Directive. The ratio of faulty products is at a constantly high level for all product groups. About one-third is without defects and formal faults and about two thirds of the examined products show more or less serious failures. 5–10% of the checked products exhibit failures that are so severe that a serious danger to consumers cannot be ruled out. In the case of electric equipment this means the possibility of an electric shock or household fire because of the defective electrical outfit.

(*Id.,* p. 2.) The report does not provide source data for these statistics or an explanation of the underlying methodology. Yet, these numbers serve as anecdotal evidence of serious safety concerns associated with the EU SDoC system.

In sum, the record lacks credible evidence sufficiently demonstrating that SDoC would provide a high degree of worker protection. Before revising its regulations, OSHA must determine, on the basis of substantial evidence, that the revised regulations would provide U.S. workers with a high degree of protection for electrical safety. Therefore, OSHA concludes that the lack of sufficient evidence counsels against revising its regulations to implement an SDoC system for the approval of electrical products used in U.S. workplaces.

C. Proposed Alternatives

A number of commenters proposed that OSHA modify its NRTL Program instead of transitioning to an SDoC system. (*See, e.g.,* Exhibits OSHA–2008–0032–0038.1; OSHA–2008–0032–0097.1.) These commenters suggested that OSHA retain its NRTL Program, but broaden it to recognize certifications issued by National Certification Bodies (NCBs) under the IECEE CB scheme. However, these commenters identified the incorrect scheme: the scheme that involves acceptance of such certifications is the IECEE Full Certification Scheme (FCS). While OSHA does not directly accept the certifications of NCBs, and currently has no plan to do so, it allows NRTLs to use testing reports from these bodies when issued under the IECEE CB Scheme.[16]

The ICT industry proposed a parallel NRTL–SDoC system that would allow manufacturers to use SDoC as an alternative to certifying products through the NRTL Program. OSHA will not initiate rulemaking to propose a parallel SDoC system for the same reason it is rejecting the EC proposal for a stand-alone SDoC system: the evidence in the record does not demonstrate that an SDoC system would provide a high degree of protection to U.S. workers.

ITI (Ex. OSHA–2008–0032–0057.1) also submitted a comment proposing an alternative to the NRTL Program in which manufacturers would have products tested by an NRTL, or a third-party organization operating under the IECEE CB Scheme; the manufacturers then would certify the products through SDoC. This proposal would retain third-party testing, but eliminate the post-testing NRTL certification requirements. Importantly, this alternative would exclude: (1) Initial follow-up inspections of each manufacturing facility to verify that the products resulting from production runs conform, or will conform, to the applicable test standard's requirements; and (2) subsequent follow-up inspections to ensure that the product currently manufactured at the facility and bearing the NRTL's mark is identical to the product the NRTL tested and certified. As OSHA explained in the preamble to the 1988 rule establishing the NRTL Program, an NRTL's continued oversight of products the NRTL certified serves important OSHA goals. (*See* 53 FR 12107.) A similar suggestion was made by the Technology Association of America (Exhibit OSHA–2008–0032–0043.1) to allow the testing to be done by a third-party organization accredited under the International Laboratory Accreditation Cooperation (ILAC) Scheme. ITI and the other commenters are suggesting an alternative without the critical requirement for factory inspections. These commenters did not submit information to the record showing that this alternative, absent post-testing inspections of manufacturers' facilities, would provide U.S. workers with a high degree of protection. Also, before relying on these schemes, OSHA must first determine that organizations accredited under these schemes are as effective in testing products as laboratories granted recognition under the NRTL Program.

Phillips Electronics also suggested that OSHA "allow manufacturers to apply for OSHA recognition to conduct specific product testing, but continue to seek certification from a recognized NRTL." (Ex. OSHA–2008–0032–67.1.) This suggestion would require OSHA to operate a recognition program for manufacturers, similar to the NRTL Program, that would ensure that manufacturers are qualified to perform the testing, and to verify that they do so consistently and appropriately. OSHA would need to undertake rulemaking to adopt such a program. OSHA believes that such a program would have to impose stringent requirements on manufacturers trying to gain accreditation to, in part, counter their self-interest in the product. However, OSHA is unsure at this time what these requirements would be or whether they would be effective. Further, OSHA would have to resolve technical issues, such as verifying the adequacy of initial product testing and identifying and testing product changes. Obtaining and maintaining adequate and trained staff for such a program would be difficult, especially if numerous manufacturers participated in the program. OSHA could fund the program by charging manufacturers fees for program-related activities performed by OSHA, similar to the fees OSHA currently charges NRTLs. These fees, however, may be larger for manufacturers than NRTL fees, depending on the extent of OSHA's activities.

Phillips' suggestion has merit because it proposes to retain factory inspections by NRTLs. It is unclear, however, whether NRTLs would perform these inspections; NRTLs may be reluctant to do so because they would not be conducting initial testing of the products and, thus, have no assurance that the products meet test standards. If NRTLs do not perform inspections, OSHA would have to perform them to assure conformance with test standards, thereby adding to OSHA's staffing and funding burden.

OSHA believes that a manufacturers' accreditation program would not be favored by SDoC proponents, and, as noted above, such a program would be

[15] The Baltic Sea Network is a cooperative effort among market surveillance authorities in Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland, and Sweden. The Network is co-financed by the EC.

[16] In this regard, OSHA notes that the EU also does not directly accept NCB certifications; however, at least one Member State designated the NCB as a notified body. Unlike NRTLs, EU notified bodies must reside in the country that authorizes them.

resource intensive for OSHA to administer. Further, it is unclear whether OSHA could implement the program in a way that preserves the high degree of worker protection currently afforded to workers by the NRTL program. In light of these concerns, OSHA will not undertake rulemaking to propose such a program.

OSHA notes again that it currently permits NRTLs to accept testing conducted by non-NRTL testing laboratories, including laboratories operated by manufacturers, as part of the NRTL certification process. This testing can provide time and cost savings to manufacturers. (*See* Nationally Recognized Testing Laboratories; Clarification of the Types of Programs and Procedures, 60 FR 12980 (March 9, 1995).) NRTL acceptance of such testing is voluntary because OSHA's regulations do not require that NRTLs accept testing from any party. However, for an NRTL to accept these test data, OSHA must issue an approval for the NRTL to use one or more "supplemental programs," which are another segment of the NRTL Program. OSHA recognizes most NRTLs for these supplemental programs. One of these programs allows NRTLs to accept testing conducted by a testing laboratory accredited under the IECEE CB Scheme, while another program allows an NRTL to use other parties to perform the post-testing inspections of manufacturers' production facilities provided the NRTL retains responsibility for the inspections. An NRTL meeting the regulatory requirements for capability and independence may use these programs provided the NRTL preserves ultimate responsibility for approving the product and authorizing use of its NRTL mark. (*Id.*)

D. Use of SDoC in the U.S.

Several commenters suggested that, because several U.S. agencies use SDoC for automobiles and personal protective equipment (PPE), OSHA also should permit SDoC for electrical equipment used in the workplace. (*See, e.g.,* Exhibits OSHA–2008–0032–0041.1; OSHA–2008–0032–0043.1; 44.1; OSHA–2008–0032–0057.1.) OSHA does not find this argument persuasive.

As OSHA explained in the 2008 RFI, the authority of the National Highway Transportation Safety Administration (NHTSA), which regulates automobile safety, is different from OSHA's authority to regulate the workplace. For example, the NHTSA's inspection authority appears to have a broader geographical scope than OSHA's authority. (Compare 29 U.S.C. 657(a)(1) with 49 U.S.C. 30166(c)(3).) In addition, the OSH Act at 29 U.S.C. 658(a) gives OSHA authority to cite employers for violations of the Act and its implementing regulations, and to impose related penalties; however, the National Traffic and Motor Vehicle Safety Act at 49 U.S.C. 30163(a) allows the Department of Justice to seek an injunction in U.S. District Court to enjoin the sale of defective or nonconforming motor vehicles and equipment. OSHA does not appear to have the authority to enjoin manufacturers from producing unsafe electrical products, and no commenter provided a legal argument contrary to this conclusion. Thus, significant statutory differences exist between OSHA's authority to regulate electrical products in the workplace and NHTSA's authority to regulate motor vehicles and equipment under an SDoC system. Congress would need to revise this authority significantly for OSHA to perform functions similar to the functions NHTSA performs. Currently, no justification exists for such a revision.

Additionally, the automobile industry differs from the electrical products industry in important ways. For example, a small number of large, well-known manufacturers dominate the automobile industry. The group remains fairly constant. In contrast, the electrical products industry consists of a large number of manufacturers that may vary in size and that operate, for some product types, in a highly fluctuating market. These manufacturers can be small and based abroad, making regulatory interventions difficult. In addition, automobiles are extremely expensive to recall compared to most low-voltage electrical products. Thus, the incentives for manufacturers are different in the two sectors: the risks of a product defect are much greater for a large, well-known manufacturer of expensive automobiles than they are for a small, relatively anonymous manufacturer of inexpensive electrical products. Third-party certification is more important for electrical products than for automobiles because the incentives to overlook or ignore testing requirements are higher for manufacturers of electrical products than for automobile manufacturers.

With respect to PPE, visual inspection by the user or compliance official generally can confirm compliance. In contrast, a typical user or inspector of electrical equipment is not in a position to inspect and evaluate the safety of its electrical components. Furthermore, OSHA recently conducted rulemaking to clarify the standards for PPE in the workplace (*see* 74 FR 46350), and none of the commenters suggested that OSHA require third-party approval of PPE. Therefore, PPE and electrical products have different characteristics, and these differences support the need for third-party approval of electrical products.

E. Post-Market Surveillance in NRTL v. SDoC Systems

Several commenters suggested that post-market surveillance is equally important in an NRTL system as in an SDoC system. (*See, e.g.,* Exhibits OSHA–2008–0032–0041.1; OSHA–2008–0032–0044.1; OSHA–2008–0032–0045.1; OSHA–2008–0032–0051; OSHA–2008–0032–0053.1; OSHA–2008–0032–0057.1.) For example, the EC argued:

> [I]n any market there are "willing" also [sic] "non-willing" market players. Both the U.S. and the EU are faced with counterfeits and rogue market players that ignore rules that are in place. This implies that governments, independent of the conformity assessment rules they put into place, need to have an infrastructure to detect non-compliant products and to take effective action against market players that place non-compliant products on the market so as to enforce the rules.

(Exhibit OSHA–2008–0032–0041.1, p. 6.) OSHA agrees that counterfeit products are a potential problem under both SDoC and NRTL systems. This problem, however, is more difficult to address under an SDoC system than under the NRTL Program. Under an SDoC system, the burden of conducting market surveillance to detect counterfeit marks would fall on a government agency. In contrast, under the NRTL Program, each NRTL may conduct market surveillance to assure that manufacturers use only its mark on certified products, *i.e.,* each NRTL is responsible for ensuring the integrity of its mark.

OSHA believes that market surveillance is an important means that NRTLs can use to detect counterfeit products. Several NRTLs also collaborate with the U.S. Customs Service to monitor for counterfeit products imported into the U.S. Therefore, shifting to an SDoC system would impose market surveillance obligations on OSHA to monitor for counterfeit marks, which would require additional funding and staff resources; however, OSHA may obtain funding for such a program, in whole or part, by charging fees to manufacturers or exporters.

OSHA raised the issue of authority in the 2008 RFI, stating it believes that implementation of SDoC may require revisions to its statutory authority. Revised statutory authority appears to

be necessary because OSHA lacks the authority to adopt many of the post-market enforcement measures essential to ensuring electrical safety under an SDoC system, including product recalls, bans, and confiscation. Based on OSHA's analysis of the record, no justification exists for revisions to OSHA's current statutory authority.

F. The Costs of Administering an SDoC System

In the 2008 RFI, OSHA estimated that implementing an SDoC system in the U.S. could cost the Agency approximately $360 million annually. In contrast, the current budget associated with operating the NRTL Program is approximately $1 million per year. Based on this estimate, operating an effective SDoC program would require OSHA to incur substantial additional costs. OSHA's current budget for all of its operations is about $558 million. Thus, based on OSHA's estimate, adopting an SDoC system would increase OSHA's entire current budget by more than half.

OSHA asked four specific questions in the 2008 RFI regarding costs associated with administering an SDoC program. (*See* 73 FR 62337.) However, the cost information submitted to the record failed to rebut OSHA's determination in the 2008 RFI that administering an SDoC system would be significantly more expensive than operating the NRTL Program. (*See* Exhibits OSHA–2008–0032–060.1, OSHA–2008–0032–062.1, OSHA–2008–0032–071, OSHA–2008–0032–092.1.) Extrapolating from data provided by one commenter (*i.e.,* a cost of $10 million dollars for every 5 million inhabitants; OSHA–2008–0032–071), an SDoC system in the U.S. could cost at least $600 million for approximately 300 million inhabitants. None of the respondents described the methodology used to determine the resources necessary to operate an SDoC system, including the number of inspectors required. The record only shows that most EU countries have fewer than ten inspectors devoted to enforcement of the LVD.

The substantial additional cost associated with an SDoC system would be problematic for OSHA because Congress may not fund the system adequately, thereby reducing the level of post-market inspections required and jeopardizing worker protection. As noted in an EC staff document, inadequate budgets significantly reduce the level of market surveillance performed by some EU countries. (Exhibit OSHA–2008–0032–0013.) Jeopardizing worker protection because of inadequate funding would violate OSHA's statutory mandate to provide workers with a high degree of protection.

IV. Effects on Trade

The EC based its request that OSHA move to a SDoC system on its claim that the NRTL Program is a barrier to trade, and many other commenters echoed this view. In this section, OSHA provides its analysis of this issue.

The 2008 RFI contained three questions related to trade. Most commenters in favor of SDoC maintained that OSHA's requirements are a trade barrier, and that OSHA should adopt SDoC to facilitate trade. (*See, e.g.,* Exhibits OSHA–2008–0032–0041.1; OSHA–2008–0032–0044.1; OSHA–2008–0032–0045; OSHA–2008–0032–0051; OSHA–2008–0032–0057.1; OSHA–2008–0032–0060.1.) Interestingly, one SDoC proponent stated that SDoC does not have a trade advantage over third-party approvals because "most manufacturers rely on third party tests in any case." (*See* OSHA–2008–0032–0053.1.)

OSHA believes that its NRTL Program is not a barrier to trade because the third-party certification requirements apply to all covered products used in the workplace, regardless of the country in which the products originated. In addition, OSHA's NRTL Program is equally accessible to both U.S. and foreign-based organizations. In this regard, several NRTLs currently have headquarters or facilities in foreign countries. In contrast to the NRTL system, when the EU requires third-party certification (*e.g.,* for products excluded from the LVD), it does not permit foreign-based certification bodies to certify products for the EU market. Therefore, to comply with the EU's third-party certification requirement, a U.S. certifier must register as an EU-based Notified Body for acceptance of any of its certifications in the EU, whether its certifications are for a U.S. manufacturer or a manufacturer from another country. This requirement contradicts the EC's claim in its rationale (Exhibit OSHA–2008–0032–0008) that U.S. certifiers could "without any barrier offer their services to U.S. industry to comply with EU rules."

Although the EC contends that OSHA's method of approval is an unnecessary obstacle to trade, OSHA never received information from the EC or any other source adequately explaining how the NRTL requirements constitute such an obstacle.[17] Further, based on evidence submitted in the record, OSHA finds that implementing an SDoC system for electrical safety would increase the risk that unsafe products will enter the workplace and harm workers because such a system cannot control these risks effectively to provide the requisite level of worker protection. Therefore, OSHA concludes that the NRTL requirements are reasonably necessary to provide a high degree of worker protection required by the OSH Act.

Another argument put forth by proponents of SDoC is that the NRTL Program forces other countries to develop similar programs, which proponents view as burdensome. OSHA rejects this argument because the Agency does not attempt to influence other countries in these decisions. Each country determines the methods it considers appropriate for its purposes. Countries are free to adopt SDoC when they find it is appropriate. In making this argument, proponents appear to be saying that these countries are more confident in a third-party system than in SDoC. Also unconvincing is the EC's assertion that OSHA must adopt SDoC because the EU grants U.S. manufacturers access to the EU market without the need for third-party approval. However, this argument implies that, if a country adopts a trade measure for its purposes, then all countries must reciprocate, even if such action is inappropriate.

V. Concluding Remarks

OSHA requested information on the SDoC system to better understand and corroborate the statements the EC made when proposing that OSHA adopt an SDoC system. The record shows that the EU adopted SDoC to serve its safety and trade needs by harmonizing the different practices that existed among the Member States prior to joining the EU. As stated in the EC's rationale, the EU based its decision to adopt the SDoC system on its "assessment of the risk to consumers, workers and the general interest that non-compliant products * * * [reaching] the market place * * * would pose danger." (Exhibit OSHA–2008–0032–008, p. 1.) The EU then concluded that, for these products, the "risks are at a level that they can be satisfactorily managed" by SDoC. (*Id.*) As the record shows, the EU failed to provide statistics or numerical analysis to support this assessment.

[17] Some statements by SDoC proponents (*e.g.,* asserting that the NRTL Program causes redundant testing, time burdens, and high costs (*see, e.g.,* OSHA–2008–0032–0057.1)) are incorrect, not adequately demonstrated, or unfounded. On the contrary, the NRTL Program contains flexibilities that avoid or reduce duplication, delays, and costs.

In conclusion, OSHA is not initiating rulemaking to permit the use of an SDoC as an alternative to OSHA's current NRTL Program for approving electrical products for use in the workplace. By statute, OSHA must demonstrate, based on substantial evidence, that its safety regulations and standards will provide or maintain a high degree of protection for U.S. workers. The evidence in the record does not meet the burden required for OSHA to revise its standards to accommodate an SDoC system for electrical safety in the workplace. OSHA finds that such a revision would increase the risk that unsafe products will enter the workplace and harm workers because an SDoC system cannot control these risks effectively to provide the requisite level of worker protection. In addition, Congress would need to authorize and fund OSHA to regulate and enforce product-related activities of manufacturers, distributors, and retailers. The evidence in the record submitted in response to the 2008 RFI does not justify an expansion of, or funding for, OSHA's regulatory and enforcement authority for the purpose of implementing an SDoC system. However, notwithstanding this decision, OSHA remains open to discuss concerns regarding the NRTL Program, as well as means that may be available to mitigate the concerns expressed by the EC and other pro-SDoC commenters, provided these means are within the limits of OSHA's authority, funding, and staffing.

VI. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this notice. This action is taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657), Secretary of Labor's Order No. 5–2007 (72 FR 31159), and 29 CFR Part 1911.

Signed at Washington, DC on December 13, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–31695 Filed 12–16–10; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0150]

Notice of Availability of the Models for Plant-Specific Adoption of Technical Specifications Task Force Traveler TSTF–514, Revision 3, "Revise BWR Operability Requirements and Actions for RCS Leakage Instrumentation"

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of availability.

SUMMARY: As part of the consolidated line item improvement process (CLIIP), the NRC is announcing the availability of the model application (with model no significant hazards consideration determination) and model safety evaluation (SE) for the plant-specific adoption of Technical Specifications Task Force (TSTF) Traveler TSTF–514, Revision 3, "Revise BWR [boiling water reactor] Operability Requirements and Actions for RCS [reactor coolant system] Leakage Instrumentation." TSTF–514, Revision 3, is available in the Agencywide Documents Access and Management System (ADAMS) under Accession Number ML103280389. The proposed changes revise the Standard Technical Specifications (STS) to define a new time limit for restoring inoperable RCS leakage detection instrumentation to operable status and establish alternate methods of monitoring RCS leakage when one or more required monitors are inoperable. Changes to the Technical Specifications (TS) Bases are included, which reflect the proposed changes and more accurately reflect the contents of the facility design bases related to the operability of the RCS leakage detection instrumentation. The CLIIP model SE will facilitate expedited approval of plant-specific adoption of TSTF–514, Revision 3.

Documents: 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 20852.

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 at *pdr.resource@nrc.gov.*

The model application (with model no significant hazards consideration determination) and model SE for the plant-specific adoption of TSTF–514, Revision 3, are available electronically under ADAMS Accession Number ML102300729. The NRC staff disposition of comments received on the Notice of Opportunity for Comment announced in the **Federal Register** on April 13, 2010 (75 FR 18907–18908), is available electronically under ADAMS Accession Number ML102300727.

Federal rulemaking Web site: The public comments received and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2010–0150.

FOR FURTHER INFORMATION CONTACT: Ms. Kristy Bucholtz, Reactor Systems Engineer, Technical Specifications Branch, Mail Stop: O7–C2A, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1295 or e-mail *Kristy.Bucholtz@nrc.gov* or Mrs. Michelle Honcharik, Senior Project Manager, Licensing Processes Branch, Mail Stop: O12–D1, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1774 or e-mail at *Michelle.Honcharik@nrc.gov.*

SUPPLEMENTARY INFORMATION: TSTF–514, Revision 3, is applicable to BWR plants. Licensees opting to apply for this TS change are responsible for reviewing TSTF–514, Revision 3, and the NRC staff's model SE, providing any necessary plant-specific information, and assessing the completeness and accuracy of their license amendment request (LAR). It is acceptable for licensees to use plant-specific system names, TS numbering and titles. The NRC will process each amendment application responding to this notice of availability according to applicable NRC rules and procedures.

This CLIIP does not prevent licensees from requesting an alternate approach or proposing changes other than those proposed in TSTF–514, Revision 3. However, significant deviations from the approach recommended in this notice or the inclusion of additional changes to the license require additional

NRC staff review and would not be reviewed as a part of the CLIIP. This may increase the time and resources needed for the review or result in NRC staff rejection of the LAR. Licensees desiring significant deviations or additional changes should instead submit an LAR that does not claim to adopt TSTF–514, Revision 3.

Dated at Rockville, Maryland, this 7th day of December 2010.

For the Nuclear Regulatory Commission.

Melissa S. Ash,

Acting Chief, Licensing Processes Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–31730 Filed 12–16–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0353]

Final Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Regulatory Guide (RG) 5.80, "Pressure-Sensitive and Tamper-Indicating Device Seals for Material Control and Accounting of Special Nuclear Material."

FOR FURTHER INFORMATION CONTACT: Mekonen M. Bayssie, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–251–7489 or e-mail: *Mekonen.Bayssie@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC or Commission) is issuing a new guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Regulatory Guide 5.80, "Pressure-Sensitive and Tamper-Indicating Device Seals for Material Control and Accounting of Special Nuclear Material," was issued with a temporary identification as Draft Regulatory Guide, DG–5029. This regulatory guide replaces the existing RG 5.10, "Selection and Use of Pressure-Sensitive Seals on Containers for Onsite Storage of Special Nuclear Material," issued July 1973, and the existing RG 5.15, "Tamper-Indicating Seals for the Protection and Control of Special Nuclear Material," issued March 1997, with a new regulatory guide titled, "Pressure-Sensitive and Tamper-Indicating Device Seals for MC&A Use." As a replacement, this guide describes a number of improved tamper-indicating devices (TIDs) and pressure-sensitive (PS) seals developed in recent years, primarily in response to commercial interests outside the nuclear industry. This guide, among other things, distinguishes between genuine and nongenuine manufactured seals and stresses serial number identification to aid in the control of material or to alert shipping and receiving personnel to containers that were opened in transit. This guide also incorporates suggestions for ensuring that TIDs are properly applied.

II. Further Information

In June 2009, DG–5029 was published with a public comment period of 60 days from the issuance of the guide. The public comment period closed on October 13, 2009. The staff's responses to the public comments received can be located in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession Number ML101810238. The regulatory analysis may be found in ADAMS under Accession Number ML101800517. Electronic copies of RG 5.80 are available through the NRC's public Web site under "Regulatory Guides" at *http://www.nrc.gov/reading-rm/doc-collections/.*

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at 301–415–4737 or 1–800–397–4205, by fax at 301–415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 10th day of December, 2010.

For the Nuclear Regulatory Commission.

John N. Ridgely,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–31729 Filed 12–16–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0427]

Notice of Issuance of Regulatory Guide

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Regulatory Guide 3.12, Revision 1, "General Design Guide for Ventilation Systems of Plutonium Processing and Fuel Fabrication Plants."

FOR FURTHER INFORMATION CONTACT: Angelisa L. Hicks, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–251–7448 or e-mail: *Angelisa.Hicks@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to an existing guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 3.12, "General Design Guide for Ventilation Systems of Plutonium Processing and Fuel Fabrication Plant," was issued with a temporary identification as Draft Regulatory Guide, DG–3034. This guide describes a method that the staff of the NRC considers acceptable for use in complying with Title 10, § 70.23(a)(3), of the *Code of Federal Regulations* (10 CFR 70.23(a)(3)), and 10 CFR 70.23(a)(4) on the design of ventilation systems for plutonium processing and fuel fabrication plants. At plutonium processing and fuel fabrication plants, a principal risk to health and safety is the release and dispersal of radioactive materials. The prevention of such release and dispersal is an important function of the ventilation systems. To meet these objectives, this guide provides recommendations for achieving defense in depth and for minimizing the release of radioactive materials to the environment.

Each applicant for a license to possess and use special nuclear material in a plutonium processing and fuel fabrication plant, as defined in 10 CFR

70.4, "Definitions," must satisfy the provisions of 10 CFR 70.23, "Requirements for the Approval of Applications." The regulations at 10 CFR 70.23(a)(3) and 10 CFR 70.23(a)(4) require that the applicant's proposed equipment, facility, and procedures be adequate to protect health and minimize danger to life or property.

II. Further Information

In July 2008, DG–3034 was published with a public comment period of 60 days from the issuance of the guide. The public comment period closed on October 1, 2008. The comments and responses are available through the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML102730465. Electronic copies of Regulatory Guide 3.12, Revision 1 are available through the NRC's public Web site under "Regulatory Guides" at *http://www.nrc.gov/reading-rm/doc-collections/*. The regulatory analysis may be found in ADAMS under Accession No. ML102730449.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at 301–415–4737 or 1–800–397–4209, by fax at 301–415–3548, and by e-mail to *pdr.resources@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 10th day of December, 2010.

For the Nuclear Regulatory Commission.

John N. Ridgely,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–31731 Filed 12–16–10; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Ombudsman Request for Assistance Information Collection, 3206—NEW

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Executive Secretariat and Ombudsman, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a new information collection request (ICR) 3206–NEW, Ombudsman Request for Assistance. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on August 10, 2010 at 75 FR 48383 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until January 18, 2011. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) established the Executive Secretariat and Ombudsman January 4, 2010. OPM established the Ombudsman to provide a neutral, independent and confidential resource to review, identify, facilitate and timely resolve individual claims, concerns or complaints by OPM customers and employees. In order to provide the best service to OPM's customers, one form is required and two forms are optional. The mandatory form, Privacy Release, enables representatives of the Ombudsman to obtain any information requested, examine and/or copy any records related to a request for assistance to identify, facilitate and timely resolve individuals' claims, concerns or complaints by OPM customers and employees. This allows OPM's representatives to properly perform their role and not violate customer privacy without the proper authorization. The second form, Third Party Authorization, allows customers of the Ombudsman to designate someone in addition to themselves, or other than themselves, to give and receive information about their request for assistance. The Third Party Authorization will not be used in every request for assistance. The third form, Request for Assistance, is web-enabled and provides customers a useful tool to provide OPM information it needs to expediently gather the facts and resolve the concern brought before the Ombudsman.

Analysis: Agency: Executive Secretariat and Ombudsman, Office of Personnel Management.

Title: Ombudsman Request for Assistance.

OMB Number: 3206—NEW.

Frequency: Annually.

Affected Public: Federal employees, retired Federal employees, individuals and households.

Number of Respondents: 4000.

Estimated Time per Respondent: The public reporting burden for this information collection is as follows: Privacy Release form will take approximately 5 minutes; the Third Party Authorization form will take approximately 10 minutes and the web-enabled Request for Assistance will take approximately 15 minutes to complete. If all three forms are used it is estimated to take an average of 30 minutes to complete.

Total Burden Hours: 2,000 hours.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2010–31662 Filed 12–16–10; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review, Request for Comments on a Revised Information Collection: (OMB Control No. 3206–0121; OPM Form 1496A)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for comments on a revised information collection. This information collection, "Application for Deferred Retirement (For persons separated on or after October 1, 1956)" (OMB Control No. 3206–0121; OPM Form 1496A), is used by eligible former Federal employees to apply for a deferred Civil Service annuity.

Approximately 2,800 OPM Form 1496A will be completed annually. We estimate it takes approximately 1 hour to complete this form. The annual burden is 2,800 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via e-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—James K. Freiert (Acting), Deputy Associate Director, Retirement Operations, Retirement Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500; and OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RS/RM/ Administrative Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–4808.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2010–31665 Filed 12–16–10; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Request for Comments on a Revised Information Collection: (OMB Control No. 3206–0142; Standard Form 2808)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a revised information collection. This information collection, "Designation of Beneficiary: Civil Service Retirement System (CSRS)" (OMB Control No. 3206–0142; Standard Form 2808), is used by persons covered by CSRS to designate a beneficiary to receive the lump sum payment due from the Civil Service Retirement and Disability Fund in the event of their death.

Approximately 2,000 forms will be completed annually. The form takes approximately 15 minutes to complete. The annual burden is estimated at 500 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via e-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James K. Freiert, (Acting) Deputy Associate Director, Retirement Operations, Retirement Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500;

and

OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Cyrus S. Benson, Team Leader, Publications Team, RS/RM/ Administrative Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415. (202) 606–4808.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2010–31668 Filed 12–16–10; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission For OMB Review; Request For Review of a Revised Information Collection: (OMB Control No. 3206–0136; Standard Form 2823)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a revised information collection. This information collection, "Designation of Beneficiary: Federal Employees' Group Life Insurance" (OMB Control No. 3206–0136; Standard Form 2823), is used by any Federal employee or retiree covered by the Federal Employees' Group Life Insurance Program to instruct the Office of Federal Employees' Group Life Insurance how to distribute the proceeds of his or her life insurance when the statutory order of precedence does not meet his or her needs.

We estimate 47,000 SF 2823 forms are completed annually by annuitants and 1,000 forms are completed by assignees. Each form takes approximately 15 minutes to complete. The annual estimated burden is 12,000 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via e-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Christopher N. Meuchner, Program Analysis Officer, HI/FEIO/FLL, U.S. Office of Personnel Management, 1900 E Street, NW., Room 2H22, Washington, DC 20415–3661, and OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW. Room 10235, Washington, DC 20503.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RB/RM/ Administrative Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4332, Washington, DC 20415, (202) 606–4808.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2010–31667 Filed 12–16–10; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Request for Comments on a Revised Information Collection: (OMB Control No. 3206–0237; Form RI 38–47)

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for comments on a revised information collection. This information collection, Information and Instructions on Your Reconsideration Rights (OMB Control No. 3206–0237; Form RI 38–47), outlines the procedures required to request reconsideration of an initial OPM decision about Civil Service or Federal Employees retirement, Federal or Retired Federal Employees Health Benefits requests to enroll or change enrollment, or Federal Employees' Group Life Insurance coverage. This form lists the procedures and time periods required for requesting reconsideration.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, 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; 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.

Approximately 3,100 annuitants and survivors request reconsideration annually. We estimate it takes approximately 45 minutes to apply. The annual burden is 2,325 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via e-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—James Freiert (Acting), Deputy Associate Director, Retirement Operations, Retirement Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RS/RM/ Administrative Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–4808.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2010–31664 Filed 12–16–10; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 213.103.

FOR FURTHER INFORMATION CONTACT: Roland Edwards, Senior Executive Resource Services, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the listing below are the individual authorities established under Schedules A, B, and C between October 1, 2010, and October 31, 2010. These notices are published monthly in the **Federal Register** at *http://www.gpoaccess.gov/fr/.* A consolidated listing of all authorities as of June 30 is also published each year. The following Schedules are *not* codified in the Code of Federal Regulations. These are agency-specific exceptions.

Schedule A

No Schedule A authorities to report during October 2010.

Schedule B

No Schedule B authorities to report during October 2010.

Schedule C

The following Schedule C appointments were approved during October 2010.

Office of Management and Budget

BOGS10025 Confidential Assistant for General Government Programs. Effective October 7, 2010.

Department of State

DSGS70118 Staff Assistant, Bureau of Political and Military Affairs. Effective October 1, 2010.

DSGS70119 Special Assistant, Bureau of Educational and Cultural Affairs. Effective October 4, 2010.

Department of the Treasury

DYGS00535 Deputy Assistant Secretary for Microeconomic Analysis (Economic Policy). Effective October 1, 2010.

DYGS00536 Senior Advisor for Domestic Finance. Effective October 8, 2010.

Department of Defense

DDGS17303 Deputy Director for Communication Plans and Integration. Effective October 8, 2010.

DDGS17306 Special Assistant to the Deputy Assistant Secretary of Defense (Europe/North Atlantic Treaty Organization and Europe. Effective October 8, 2010.

DDGS17307 Special Assistant to the Principal Deputy Assistant Secretary of Defense Legislative Affairs. Effective October 25, 2010.

Department of the Army

DWGS00102 Special Advisor of the Army (Installations and Environment). Effective October 19, 2010.

Department of Justice

DJGS00624 Director, Faith-Based and Neighborhood Partnerships for the Office of Justice Programs. Effective October 13, 2010.

DJGS00625 Senior Counsel Civil Division. Effective October 15, 2010.

DJGS00626 Special Assistant for the Office of Justice Programs. Effective October 29, 2010.

Housing and Urban Development

DMGS00797 Special Assistant for Immigration and Customs Enforcement. Effective October 29, 2010.

Department of the Interior

DIGS01202 White House Liaison to the Deputy Chief of Staff. Effective October 1, 2010.

DIGS01203 Special Assistant to the Secretary. Effective October 15, 2010.

DIGS01205 Senior Advisor for Indian Affairs. Effective October 22, 2010.

Department of Agriculture

DAGS01131 Chief of Staff for Natural Resources and Environment. Effective October 19, 2010.
DAGS20039 Chief of Staff for Food Safety. Effective October 20, 2010.
DAGS20150 Press Secretary for Communications. Effective October 29, 2010.

Department of Commerce

DCGS00444 Special Assistant for Outreach. Effective October 1, 2010.
DCGS00434 Chief of Staff for Industry and Security. Effective October 4, 2010.
DCGS60163 Special Advisor for Market Access and Compliance. Effective October 7, 2010.
DCGS00628 Confidential Assistant for the International Trade Administration. Effective October 18, 2010.
DCGS00603 Special Assistant for the International Trade Administration. Effective October 25, 2010.
DCGS00614 International Trade Administration Deputy Director for the National Export Initiative. Effective October 29, 2010.
DCGS00620 Director, Office of Legislative Affairs and Senior Trade Advisor for the International Trade Administration. Effective October 29, 2010.

Department of Labor

DLGS60190 Senior Legislative Officer for Congressional and Intergovernmental Affairs. Effective October 1, 2010.
DLGS60253 Special Assistant for Labor. Effective October 22, 2010.

Department of Heath and Human Services

DHGS60374 Confidential Assistant to the Department. Effective October 8, 2010.
DHGS60081 Special Assistant for the Office of Global Health Affairs. Effective October 15, 2010.

Department of Education

DBGS00112 Confidential Assistant for Strategy. Effective October 1, 2010.
DBGS00259 Confidential Assistant for Safe and Drug-Free Schools. Effective October 1, 2010.
DBGS60187 Special Assistant for Elementary and Secondary Education. Effective October 1, 2010.
DBGS00432 Confidential Assistant for Civil Rights. Effective October 15, 2010.
DBGS00346 Confidential Assistant for Elementary and Secondary Education. Effective October 28, 2010.
DBGS00370 Confidential Assistant for Vocational and Adult Education. Effective October 29, 2010.
DBGS00418 Confidential Assistant to the Chief of Staff. Effective October 29, 2010.

Environmental Protection Agency

EPGS10014 Director, Operations Staff to the Administrator. Effective October 1, 2010.
EPGS11001 Deputy Director of Scheduling to the Administrator. Effective October 12, 2010.
EPGS11002 Deputy Associate Administrator for the Office of External Affairs and Environmental Education for Public Affairs. Effective October 27, 2010.

Securities and Exchange Commission

SEOT61200 Confidential Assistant to a Commissioner. Effective October 13, 2010.

Department of Energy

DEGS00831 Director for Tribal and Intergovernmental Affairs for Congressional and Intergovernmental Affairs. Effective October 12, 2010.
DEGS00832 Senior Advisor to the Assistant Secretary (Energy Efficiency and Renewable Energy). Effective October 20, 2010.

Federal Energy Regulatory Commission

DRGS10012 Deputy Director, Office of External Affairs to the Chair-Federal Energy Regulatory Commission. Effective October 29, 2010.

Small Business Administration

SBGS00688 Senior Advisor for Government Contracting and Business Development. Effective October 22, 2010.

General Services Administration

GSGS01308 Special Assistant to the Chief of Staff. Effective October 6, 2010.

Export-Import Bank

EBGS14049 Speechwriter to the Senior Vice President, Communications. Effective October 15, 2010.

Occupational Safety and Health Review Commission

SHGS60008 Counsel to the Commission Member. Effective October 1, 2010.

Department of Transportation

DTGS60222 Director of Public Engagement for Transportation Policy. Effective October 8, 2010.

International Joint Commission

IJGS00001 Policy Advisor to the Commissioner (Chair). Effective October 15, 2010.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. 2010–31661 Filed 12–16–10; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2011–7, CP2011–39 and CP2011–40; Order No. 607]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Global Plus 1B Contracts to the competitive product list. This notice addresses procedural steps associated with this filing.

DATES: *Comments are due:* December 21, 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

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service seeks to add Global Plus 1B as a new product, to the competitive product list.[1] The Request has been assigned Docket No. MC2011–7. In addition, the Postal Service filed notice, pursuant to 39 CFR 3015.5, announcing that it has entered into two Global Plus 1B

[1] Request of the United States Postal Service to Add Global Plus 1B to the Competitive Products List and Notice of Filing Two Functionally Equivalent Global Plus 1B Contracts Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, December 9, 2010 (Request).

contracts. The Postal Service states that the instant contracts are functionally equivalent with one another and to previously submitted Global Plus 1A contracts.[2] It states further that the instant contracts are supported by Governors' Decision No. 08–8, which establishes prices and classifications not of general applicability for Global Plus Contracts.[3] The two contracts have been assigned Docket Nos. CP2011–39 and CP2011–40, respectively.

The instant contracts. The Postal Service states that the instant contracts are the immediate successors to the Global Plus 1A contracts in Docket Nos. CP2010–67 and CP2010–68 that are scheduled to expire at 11:59 p.m. on the day prior to the date of any change in the published rates that affect the qualifying mail (as defined in the contract) in the agreement. The change in published rates is expected to occur for Express Mail International and Priority Mail International on January 2, 2011. Request at 4. The instant contracts are expected to begin January 2, 2011, and expire at 11:59 p.m. on the day prior to the day of any change in the published rates that affect the qualifying mail subject to the contracts in the month of January 2012.[4] *Id.* at 4–5.

The Postal Service filed copies of the contracts, Governors' Decision with attachments, and supporting financial documentation under seal. *Id.* at 3.

Additionally, the Postal Service filed the following five attachments:

- Attachment 1—a statement of supporting justification required by 39 CFR 3020.32;
- Attachments 2A and 2B—a redacted copy of each contract and applicable annexes;
- Attachments 3A and 3B—certified statements required by 39 CFR 3015.5(c)(2);
- Attachment 4—a redacted copy of Governors' Decision No. 08–8, which establishes prices and classifications for Global Plus Contracts, formulas for the prices, analysis and certification of the formulas and certification of the Governors' vote;
- Attachment 5—an application for non-public treatment of materials to maintain the contract and supporting documents under seal.

Functional equivalence. The Postal Service asserts that the instant contracts are functionally equivalent to one another and to the precursor Global Plus 1 contracts in that they share similar cost and market characteristics. *Id.* at 5. It contends that as a result, the instant contracts should be grouped together as a single product. *Id.*

The Postal Service addresses similarities between the instant contracts and their predecessors, *e.g.,* that the customers are the same and the fundamental terms and conditions of the contracts remain essentially unchanged. *Id.* at 6. It identifies minor changes in contract terms that distinguish the instant contracts from each other, *e.g.,* customer name, postage prices, penalties, identification of prior agreements, and preservation after termination provisions. The Postal Service asserts that the differences do not affect either the service provided or the structure of the contracts. It also states that the differences do not affect functional equivalency. *Id.* at 5–6.

Baseline treatment. The Postal Service states that each of the instant contracts takes the place of its immediate predecessor which served as the baseline contracts for the Global Plus 1A Contracts product.[5] It requests that the instant contracts be considered "the new 'baseline' contracts for future functional equivalency analyses concerning the Global Plus 1 product." (Footnote omitted.) Request at 4.

Filing under part 3020. In support of its filing, the Postal Service submitted a statement of Supporting Justification and a copy of Governors' Decision No. 08–8 as Attachments 1 and 4, respectively. The Postal Service asserts that analysis under 39 U.S.C. 3642(b) is unnecessary here because of the Commission findings in Order No. 43 that Negotiated Service Agreements for outbound International Mail are classified as competitive. Further, it contends that the classification requirements of section 3642 have been met and that there is, "no further need to ponder whether Global Plus 1B contracts are market dominant or covered within the postal monopoly." *Id.* at 7.

The Postal Service states that its filings demonstrate that the instant contracts comply with the requirements of 39 U.S.C. 3633, fit within the Mail Classification Schedule language for Global Plus Contracts and are functionally equivalent to each other. *Id.* at 8. It urges the Commission to add Global Plus 1B Contracts to the competitive product list and to establish the instant contracts as the baseline contracts for the Global Plus 1B product. *Id.*

II. Notice of Filing

The Commission establishes Docket Nos. MC2011–7, CP2011–39 and CP2011–40 for consideration of matters raised in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020 subpart B. Comments are due no later than December 21, 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 these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2011–7, CP2011–39 and CP2010–40 for consideration of matters raised by the Postal Service's Request.
2. Comments by interested persons in these proceedings are due no later than December 21, 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. 2010–31657 Filed 12–16–10; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2011–8, CP2011–41 and CP2011–42; Order No. 608]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add Global Plus 2B Contracts to the competitive product list. This notice addresses procedural steps associated with this filing.

DATES: *Comments are due:* December 21, 2010.

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[2] *See* Docket Nos. CP2008–8 through CP2008–10, Order Concerning Global Plus Negotiated Service Agreements, June 27, 2008 (Order No. 85).

[3] *See* Docket No. CP2008–8, Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Plus Contracts, June 2, 2008, at 1.

[4] The Postal Service states that if the date of the change in published prices for qualifying mail does not occur before January 31, 2012, the contracts' termination date is January 31, 2012. *Id.* at 5.

[5] *See* Docket Nos. MC2010–26, CP2010–67 and CP2010–68, Order Approving Functionally Equivalent Global Plus 1A Contracts Negotiated Service Agreement, July 30, 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

Pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service seeks to add a new product Global Plus 2B Contracts, to the competitive product list and to that end, filed notice, pursuant to 39 CFR 3015.5, announcing that it has entered into two Global Plus 2B contracts.[1]

The Postal Service states that the instant contracts are functionally equivalent with one another and to previously submitted Global Plus 2B contracts.[2] It states further that the instant contracts are supported by Governors' Decision No. 08–10, which establishes prices and classifications not of general applicability for Global Plus Contracts.[3]

The Request has been assigned Docket No. MC2011–8.

The Postal Service contemporaneously filed copies of the contracts related to the proposed competitive product classification pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The two contracts have been assigned Docket Nos. CP2011–41 and CP2011–42, respectively.

The instant contracts. The Postal Service states that the instant contracts are the immediate successors to the Global Plus 2A contracts in Docket Nos. CP2010–69 and CP2010–70 that are scheduled to expire on 11:59 p.m. on January 16, 2011. Request at 3. The instant contracts are expected to begin January 17, 2011, and expire at 11:59 p.m. on the day prior to the day in January 2012 when Canada Post Corporation institutes price changes for its domestic Lettermail, Incentive Lettermail, Admail, and/or Publications Mail products. If these prices do not change during the month of January the contracts terminate on January 31, 2012. *Id.* at 4–5.

The Postal Service filed copies of the contracts, Governors' Decision with attachments, and supporting financial documentation under seal. *Id.* at 3.

Additionally, in support of its Request and Notice, the Postal Service filed the following five attachments:

- Attachment 1—a statement of supporting justification required by 39 CFR 3020.32;
- Attachments 2A and 2B—a redacted copy of each contract and applicable annexes;
- Attachments 3A and 3B—certified statements required by 39 CFR 3015.5(c)(2);
- Attachment 4—a redacted copy of Governors' Decision No. 08–10, which establishes prices and classifications for Global Direct, Global Bulk Economy, and Global Plus Contracts, formulas for the prices, analysis and certification of the formulas and certification of the Governors' vote;
- Attachment 5—an application for non-public treatment of materials to maintain the contract and supporting documents under seal.

Functional equivalence. The Postal Service asserts that the instant contracts are functionally equivalent both to one another and to the precursor Global Plus 2A contracts in that they share similar cost and market characteristics. *Id.* at 4. It contends as a result the instant contracts should be grouped together as a single product. *Id.* at 4–6.

The Postal Service addresses similarities between the instant contracts and their predecessors, *e.g.,* the fundamental terms and conditions of the contracts remain essentially unchanged. *Id.* at 6. It identifies minor changes in contract terms that distinguish the instant contracts from each other, *e.g.,* customer name, penalties, and identification of prior agreements. The Postal Service asserts that the differences do not affect functional equivalency. *Id.* at 5–6.

Baseline treatment. The Postal Service states that each of the instant contracts takes the place of its immediate predecessor which served as the baseline contract for the Global Plus 2A Contracts product.[4] It requests that the instant contracts be considered "the new 'baseline' agreements for consideration of future functional analyses of the Global Plus 2B product." *Id.* at 4.

Filing under part 3020. In support of its filing, the Postal Service submitted a statement of Supporting Justification and a copy of Governors' Decision No. 08–10 as Attachments 1 and 4 respectively. The Postal Service asserts that analysis under 39 U.S.C. 3642(b) is unnecessary here because of the Commission findings in Order No. 43 that Negotiated Service Agreements for outbound International Mail are classified as competitive. Further it contends that the classification requirements of section 3642 have been met and that there is, "no further need to ponder whether Global Plus 2B contracts are market dominant or covered by the postal monopoly." *Id.* at 7.

The Postal Service states that its filings demonstrate that the instant contracts comply with the requirements of 39 U.S.C. 3633, fit within the Mail Classification Schedule language for Global Plus Contracts under Governors' Decision 08–10 and are functionally equivalent to each other. *Id.* at 8. It urges the Commission to add Global Plus 2B Contracts to the competitive product list and to establish the instant contracts as the baseline contracts for the Global Plus 2B product. *Id.*

II. Notice of Filing

The Commission establishes Docket Nos. MC2011–8, CP2011–41 and CP2011–42 for consideration of matters raised in the Postal Service's Request.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR 3020 subpart B. Comments are due no later than December 21, 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 these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2011–8, CP2011–41 and CP2011–42 for consideration of matters raised by the Postal Service's Request.

[1] Request of the United States Postal Service to Add Global Plus 2B to the Competitive Product List and Notice of Filing Two Functionally Equivalent Global Plus 2B Contracts Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, December 9, 2010 (Notice).

[2] *See* Docket Nos. CP2008–8 through CP2008–10, Order Concerning Global Plus negotiated Service Agreements, June 27, 2008 (Order No. 85).

[3] *See* Docket No. CP2008–8, Notice of United States Postal Service of Governors' Decision Establishing Prices and Classifications for Global Plus Contracts, June 2, 2008, at 1.

[4] *See* Docket Nos. MC2010–27, CP2010–69 and CP2010–70, Order Approving Functionally Equivalent Global Plus 2A Contracts Negotiated Service Agreements, July 30, 2010.

2. Comments by interested persons in these proceedings are due no later than December 21, 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. 2010–31671 Filed 12–16–10; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection(s) Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collections are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden for the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and Purpose of Information Collection

Representative Payee Parental Custody Monitoring: OMB 3220–0176.

Under Section 12 (a) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) is authorized to select, make payments to, and to conduct transactions with, a beneficiary's relative or some other person willing to act on behalf of the beneficiary as a representative payee. The RRB is responsible for determining if direct payment to the beneficiary or payment to a representative payee would best serve the beneficiary's interest. Inherent in the RRB's authorization to select a representative payee is the responsibility to monitor the payee to assure that the beneficiary's interests are protected. The RRB utilizes Form G–99d, Parental Custody Report, to obtain information needed to verify that a parent-for-child representative payee still has custody of the child. One response is required from each respondent. The RRB proposes no changes to Form G–99d.

The estimated annual respondent burden is as follows:

Form #(s)	Annual responses	Time (min)	Burden (hrs)
G–99d	1,030	5	86

2. Title and Purpose of Information Collection

Report of Medicaid State Office on Beneficiary's Buy-In Status; OMB 3220–0185.

Under Section 7(d) of the Railroad Retirement Act, the RRB administers the Medicare program for persons covered by the railroad retirement system. Under Section 1843 of the Social Security Act, states may enter into "buy-in agreements" with the Secretary of Health and Human Services for the purpose of enrolling certain groups of low-income individuals under the Medicare medical insurance (Part B) program and paying the premiums for their insurance coverage. Generally, these individuals are categorically needy under Medicaid and meet the eligibility requirements for Medicare Part B. States can also include in their buy-in agreements, individuals who are eligible for medical assistance only. The RRB uses Form RL–380–F, Report to State Medicaid Office, to obtain information needed to determine if certain railroad beneficiaries are entitled to receive Supplementary Medical Insurance program coverage under a state buy-in agreement in states in which they reside. Completion of Form RL–380–F is voluntary. One response is received from each respondent. The RRB proposes no changes to Form RL–380–F.

The estimated annual respondent burden is as follows:

Form #(s)	Annual responses	Time (min)	Burden (hrs)
RL–380–F	600	10	100

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV*. Comments regarding the information collection should be addressed to Patricia A. Henaghan, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Patricia.Henaghan@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 2010–31795 Filed 12–16–10; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63530; File No. SR–NASDAQ–2010–164]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Provide an Exemption from the Thirty-Day Written Notice Requirement of Rule 7018(i)(3)

December 10, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 9, 2010, The NASDAQ Stock Market LLC ("NASDAQ") 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 NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ is proposing to modify the thirty-day written notice requirement applicable to a member firm seeking to withdraw as Designated Liquidity Provider.

The text of the proposed rule change is below. Proposed new language is italicized.

7018. Nasdaq Market Center Order Execution and Routing

(a)–(h) No change.

(i) Notwithstanding the foregoing, the following charges shall apply to transactions in a Qualified Security by one of its Designated Liquidity Providers:

Charge to Designated Liquidity Provider entering Order that executes in the Nasdaq Market Center or attempts to execute in the Nasdaq Market Center prior to routing:.	$0.003 per share executed for securities priced at $1 or more per share (For securities priced at less than $1 per share, the normal execution fee under 7018(a) will apply).
Credit to Designated Liquidity Provider providing displayed liquidity through the Nasdaq Market Center:.	$0.004 per share executed (or $0, in the case of executions against Quotes/Orders in the Nasdaq Market Center at less than $1.00 per share), up to 10 million shares average daily volume. Normal credits under 7018(a) apply to shares greater than 10 million average daily volume and nondisplayed liquidity.

For purposes of this paragraph:

(1)–(2) No change.

(3) If a DLP does not meet the performance measurements for a given month, fees and credits will revert to the normal schedule under 7018(a). If a DLP does not meet the stated performance measurements for 3 out of the past 4 months, the DLP is subject to forfeit of DLP status for that instrument, at NASDAQ's discretion. A DLP must provide 30 days written notice if it wishes to withdraw its registration in a Qualified Security, *unless it is also withdrawing as a market maker in the Qualified Security.*

(j) No change.

* * * * *

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 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. NASDAQ has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to modify the thirty-day written notice requirement applicable to a member firm seeking to withdraw as Designated Liquidity Provider ("DLP") in a Qualified Security[3] to exempt member firms that are also withdrawing as a market maker in the Qualified Security. NASDAQ recently amended Rule 7018(i) to include new subparagraph (3), discussing DLP performance requirements and adopting a 30 day written notice requirement of a member firm's desire to withdraw as a DLP in a Qualified Security.[4] Specifically, NASDAQ described the consequences of failing to meet the DLP minimum performance criteria described in Rule 7018(i)(2) and adopted a thirty-day prior notice obligation on DLPs seeking to withdraw registration in a Qualified Security. The thirty-day notice requirement was adopted to ensure that NASDAQ has adequate time to assign a new DLP, thus avoiding any disruption in market quality that may be caused by the absence of an assigned DLP.

NASDAQ is proposing an exemption to the thirty-day written notice requirement limited to member firms seeking to withdraw both as a DLP and market maker in a Qualified Security. NASDAQ rules do not specify or require a minimum time of prior notice of a member firm's desire to withdraw as a market maker in a particular security.[5] As such, a member firm may withdraw from any given security the same day as notice is provided to NASDAQ. A member firm is, however, restricted from making a market in any security that it has withdrawn from for 20 days.[6] To be a DLP, a member firm must be a registered market maker in the Qualified Security.[7] Therefore, if a member firm withdraws its registration as a market maker in a Qualified Security, it is not eligible to act as a DLP.

NASDAQ adopted the thirty-day written notice of withdrawal requirement so that it would have adequate time to assign a new DLP as a replacement of the withdrawing member firm. Typically, a member firm would continue as a market maker in the security that it was withdrawing its DLP designation, and thus was able to avail itself of the benefits of making a market in the Qualified Security. NASDAQ believes that, in cases of complete withdrawal from market making in a Qualified Security, the thirty-day written notice of withdrawal requirement should not apply, since the member firm is not seeking to continue availing itself of the benefit of making a market in the security, but rather is completely withdrawing from making a market in the security. Such member firms have no intent to make markets in the security and are precluded from becoming a market maker in the security for 20 days. Accordingly, NASDAQ does not believe that compelling a member firm to participate as a market maker and DLP in a security during the thirty-day notice period is beneficial to the member firm or the quality of the market in the Qualified Security.

2. Statutory Basis

NASDAQ believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general and with Section 6(b)(5) of the Act,[9] in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] To be designated as a "Qualified Security," Rule 7018(i)(1) requires that the security is an exchange-traded fund or index-linked security listed on Nasdaq pursuant to Nasdaq Rules 5705, 5710, or 5720, and that it has at least one Designated Liquidity Provider.

[4] Securities Exchange Act Release No. 63040 (October 5, 2010), 75 FR 63238 (October 14, 2010) (SR–NASDAQ–2010–128).

[5] Rule 4620(a).

[6] *Id.*

[7] Rule 7018(i)(2).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. NASDAQ believes that the proposed rule change is consistent with these requirements because exempting member firms that are entirely withdrawing as a market maker in a Qualified Security from the thirty-day written notice requirement of Rule 7018(i)(3) eliminates an inconsistency in the current rules concerning the notice a market maker is required to provide NASDAQ when it determines to withdraw from making a market in Qualified Securities. NASDAQ believes a member firm should be able withdraw from making a market in any security under the terms of Rule 4620(a) and not be subject to an additional notice requirement that was designed to apply to member firms that would continue to participate as a registered market maker in the security. Further, NASDAQ does not believe that compelling a member firm wishing to withdraw as a market maker in a Qualified Security to participate as a market maker and DLP in that security during the thirty-day notice period is beneficial to the member firm or the quality of the market in the Qualified Security.

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.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)[10] of the Act and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily 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.

NASDAQ has asked that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b–4(f)(6)(iii).[12] NASDAQ has requested such waiver to quickly cure an unintended inconsistency in the notice requirements for withdrawing as a market maker in certain securities. Based on NASDAQ's representations that the proposed rule change is non-controversial and that no novel issues are presented in this proposed rule change, the Commission sees no reason to delay implementation of the proposed rule change. The Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay, and hereby grants such waiver.[13]

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–2010–164 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–2010–164. 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 such filing also will be available for inspection and copying at the principal offices 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–2010–164, and should be submitted on or before January 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31682 Filed 12–16–10; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63531; File No. SR–ISE–2010–109]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Fee Waiver

December 10, 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 November 30, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees regarding its Competitive Market Maker ("CMM") Inactivity Fee. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE proposes to amend its Schedule of Fees regarding its CMM Inactivity Fee. ISE currently charges the owner [3] of a CMM membership an Inactivity Fee of $25,000 a month per trading right if the owner does not (i) itself operate the CMM membership, (ii) lease the CMM Trading Right to another member which operates the CMM membership, or (iii) avail itself to one of the exemptions specifically authorized in the Notes to the CMM Inactivity Fee on the Schedule of Fees. Pursuant to ISE Rules, however, a CMM Member may not operate more than 10 CMM Trading Rights.[4] A CMM that has more than 10 trading rights must lease the additional trading rights or else be subject to the CMM Inactivity Fee.

The Exchange has developed an enhanced technology trading platform and will migrate from its current trading system to the new trading system over time (the "Transition Period"). The Exchange believes that during the Transition Period it would be impractical for a firm to become a new market maker on the Exchange due to the level of financial and technical resources that a new market maker would be required to commit. As a result, CMMs who are actively seeking to lease their trading rights during the Transition Period are unlikely to find a firm that would be willing to commit such resources. Therefore, ISE proposes to waive its current CMM Inactivity Fee until the new trading system has been completely rolled out.[5] This proposed fee waiver would only apply to trading rights in excess of the 10 trading rights that a CMM is permitted to operate provided that CMM Member owns more than 10 trading rights.

2. Basis

The basis under the Securities Exchange Act of 1934 (the "Exchange Act") for this proposed rule change is the requirement under Section 6(b)(4)[6] that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed fee waiver is simply a recognition of the fact that it would be impractical for a new firm to become a member of the Exchange during the Transition Period, and thus, serves to effectively maintain low fees during this time.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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 such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. 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 No. SR–ISE–2010–109 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2010–109. 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 Commissions 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

[3] The Note to the CMM Inactivity Fee on the Schedule of Fees provides that the fee applies to the owner of the CMM membership, unless the inactive CMM membership is subject to a lease that was approved by the Exchange prior to the effective date of the fee, in which case the fee would apply to the lessee.

[4] *See* ISE Rule 303(b).

[5] The Exchange has been working with its members to assure a smooth transition to the new trading platform and will continue to do so up to the launch of the new technology and during the Transition Period.

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

copying at the principal office of the ISE. 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–ISE–2010–109 and should be submitted by January 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31683 Filed 12–16–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63532; File No. SR–NYSE–2010–77]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, by New York Stock Exchange LLC in Connection with the Proposal of NYSE Euronext to Eliminate the Requirement of an 80% Supermajority Vote to Amend or Repeal Section 3.1 of its Bylaws

December 13, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 30, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, and II below, which Items have been prepared by the self-regulatory organization. On December 3, 2010, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is submitting this rule filing in connection with the proposal of its ultimate parent, NYSE Euronext (the "Corporation"),[4] to amend its bylaws (the "Bylaws") to eliminate the requirement that the affirmative vote of the holders of not less than 80% of the votes entitled to be cast by the holders of the outstanding capital stock of the Corporation entitled to vote generally in the election of directors is necessary for the stockholders to amend or repeal Article III, Section 3.1 of the Bylaws. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and the Exchange's website at www.nyse.com.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is submitting this rule filing in connection with the proposal of the Corporation, which is the ultimate parent company of the Exchange, to amend its Bylaws to eliminate the requirement that the affirmative vote of the holders of not less than 80% of the votes entitled to be cast by the holders of the outstanding capital stock of the Corporation entitled to vote generally in the election of directors is necessary for the stockholders to amend or repeal Article III, Section 3.1 of the Bylaws relating to the general powers of the Board of Directors of the Corporation ("Board"). Section 3.1 also provides that the number of Directors on the Board shall be fixed and changed from time to time exclusively by the Board pursuant to a resolution adopted by two-thirds of the directors then in office. Elimination of this 80% "supermajority" voting provision as it relates to Section 3.1 will have the effect that only a majority of the same number of votes entitled to be cast will be required to amend or repeal this section of the Bylaws.

Background

In connection with its 2010 Annual Meeting, the Corporation received a stockholder proposal to eliminate the supermajority voting requirements necessary to amend certain provisions of the Corporation's certificate of incorporation ("Certificate") and Bylaws. Following receipt of that proposal, the Corporation began discussions with its regulators regarding the possibility of amending its Certificate and Bylaws to implement the proposal. While recognizing the interest of stockholders in simple majority voting to amend these basic governing documents, the Corporation was also cognizant of the fact that, at the time of the merger between Euronext and NYSE Group that created the Corporation, both European and U.S regulators were concerned about insuring a balance of U.S. and European perspectives in the governance of the newly formed entity. The regulators and the respective boards of directors viewed the combination of Euronext and NYSE Group as a "merger of equals," and balanced representation between American and European representatives on the Board was the primary means by which the principle of equality was to be implemented. The regulatory authorities approved supermajority voting to amend the governance provisions in the Certificate and Bylaws considered to be most important in maintaining this balance.

Following further discussions between the Corporation and its regulators, the regulators have indicated that they would not oppose a change to a simple majority provision for certain of the provisions currently subject to an 80% voting requirement, including Article III, Section 3.1 of the Bylaws. Section 3.1 reads as follows:

"*General Powers.* The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The number of directors on the Board of Directors shall be fixed and changed from time to time exclusively by the Board of Directors pursuant to a resolution adopted by two-thirds of the directors then in office. In addition to the powers and authorities expressly conferred upon them by these Bylaws, the Board of Directors may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws required to be exercised or done by the stockholders. A director need not be a stockholder."

The purpose of this proposed rule change is to implement the decision of the Board to remove the 80% supermajority voting requirement with respect to the aforementioned Bylaw provision.

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The NYSE, a New York limited liability company, is an indirect wholly-owned subsidiary of NYSE Euronext.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[5] of the Act, in general, and furthers the objectives of Section 6(b)(5)[6] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. More specifically, the Exchange believes that the proposed rule change will permit the Corporation to respond to the stockholder proposal submitted to it while also ensuring ongoing regulatory comfort concerning balanced representation in the governance of the Corporation which will thereby contribute to perfecting the mechanism of a free and open market and a national market system, consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

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–NYSE–2010–77 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2010–77. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for 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–NYSE–2010–77 and should be submitted on or before January 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31684 Filed 12–16–10; 8:45 am]

BILLING CODE 8011–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63533; File No. SR–MSRB–2010–17]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Amendments to Rule A–3, on Membership on the Board

December 13, 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 November 30, 2010, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing with the SEC a proposed rule change consisting of amendments to Rule A–3, on membership on the Board, in order to establish a Nominating Committee in compliance with MSRB transitional Rule A–3(i).

The text of the proposed rule change is available on the MSRB's Web site at *http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2010-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of The Purpose of, And Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to make changes to MSRB Rule A–3(c) as are necessary and appropriate prior to the creation of the Nominating Committee of the MSRB (hereinafter, "Nominating and Governance Committee"). On September 30, 2010, the SEC approved MSRB Rule A–3(i), a transitional rule for MSRB fiscal year 2011 intended to implement the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010) (the "Dodd-Frank Act").[3] The transitional rule provides that on or after October 1, 2010, and prior to the formation of the Nominating Committee for purposes of nominating Board members for fiscal year 2012, the Board will amend the provisions of Rule A–3(c) to (a) reflect the composition of the Board as provided under the Dodd-Frank Act, (b) assure that the Nominating Committee will be composed of a majority of public members and will have fair representation of broker-dealers, bank dealers, and municipal advisors, and (c) reflect such other considerations consistent with the provisions of Section 15B of the Act and the Dodd-Frank Act as the Board deems appropriate. The proposed rule change is intended to amend Rule A–3(c) to comply with the requirements of transitional Rule A–3(i), as approved by the SEC.

Amendments to Rule A–3(c)

Consistent with Rule A–3(i), the Nominating and Governance Committee would consist of eleven members, six of whom would be public members and five of whom would be industry members. The Chair of the Committee would be a public member. Establishing an eleven member committee will allow for fair representation of regulated entities by reserving five positions for brokers, dealers, municipal securities dealers and municipal advisors.

Each constituency identified in the Dodd-Frank Act would be guaranteed a minimum of one seat on the Nominating and Governance Committee but the level of each constituency would be capped to avoid overweighting of any one over the others.

These ranges of membership are as follows:

- Six public members consisting of (a) At least one, but no more than three, representative of institutional or retail investors; (b) at least one, but no more than three, representative of municipal entities; (c) at least one, but no more than three, members of the public with knowledge of or experience in the municipal industry and not representative of investors or municipal entities;[4] and
- five regulated members, consisting of (a) at least one, but no more than two, representative of broker-dealers; (b) at least one, but no more than two, representative of bank dealers; and (c) at least one, but no more than two, representative of non-dealer municipal advisors.

The Board believes this formulation is consistent with the Dodd-Frank Act and Rule A–3(i) in that it provides for a majority of public members on the Committee and fair representation of regulated entities. The MSRB also believes it is important that the Chair of the Nominating and Governance Committee be a public member, both as a governance best practice and in recognition of the majority of public members on the Board, as mandated by the Dodd-Frank Act.

The Board also proposes certain administrative amendments to Rule A–3(c). First, the rule change provides that members may serve staggered terms, which are terms that do not commence and conclude on the same date thereby creating groups or classes of directors. The Board had been divided previously into three classes of five members per class. Each year, one class would conclude its service. In order to comply with the Dodd-Frank Act, the Board modified this structure to accommodate a 21 member Board. While the terms are staggered currently, the new group of 11 Board members is serving a two year transitional term, while the other members continue to serve three year terms. The Board is currently evaluating the appropriate term for new Board members, but expects that terms will continue to be staggered in order to relieve the burden on the Nominating and Governance Committee of replacing the entire Board in any one year and in order to ensure the continuity and consistency of the Board.

Next, the proposed rule change reflects that Board members may only serve consecutive terms under two scenarios: (a) By invitation from the Nominating and Governance Committee due to special circumstances as determined by the Board, such as where a Board member possesses special expertise needed by the Board that is not possessed by other Board members or generally by persons in the pool of potential candidates for Board membership; or (b) having filled a vacancy under Rule A–3(e) and, therefore, served only a partial term.

The Board also proposes revisions to Rule A–3(c) to provide that it will solicit nominations for Board membership in a financial journal having national circulation among members of the municipal securities industry, as well as a financial journal having general national circulation. This change is proposed because potential public members and certain types of municipal advisors may not read municipal securities newspapers or periodicals regularly. Finally, the Board proposes changes to Rule A–3(c) to require the publishing on the Board's Web site of the names of all applicants for Board membership.[5] Such publication is intended to make the nominating process more transparent. Some commentators on the transitional Rule A–3 amendments made suggestions regarding improving transparency of the MSRB's election process, and the Board believes the practice of publishing the names of all Board applicants will provide more transparency regarding the nominating process.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(B) of the Act, which provides that the MSRB's rules shall:

> establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of public representatives, broker dealer representatives, bank representatives, and advisor representatives.

The MSRB believes that the proposed rule change is consistent with Section 15B(b) of the Act, as amended by the Dodd-Frank Act, in that it would provide for the creation of an MSRB Nominating and Governance Committee

[3] *See* Exchange Act Release No. 63025 (Sep. 30, 2010), 75 FR 61806 (Oct. 6, 2010).

[4] In order to ensure balance on the committee and reflect the breadth of public representatives on the Board, the proposal would require one to three committee members be selected from Board members who are not representative of municipal entities or investors.

[5] In some cases, a person may be recommended to the MSRB for membership on the Board but he or she may not wish to be considered. Any person who declines to be considered would not be treated as an applicant and his or her name would not be published.

that reflects the composition of the Board as provided under the Dodd-Frank Act and would assure that the Nominating and Governance Committee be composed of a majority of public members and have fair representation of broker-dealers, bank dealers, and municipal advisors, consistent with MSRB Rule A–3(i) as approved by the SEC.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it is solely concerned with the administration of the MSRB and, in any event, provides for fair representation on the Nominating and Governance Committee of public representatives, broker dealer representatives, bank dealer representatives and municipal advisor representatives.

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 on the proposed rule change.

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. The Commission seeks comment on all aspects of the MSRB's proposed rule change, including the proposed composition of the Nominating and Governance Committee and whether the number and proportion of public representatives, broker-dealer representatives, bank representatives, and advisor representatives is appropriate. Because the MSRB, under the Dodd-Frank Act, is now proposing and adopting rules with respect to the activities of two distinct categories of market participants—municipal securities dealers and municipal securities advisors—the Commission seeks comment on whether the proposed structure of the MSRB Nominating and Governance Committee will assure that the interests of each constituency are fairly represented. Are there alternative Nominating and Governance Committee structures or other arrangements that would better achieve these goals? Is the proposed process for soliciting nominations for Board membership an appropriate method of identifying applicants? Will the nomination process be sufficiently transparent? 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–MSRB–2010–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MSRB–2010–17. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. 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–MSRB–2010–17 and should be submitted on or before January 7, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31685 Filed 12–16–10; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12411 and #12412]

Maryland Disaster #MD–00014

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Maryland dated 12/09/2010.

Incident: Severe Storms and a Tornado.

Incident Period: 11/17/2010.

Effective Date: 12/09/2010.

Physical Loan Application Deadline Date: 02/07/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 09/09/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary City: Baltimore City.

Contiguous Counties:

Maryland: Anne Arundel, Baltimore.

The Interest Rates are:

	Percent
For Physical Damage:	

	Percent
Homeowners With Credit Available Elsewhere	4.500
Homeowners Without Credit Available Elsewhere	2.250
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12411 C and for economic injury is 12412 0.

The State which received an EIDL Declaration # is Maryland.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: December 9, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–31678 Filed 12–16–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12407 and #12408]

Massachusetts Disaster #MA–00030

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Massachusetts dated 12/07/2010.

Incident: Apartment complex fire.

Incident Period: 11/21/2010.

Effective Date: 12/07/2010.

Physical Loan Application Deadline Date: 02/07/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 09/07/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Hampden.

Contiguous Counties:

Massachusetts: Berkshire, Hampshire, Worcester.

Connecticut: Hartford, Litchfield, Tolland.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.500
Homeowners Without Credit Available Elsewhere	2.250
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12407 5 and for economic injury is 12408 0.

The States which received an EIDL Declaration # are Massachusetts, Connecticut.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: December 7, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–31676 Filed 12–16–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12409 and #12410]

Mississippi Disaster #MS–00042

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Mississippi dated 12/07/2010.

Incident: Severe storms and tornadoes.

Incident Period: 11/29/2010 through 11/30/2010.

Effective Date: 12/07/2010.

Physical Loan Application Deadline Date: 02/07/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 09/07/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Monroe, Oktibbeha.

Contiguous Counties:

Mississippi: Chickasaw, Choctaw, Clay, Itawamba, Lee, Lowndes, Noxubee, Webster, Winston.

Alabama: Lamar, Marion.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.500
Homeowners Without Credit Available Elsewhere	2.250
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	4,000
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12409 C and for economic injury is 12410 0.

The States which received an EIDL Declaration # are Mississippi, Alabama.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: December 7, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–31677 Filed 12–16–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Emergence Capital Partners SBIC, L.P. License No. 09/79–0454; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Emergence Capital Partners SBIC, L.P., 160 Bovet Road, Suite 300, San Mateo, CA 94402, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Emergence Capital Partners SBIC, L.P. proposes to provide equity financing to Intacct Corporation, 125 S. Market Street, Suite 600, San Jose, California 95113. The financing is contemplated for working capital and general operating purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Emergence Capital Partners, L.P. and Emergence Capital Associates, L.P., Associates of Emergence Capital Partners SBIC, L.P., own more than ten percent of Intacct Corporation. Therefore, Intacct Corporation is considered an Associate of Emergence Capital Partners SBIC, L.P. and this transaction is considered Financing an Associate, requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction within 15 days of the date of this publication to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: December 3, 2010.

Sean J. Greene,

Associate Administrator for Investment.

[FR Doc. 2010–31675 Filed 12–16–10; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974, as Amended; Proposed System of Records and Routine Use Disclosures

AGENCY: Social Security Administration (SSA).

ACTION: Proposed system of records and routine uses.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (e)(11)), we are issuing public notice of our intent to establish a system of records, the *Central Repository of Electronic Authentication Data Master File* (hereinafter referred to as the *e-Authentication File*) and its applicable routine uses. The *e-Authentication File* will maintain personally identifiable information (PII) we collect and use to verify the identity of persons using our electronic services. We discuss the *e-Authentication File* and its routine use disclosures in the Supplementary Information section below. We invite public comments on the *e-Authentication File.*

DATES: We filed a report of the *e-Authentication File* and its applicable routine use disclosures with the Chairman of the Senate Committee on Homeland Security and Governmental Affairs, the Chairman of the House Committee on Oversight and Government Reform, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on December 8, 2010. The *e-Authentication File* and applicable routine uses will become effective on January 13, 2010, unless we receive comments before that date that require further consideration.

ADDRESSES: Interested persons may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401 or through the Federal e-Rulemaking Portal at *http://www.regulations.gov.* All comments we receive will be available for public inspection at the above address, and we will post them to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Neil Etter, Social Insurance Specialist, Disclosure Policy Development and Services Division I, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 965–8028, e-mail: *neil.etter@ssa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the e-Authentication File

A. General Background

We provide electronic services, such as our automated telephone and Internet applications, for persons doing business with us. When users choose our electronic services, they must provide their PII. We use their PII to verify their identities. Upon successful verification, we are able to recognize the users' identities and authorize them to conduct business with us electronically.

The *e-Authentication File* supports our agency's objectives to expand electronic services and to provide strong and secure authentication procedures. For security reasons, we must be able to determine, with confidence, persons are who they claim to be each time they choose our electronic services. The *e-Authentication File* will capture the data we need to verify users' identities.

B. Collection and Maintenance of the Data Covered by the e-Authentication File

We will collect and maintain the users' PII in the *e-Authentication File.* The PII may include the users' name, address, date of birth, Social Security number (SSN), phone number, and other types of identity information (*e.g.,* address information of persons from the W–2 and Schedule Self Employed (SE) forms we receive electronically for our programmatic purposes as permitted by 26 U.S.C. 6103(l)(1)(A)). We may also collect knowledge-based authentication data, which is information users establish with us or that we already maintain in existing Privacy Act systems of records.

We will maintain the data necessary to administer and maintain our e-Authentication infrastructure. This includes management and profile information, such as blocked accounts, failed access data, effective date of passwords, and other data that allows us to evaluate the system's effectiveness. The data we maintain also may include archived transaction data and historical data.

II. Routine Use Disclosures of Data Covered by the e-Authentication File

A. Routine Use Disclosures

We propose to establish the following routine use disclosures of information from the *e-Authentication File:*

1. To the Office of the President in response to a request the Office of the President made at the request of the subject of a record or a third party acting on the subject's behalf.

We will disclose information under this routine use only when the Office of the President indicates it is requesting the record on behalf of the subject of the record or a third party acting on the subject's behalf.

2. To a congressional office in response to a request from that office made at the request of the subject of the record or a third party acting on the subject's behalf.

We will disclose information under this routine use only when a member of Congress, or member of his or her staff indicates he or she is requesting the record on behalf of the subject of the record or a third party acting on the subject's behalf.

3. To the Department of Justice (DOJ), a court or other tribunal, or another party before such a court or other tribunal when:

(a) SSA or any of our components; or

(b) Any SSA employee in his or her official capacity; or

(c) Any SSA employee in his or her individual capacity when DOJ (or SSA) has agreed to represent the employee; or

(d) The United States or any agency thereof when we determine that the litigation is likely to affect the operations of SSA or any of our components,

is a party to litigation or has an interest in such litigation, and we determine that the use of such records by DOJ, a court, other tribunal, or another party before such tribunal is relevant and necessary to the litigation. In each case, however, we must determine that such disclosure is compatible with the purpose for which we collected the records.

We will disclose information under this routine use as necessary to enable the DOJ to defend us, our components, or our employees in litigation, when we determine use of information covered by the *e-Authentication File* is relevant and necessary to the litigation and compatible with the purpose for which we collected the information. We will also disclose information to ensure that courts, other tribunals, and parties before such courts or tribunals, have appropriate information that we determine is relevant and necessary.

4. To other Federal agencies and our contractors, including external data sources, to assist us in efficiently administering our programs.

We will disclose information under this routine use only in situations where we have a contractual agreement or similar agreement with a third party to assist in accomplishing our work relating to information covered by the *e-Authentication File.* Under this routine use, we may disclose information to a contractor to assist us in advancing, testing, and evaluating our authentication procedures for our electronic services.

5. To student volunteers, persons working under a personal services contract, and others when they need access to information in our records in order to perform their assigned agency duties.

We will disclose information under this routine use only when we use the services of student volunteers, persons working under a personal services contract, and others in educational, training, employment, and community service programs when they need access to information covered by the *e-Authentication File* to perform their assigned agency duties.

6. To the Department of Justice for:

(a) Investigating and prosecuting violations of the Social Security Act to which criminal penalties attach; and

(b) Representing the Commissioner; or

(c) Investigating issues of fraud or violation of civil rights by agency officers or employees.

We will disclose information under this routine use only as necessary to enable DOJ to represent us in matters for these purposes.

7. To the General Services Administration (GSA) and the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906, as amended by the NARA Act of 1984, when the information is for records management purposes.

We will disclose information under this routine use only when it is necessary for GSA and NARA to have access to the information covered by the *e-Authentication File.* The Administrator of GSA and the Archivist of NARA are authorized by Title 44 U.S.C. 2904, as amended, to promulgate standards, procedures, and guidelines regarding records management and to conduct records management studies. Title 44 U.S.C. 2906, as amended, provides that agencies are to cooperate with GSA and NARA as GSA and NARA are authorized to inspect Federal agencies' records for records management purposes.

8. To appropriate Federal, State, and local agencies, entities, and persons when:

(a) We suspect or confirm a compromise of security or confidentiality of information;

(b) We determine that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, risk of identity theft or fraud, or risk of harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and

(c) We determine that disclosing the information to such agencies, entities, and persons will assist us in our efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy any harm.

We will disclose information under this routine use specifically in connection with response and remediation efforts in the event of an unintentional release of agency information (otherwise known as a data breach). With this routine use, we can protect the interests of the people whose information is at risk by responding timely and effectively to a data breach. The routine use will also help us improve our ability to prevent, minimize, or remedy any harm that may result from a data breach.

B. Compatibility of Routine Uses

We can disclose information for routine uses one through six when it is necessary to carry out our programs or other programs similar to ours or when the disclosure is supported by a published routine use (20 CFR 401.150). We can also disclose information when the disclosure is required by law (20 CFR 401.120). Federal law requires the disclosures that we make under routine uses seven and eight to the extent another Federal law does not prohibit the disclosure. All routine uses in the *e-Authentication File* are compatible with the relevant statutory and regulatory criteria.

III. Records Storage Medium and Safeguards for the Information Covered by the e-Authentication File

We will maintain, in electronic form, all information covered by the *e-Authentication File.* We will safeguard the security of the electronic information covered by the *e-Authentication File* by requiring the use of access codes (personal identification number (PIN) and password) to enter the computer system that will house the data. We will maintain audit trails of all access to this information in accordance with agency security policy and Federal retention standards. We will permit access to the information covered by the *e-Authentication File* only to our authorized employees and contractors who require the information to perform their official duties.

We annually provide all our employees and contractors with security awareness and training. This includes the need to protect PII and the criminal penalties that apply to an unauthorized access to, or disclosure of, PII. Employees and contractors with access to databases maintaining PII must also sign a sanction document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

IV. Effects of the e-Authentication File on the Rights of Persons

We will use safeguards to protect the confidentiality of all PII in our possession. We will ensure that all

contractors or others acting on our behalf are obliged to do the same. We will adhere to the provisions of the Privacy Act and other applicable Federal statutes that govern our use and disclosure of information that the *e-Authentication File* covers. We will disclose information under the routine uses only as necessary to accomplish the stated purposes. We do not anticipate that the *e-Authentication File* or its applicable routine use disclosures will have any unwarranted adverse effect on the privacy or other rights of persons.

Dated: November 30, 2010.

Michael J. Astrue,

Commissioner.

Social Security Administration

Notice of System of Records

Required by the Privacy Act of 1974, as Amended

System number:

60–0373

SYSTEM NAME:

Central Repository of Electronic Authentication Data Master File.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration (SSA), Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF PERSONS COVERED BY THE SYSTEM:

Persons conducting business with us through our electronic services.

CATEGORIES OF RECORDS IN THE SYSTEM:

We will collect and maintain the users' personally identifiable information (PII) in this system of records. The PII may include the users' name, address, date of birth, Social Security number (SSN), phone number, and other types of identity information (*e.g.,* address information of persons from the W–2 and Schedule Self Employed (SE) forms we receive electronically for our programmatic purposes as permitted by 26 U.S.C. 6103(l)(1)(A)). We may also collect knowledge-based authentication data, which is information users establish with us or that we already maintain in existing Privacy Act systems of records.

We will maintain the data necessary to administer and maintain our e-Authentication infrastructure. This includes management and profile information, such as blocked accounts, failed access data, effective date of passwords, and other data that allows us to evaluate the system's effectiveness. The data we maintain also may include archived transaction data and historical data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 205(a) of the Social Security Act; the Government Paperwork Elimination Act (Pub. L. 105–277); the Internal Revenue Code (26 U.S.C. 6103(l)(1)(A)); and the Federal Information Security Management Act of 2002 (Title III) of the E-Government Act of 2002 (Pub. L. 107–347).

PURPOSE(S):

This system of records supports our agency's objectives to expand electronic services, such as our automated telephone and Internet application. This system of records also supports our agency's commitment to strong and secure authentication procedures by properly maintaining PII we collect from persons to verify their identities. For security reasons, we must be able to determine, with confidence, persons are who they claim to be each time they choose our electronic services.

ROUTINE USES OF RECORDS COVERED BY THIS SYSTEM OF RECORDS, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine use disclosures are indicated below; however, we will not disclose any information defined as "return or return information" under 26 U.S.C. 6103 of the Internal Revenue Code (IRC), unless the IRC, the Internal Revenue Service (IRS), or IRS regulations authorize us to do so.

1. To the Office of the President in response to a request the Office of the President made at the request of the subject of the record or a third party acting on the subject's behalf.

2. To a congressional office in response to a request from that office made at the request of the subject of the record or a third party acting on the subject's behalf.

3. To the Department of Justice (DOJ), a court, other tribunal, or another party before such court or tribunal when:

(a) SSA or any of our components; or

(b) Any SSA employee in his or her official capacity; or

(c) Any SSA employee in his or her individual capacity when DOJ (or SSA) has agreed to represent the employee; or

(d) The United States or any agency thereof when we determine that the litigation is likely to affect the operations of SSA or any of our components, is a party to litigation or has an interest in such litigation, and we determine that the use of such records by DOJ, a court, other tribunal, or another party before such tribunal is relevant and necessary to the litigation. In each case, we must determine that such disclosures are compatible with the purpose for which we collected the records.

4. To other Federal agencies and our contractors, including external data sources, to assist us in administering our programs.

5. To student volunteers, persons working under a personal services contract, and others when they need access to information in our records in order to perform their assigned agency duties.

6. To the Department of Justice for:

(a) Investigating and prosecuting violations of the Social Security Act to which criminal penalties attach; and

(b) Representing the Commissioner; or

(c) Investigating issues of fraud or violation of civil rights by agency officers or employees.

7. To the General Services Administration and the National Archives and Records Administration under 44 U.S.C. 2904 and 2906, as amended by the NARA Act of 1984, when the information is for records management purposes.

8. To appropriate Federal, State, and local agencies, entities, and persons when:

(a) We suspect or confirm a compromise of security or confidentiality of information;

(b) We determine that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, risk of identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and

(c) We determine that disclosing the information to such agencies, entities, and persons will assist us in our efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THIS SYSTEM OF RECORDS:

STORAGE:

We will store records in this system of records in electronic form.

RETRIEVABILITY:

We will retrieve records in this system of records by a person's name and associated identifying information.

SAFEGUARDS:

We retain electronic files with personal identifiers in secure storage areas accessible only to our authorized

employees and contractors who have a need for the information when performing their official duties. Security measures include the use of access codes (personal identification number (PIN) and password) to enter our computer systems that house the data.

We annually provide all our employees and contractors with security awareness and training. This includes the need to protect PII and the criminal penalties that apply to an unauthorized access to, or disclosure of, PII. Employees and contractors with access to databases maintaining PII must also sign a sanction document annually, acknowledging their accountability for inappropriately accessing or disclosing such information.

RETENTION AND DISPOSAL:

We maintain records in SSA headquarters within the Office of Open Government. We will maintain records in this system of records until seven years after the notification of the death of the account holder. After that time, we will delete the person's records from the database.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Chief Information Officer, Office of Open Government, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURES:

Persons can determine if this system contains a record about them by writing to the system manager at the above address and providing their name, SSN, or other information in this system of records that will identify them. Persons requesting notification by mail must include a notarized statement to us to verify their identity or must certify in the request that they are the person they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another person under false pretenses is a criminal offense.

Persons requesting notification of records in person must provide the same information, as well as provide an identity document, preferably with a photograph, such as a driver's license. Persons lacking identification documents sufficient to establish their identity must certify in writing that they are the person they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another person under false pretenses is a criminal offense.

Persons requesting notification by telephone must verify their identity by providing identifying information that parallels the information in the record about which they are requesting notification. If we determine that the identifying information the person provides by telephone is insufficient, we will require the person to submit a request in writing or in person. If a person requests information by telephone on behalf of another person, the subject person must be on the telephone with the requesting person and us in the same phone call. We will establish the subject person's identity (his or her name, SSN, address, date of birth, and place of birth, along with one other piece of information such as mother's maiden name) and ask for his or her consent to provide information to the requesting person. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Persons also should reasonably specify the record contents they are seeking. These procedures are in accordance with our regulations (20 CFR 401.40(c)).

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Persons also should reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These procedures are in accordance with our regulations (20 CFR 401.65(a)).

RECORD SOURCE CATEGORIES:

We obtain information in this system of records primarily from the person to whom the record pertains. We may also include information from electronic W–2 and electronic Schedule SE forms for members of the public.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

None.

[FR Doc. 2010–31700 Filed 12–16–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 7270]

60-Day Notice of Proposed Information Collection: Form- DS–1950, Department of State Application for Employment, OMB Control Number 1405–0139

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Department of State Application for Employment.
- *OMB Control Number:* 1405–0139.
- *Type of Request:* Extension of a currently approved collection.
- *Originating Office:* Bureau of Human Resources, Office of Recruitment, Examination, Employment (HR/REE)
- *Form Number:* DS–1950.
- *Respondents:* U.S. Citizens seeking entry into certain Department of State Foreign Service positions.
- *Estimated Number of Respondents:* 3,000.
- *Estimated Number of Responses:* 3,000.
- *Average Hours Per Response:* 30 minutes.
- *Total Estimated Burden:* 1,500.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

DATES: The Department will accept comments from the public up to 60 days from December 17, 2010.

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

- E-mail: *mooreme1@state.gov.*
- Mail (paper, disk, or CD–ROM submissions): U.S. Department of State—SA–1, HR/REE/REC Room 518H, Attention: Marvin Moore, 2401 E Street, NW., Washington DC 20522.

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

- If you have access to the Internet, you may view and comment on this notice by going to: *http://www.regulations.gov/search/Regs/home.html#home.*

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Marvin E. Moore, Bureau of Human Resources, Recruitment Division, Student Programs, U.S. Department of State, Washington, DC 20522, who may be reached on 202–261–8885 or by e-mail at *MooreME1@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper performance of our functions.

• Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: The DS–1950 has been the form used by individuals to apply for certain excepted jobs at the Department of State such as Foreign Service specialist positions. We wish to continue to use this form to clarify interpretation of applicant responses and how applicants become aware of our program opportunities.

Methodology: The form will be used by applicants for excepted service jobs at the Department of State, such as certain Foreign Service jobs. These programs generate approximately 3,000 applications per year. Data, which is extracted from the form, is necessary to determine qualifications, and selections, in accordance with Federal policies.

Dated: November 30, 2010.

Ruben Torres,

Director, HR/EX, Department of State.

[FR Doc. 2010–31760 Filed 12–16–10; 8:45 am]

BILLING CODE 4710–15–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Anti-Counterfeiting Trade Agreement: Request for Comments From the Public

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: The Office of the United States Trade Representative (USTR) has concluded negotiations on a proposed agreement to strengthen international cooperation, enforcement practices and legal frameworks for addressing counterfeiting and piracy. USTR is requesting written comments from the public on the final text of the Anti-Counterfeiting Trade Agreement (ACTA) in connection with consideration of U.S. signature of the agreement.

The deadline for submission of written comments is, 5 p.m., Tuesday, February 15, 2011.

ADDRESSES: All written comments should be sent electronically via *http://www.regulations.gov*, docket number USTR–2010–0014. Submissions should contain the term "ACTA Public Comments" in the "Type comment & Upload file" field on *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kira M. Alvarez, Chief Negotiator and Deputy Assistant U.S. Trade Representative for Intellectual Property Enforcement, Office of the United States Trade Representative, at (202) 395–4510. Further information about ACTA can be located at *http://www.ustr.gov/webfm_send/2379*.

1. Supplementary Information

USTR, working with a group of trading partners, has concluded negotiations on a proposed agreement to strengthen international cooperation, enforcement practices and legal frameworks for addressing counterfeiting and piracy. USTR is requesting written comments from the public on the final text of the Anti-Counterfeiting Trade Agreement (ACTA) in connection with consideration of U.S. signature of the agreement.

Participants in the negotiations included: Australia, Canada, the European Union (EU) represented by the European Commission and the EU Presidency (Belgium) and the EU Member States, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the United States.

Consistent with the Administration's strategy for intellectual property enforcement, ACTA would be the highest-standard plurilateral agreement yet achieved concerning the enforcement of intellectual property rights, and would establish an international model for effectively combating the global proliferation of commercial-scale counterfeiting and piracy. In addition to requirements concerning legal frameworks for intellectual property enforcement, the proposed agreement also includes innovative provisions to deepen international cooperation and to promote strong enforcement practices. Together these provisions will help to protect American jobs in innovative and creative industries against intellectual property theft.

2. Text and Summary Information

The full, final text of the ACTA, together with summaries and related information, can be found at *http://www.ustr.gov/acta.*

3. Public Comments

a. Written Comments

Written comments must be received by February 15, 2011 at 5 p.m.

b. Requirements for Comments

Comments must be in writing and in English. All comments should be sent electronically via *http://www.regulations.gov*, docket number USTR–2010–0014.

To submit comments to *http://www.regulations.gov*, find the docket by entering the number USTR–2010–0014 in the "Enter Keyword or ID" window at the *http://www.regulations.gov* home page and click "Search." The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting "Notice" under "Document Type" on the left side of the search-results page, and click on the link entitled "Submit a comment." (For further information on using the *http://www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on "How to Use This Site" on the left side of the home page).

The *http://www.regulations.gov* site provides the option of providing comments by filling in a "Type comment & Upload file" field, or by attaching a document. It is USTR's preference that comments be provided in an attached document. If a document is attached, please type "ACTA Public Comments" in the "Type comment & Upload file" field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the "Comments" field.

For any comments containing business confidential information, the filer should type "ACTA Comments—Business Confidential" in the "Type Comment & Upload file" field. Any page containing business confidential information must be clearly marked "BUSINESS CONFIDENTIAL" on the top of that page. Filers of submissions containing business confidential information must also submit a separate public version of their comments with the business confidential information redacted. The filer should type "ACTA Comments—Public Version" in the "Type Comment & Upload file" field. If it is determined that the comment does not contain business confidential information, the filer will be notified of that determination and allowed to withdraw their comment.

4. Inspection of Comments, Notices, and Hearing Statements

USTR will maintain a docket on the ACTA Public Review that is accessible to the public. The public file will include all comments received which will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business. Comments may be viewed on the *http://www.regulations.gov* Web site by entering docket number USTR–2010–0014 in the search field on the home page.

Stanford K. McCoy,

Assistant U.S. Trade Representative for Intellectual Property and Innovation.

[FR Doc. 2010–31763 Filed 12–16–10; 8:45 am]

BILLING CODE 3190–W1–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending November 20, 2010

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2008–0043 and DOT–OST–2010–0283.

Date Filed: November 15, 2010.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: December 6, 2010.

Description: Joint application of Iberia Líneas Aéreas de España, S.A. ("Iberia") and Iberia's wholly owned subsidiary Iberia Líneas Aéreas de España Sociedad Anónima Operadora ("Iberia Operadora") requesting the transfer of Iberia's foreign air carrier permit to Iberia Operadora effective immediately upon completion of the Iberia-British Airways consolidation; and transfer of related authorizations is also requested.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–31713 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending December 4, 2010

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2004–19016.

Date Filed: December 2, 2010.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: December 23, 2010.

Description: Application of Jetalliance Flugbeiriebs GmbH d/b/a JAF Airservice requesting renewal of its exemption authority and for a foreign air carrier permit to engage in: (i) Foreign charter air transportation of persons, property and mail from any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons, property and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) other charter air transportation; and (iv) transportation authorized by any additional route rights made available to European Community carriers in the future.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–31715 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending November 6, 2010

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2010–0276.

Date Filed: November 5, 2010.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: November 26, 2010.

Description: Application of Volga-Dnepr Airlines LLC requesting a foreign air carrier permit to engage in charter foreign air transportation of property and mail between any point or points in the Russian Federation and any point or points in the United States and other all cargo charters.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–31718 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending November 13, 2010

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2010–0279.

Date Filed: November 12, 2010.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: December 3, 2010.

Description: Application of Arik Air Limited requesting a foreign air carrier permit and exemption authority to provide scheduled air transportation of persons, property and mail between Nigeria and the United States.

Docket Number: DOT–OST–1996–1657.

Date Filed: November 12, 2010.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: December 3, 2010.

Description: Application of Alaska Central Express, Inc. ("Alaska Central") requesting fitness determination and reissuance of its certificate of public convenience and necessity to the extent necessary to permit Alaska Central to conduct scheduled interstate passenger operations with aircraft having a maximum passenger capacity of less than 60 seats or a maximum payload capacity of no more than 18,000 pounds, and to reissue its certificate without the condition limiting its passenger authority to charter air transportation.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–31714 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending October 23, 2010

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2010–0262.

Date Filed: October 20, 2010.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: November 10, 2010.

Description: Application of Dynamic Airways, LLC d/b/a Dynamic Aviation requesting a certificate of public convenience and necessity authorizing Dynamic to engage in foreign charter air transportation of persons, property, and mail between any place in the United States and any place outside thereof.

Docket Number: DOT–OST–2010–0263.

Date Filed: October 20, 2010.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: November 10, 2010.

Description: Application of City Wings, Inc. requesting authority to operate scheduled passenger service as a commuter air carrier.

Docket Number: DOT–OST–2010–0264.

Date Filed: October 22, 2010.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: November 15, 2010.

Description: Application of Whitejet Transportes Aereos Ltda requesting a foreign air carrier permit and exemption authority to engage in charter foreign air transportation of persons, property and mail between any point or points in the United States and any point or points in Brazil to the full extent authorized by Air Transport Agreement between the Government of the United States of America and the Government of the Federative Republic of Brazil.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–31716 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending November 6, 2010

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2010–0275.

Date Filed: November 4, 2010.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 649—Resolution 010f. TC3 Within South East Asia Special Passenger Amending Resolution 010f Fares between Chinese Taipel and Viet Nam Memo 1411. Intended effective date: 15 November 2010.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–31704 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending October 30, 2010

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2010–0267.

Date Filed: October 25, 2010.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 648—Resolution 010e, TC31 North & Central Pacific, Special Passenger Amending

Resolution, from USA to South East Asia, (Memo 0525), Intended effective date: 1 November 2010.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–31706 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Notice of Funding Availability for the Small Business Transportation Resource Center Program

AGENCY: Office of the Secretary of Transportation (OST), Office of Small and Disadvantaged Business Utilization (OSDBU), Department of Transportation (DOT).

ACTION: Notice of funding availability.

SUMMARY: The Department of Transportation (DOT), Office of the Secretary (OST), Office of Small and Disadvantaged Business Utilization (OSDBU) announces the opportunity for; (1) business centered community-based organizations; (2) transportation-related trade associations; (3) colleges and universities; (4) community colleges or; (5) chambers of commerce, registered with the Internal Revenue Service as 501 C(6) or 501 C(3) tax-exempt organizations, to compete for participation in OSDBU's Small Business Transportation Resource Center (SBTRC) program in the Northeast and Northwest Regions. The Mid Atlantic, South Atlantic, Mid South Atlantic, Southeast, Great Lakes, Central, West Central, Gulf, and Southwest Regions have been previously competed in Fiscal Year 2010.

OSDBU will enter into Cooperative Agreements with these organizations to outreach to the small business community in their designated region and provide financial and technical assistance, business training programs, such as, business assessment, management training, counseling, technical assistance, marketing and outreach, and the dissemination of information, to encourage and assist small businesses to become better prepared to compete for, obtain, and manage DOT funded transportation-related contracts and subcontracts at the federal, state and local levels. Throughout this notice, the term "small business" will refer to: 8(a), small disadvantaged businesses (SDB), disadvantaged business enterprises (DBE), women owned small businesses (WOSB), HubZone, service disabled veteran owned businesses (SDVOB), and veteran owned small businesses (VOSB). Throughout this notice, "transportation-related" is defined as the maintenance, rehabilitation, restructuring, improvement, or revitalization of any of the nation's modes of transportation.

Funding Opportunity Number: USDOT–OST–OSDBU–SBTRC2011–1.

Catalog of Federal Domestic Assistance (CFDA) Number: 20.910 Assistance to small and disadvantaged businesses.

Type of Award: Cooperative Agreement Grant.

Award Ceiling: $224,000.

Award Floor: $127,000.

Program Authority: DOT is authorized under 49 U.S.C. 332(b)(4), (5) & (7) to design and carry out programs to assist small disadvantaged businesses in getting transportation-related contracts and subcontracts; develop support mechanisms, including management and technical services, that will enable small disadvantaged businesses to take advantage of those business opportunities; and to make arrangements to carry out the above purposes.

DATES: Complete Proposals must be electronically submitted to OSDBU via e-mail on or before January 14, 2011, 5 p.m. Eastern Standard Time. Proposals received after the deadline will be considered non-responsive and will not be reviewed. The applicant is advised to turn on request delivery receipt notification for e-mail submissions. DOT plans to give notice of awards for the competed regions on or before February 11, 2011.

ADDRESSES: Applications must be electronically submitted to OSDBU via e-mail at *SBTRC@dot.gov.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice, contact Mr. Arthur D. Jackson, U.S. Department of Transportation, Office of Small and Disadvantaged Business Utilization, 1200 New Jersey Avenue, SE., W56–462, Washington, DC, 20590. *Telephone:* 1–800–532–1169. *E-mail: art.jackson@dot.gov.*

SUPPLEMENTARY INFORMATION:

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1. Introduction

1.1 Background

The United States Department of Transportation (DOT) established the Office of Small and Disadvantaged Business Utilization (OSDBU) in accordance with Public Law 95–507, an amendment to the Small Business Act and the Small Business Investment Act of 1958.

The mission of OSDBU at DOT is to ensure that the small and disadvantaged business policies and goals of the Secretary of Transportation are developed and implemented in a fair, efficient and effective manner to serve small and disadvantaged businesses throughout the country. The OSDBU also administers the provisions of Title 49, Section 332, the Minority Resource Center (MRC) which includes the duties of advocacy, outreach and financial services on behalf of small and disadvantaged business and those certified under CFR 49 parts 23 and or 26 as Disadvantaged Business Enterprises (DBE) and the development of programs to encourage, stimulate, promote and assist small businesses to become better prepared to compete for, obtain and manage transportation-related contracts, and subcontracts.

The Regional Partnerships Division of OSDBU, through the SBTRC program allows OSDBU to partner with local organizations to offer a comprehensive delivery system of business training, technical assistance and dissemination of information, targeted towards small business transportation enterprises in their regions.

1.2 Program Description and Goals

The national SBTRC program utilizes Cooperative Agreements with chambers of commerce, trade associations, educational institutions and business-centered community based organizations to establish SBTRCs to provide business training, technical assistance and information to DOT grantees and recipients, prime contractors and subcontractors. In order to be effective and serve their target

audience, the SBTRCs must be active in the local transportation community in order to identify and communicate opportunities and provide the required technical assistance. SBTRCs must already have, or demonstrate the ability to establish working relationships with the state and local transportation agencies and technical assistance agencies (i.e., The U.S. Department of Commerce's Minority Business Development Centers (MBDCs), Small Business Development Centers (SBDCs), Procurement Technical Assistance Centers (PTACs), SCORE and State DOT highway supportive services contractors in their region. Utilizing these relationships and their own expertise, the SBTRCs are involved in activities such as information dissemination, small business counseling, and technical assistance with small businesses currently doing business with public and private entities in the transportation industry.

Effective outreach is critical to the success of the SBTRC program. In order for their outreach efforts to be effective, SBTRCs must be familiar with DOT's Operating Administrations, its funding sources, and how funding is awarded to DOT grantees, recipients, contractors, subcontractors, and its financial assistance programs. SBTRCs must outreach to the regional small business transportation community to disseminate information and distribute DOT-published marketing materials, such as STLP Program Information, Bonding Assistance information, SBTRC brochures and literature, Procurement Forecasts; Contracting with DOT booklets, and any other materials or resources that DOT or OSDBU may develop for this purpose. To maximize outreach, the SBTRC may be called upon to participate in regional and national conferences and seminars. Quantities of DOT publications for on-hand inventory and dissemination at conferences and seminars will be available upon request from the OSDBU office.

1.3 Description of Competition

The purpose of this Request For Proposal (RFP) is to solicit proposals from transportation-related trade associations, chambers of commerce, community based entities, colleges and universities, community colleges, and any other qualifying transportation-related non-profit organizations with the desire and ability to partner with OSDBU to establish and maintain an SBTRC.

It is OSDBU's intent to award Cooperative Agreement to one organization in each of the designated geographical area(s), from herein referred to as "region(s)", competed in this solicitation. However, if warranted, OSDBU reserves the option to make multiple awards to selected partners. Proposals submitted for a region must contain a plan to service the entire region, not just the SBTRC state or local geographical area. The region's SBTRC headquarters must be established in the designated state set forth below. Submitted proposals must also contain justification for the establishment of the SBTRC headquarters in a particular city within the designated state.

SBTRC Region(s) Competed in This Solicitation:

Northeast Region:
- New York, Headquarters
- New Jersey
- Massachusetts
- Connecticut
- Rhode Island
- New Hampshire
- Vermont
- Maine

Northwest Region:
- Washington, Headquarters
- Oregon
- Idaho
- Alaska
- Montana

Program requirements and selection criteria, set forth in Sections 2 and 4 respectively, indicate, the OSDBU intends for the SBTRC to be multidimensional; that is, the selected organizations must have the capacity to effectively access and provide supportive services to the broad range of small businesses within the respective geographical region. To this end, the SBTRC must be able to demonstrate that they currently have established relationships within the geographic region with whom they may coordinate and establish effective networks with DOT grant recipients and local/regional technical assistance agencies to maximize resources.

Cooperative agreement awards will be distributed to the region(s) as follows:

- Northeast Region—Up to $224,000 per year
- Northwest Region—Up to $127,000 per year

Cooperative agreement awards by region are based upon an analysis of DBEs, Certified Small Businesses, and US DOT transportation dollars in each region. It is OSDBU's intent to maximize the benefits received by the small business transportation community through the SBTRC. Funding may be utilized to reimburse an on-site Project Director up to 100% of salary plus fringe benefits, an on-site Executive Director up to 50% of salary plus fringe benefits, the cost of designated SBTRC space, other direct costs, and all other general and administrative expenses. Selected SBTRC partners will be expected to provide in-kind administrative support. Submitted proposals must contain an alternative funding source with which the SBTRC will fund administrative support costs. Preference will be given to proposals containing in-kind contributions for the Project Director, the Executive Director, cost of designated SBTRC space, other direct costs, and all other general and administrative expenses.

1.4 Duration of Agreements

Cooperative agreements will be awarded for a period of 12 months (one year) with options for two (2) additional one year periods. OSDBU will notify the SBTRC of our intention to exercise an option year or not to exercise an option year 30 days in advance of expiration of the current year.

1.5 Authority

DOT is authorized under 49 U.S.C. 332(b)(4), (5) & (7) to design and carry out programs to assist small disadvantaged businesses in getting transportation-related contracts and subcontracts; develop support mechanisms, including management and technical services, that will enable small disadvantaged businesses to take advantage of those business opportunities; and to make arrangements to carry out the above purposes.

1.6 Eligibility Requirements

To be eligible, an organization must be an established, nonprofit, community-based organization, transportation-related trade association, chamber of commerce, college or university, community college, and any other qualifying transportation-related non profit organization which has the documented experience and capacity necessary to successfully operate and administer a coordinated delivery system that provides access for small businesses to prepare and compete for transportation-related contracts. In addition, to be eligible, the applicant organization must:

(A) Be an established 501 C(3) or 501 C(6) tax-exempt organization and provide documentation as verification. No application will be accepted without proof of tax-exempt status;

(B) Have at least one year of documented and continuous experience prior to the date of application in providing advocacy, outreach, and technical assistance to small businesses within the region in which proposed

services will be provided. Prior performance providing services to the transportation community is preferable, but not required; and

(C) Have an office physically located within the proposed city in the designated headquarters state in the region for which they are submitting the proposal that is readily accessible to the public.

2. Program Requirements

2.1 Recipient Responsibilities

(A) Assessments, Business Analyses

1. Conduct an assessment of small businesses in the SBTRC region to determine their training and technical assistance needs, and use information that is available at no cost to structure programs and services that will enable small business enterprises to become better prepared to compete for and receive transportation-related contract awards.

2. Contact other federal, state and local governmental agencies, such as the U.S. Small Business Administration, (SBA), state and local highway departments, state and local airport authorities, and transit authorities to identify relevant and current information that may support the assessment of the regional small business transportation community needs.

(B) General Management & Technical Training and Assistance

1. Utilize OSDBU's Intake Form to document each small business assisted by the SBTRC and type of service(s) provided. The completed form must be transmitted electronically to the SBTRC Program Manager on a monthly basis, accompanied by a narrative report on the activities and performance results for that period. The data gathered must be supportive by the narrative and must relate to the numerical data on the monthly reports.

2. Ensure that an array of information is made available for distribution to the small business transportation community that is designed to inform and educate the community on DOT/OSDBU services and opportunities.

3. Coordinate efforts with OSDBU's National Information Clearinghouse in order to maintain an on-hand inventory of DOT/OSDBU informational materials for general dissemination and for distribution at transportation-related conferences and other events.

(C) Business Counseling

1. Collaborate with agencies, such as the SBA, U.S. Department of Commerce's Minority Business Development Centers (MBDCs), Service Corps of Retired Executives (SCORE), Procurement Technical Assistance Centers (PTACs), and Small Business Development Centers (SBDCs), to offer a broad range of counseling services to transportation-related small business enterprises.

2. Create a technical assistance plan that will provide each counseled participant with the knowledge and skills necessary to improve the management of their own small business to expand their transportation-related contracts and subcontracts portfolio.

3. Provide a minimum of 20 hours of individual or group counseling sessions to small businesses per month.

(D) Planning Committee

1. Establish a Regional Planning Committee consisting of at least 7 members that includes representatives from the regional community and federal, state, and local agencies. The highway, airport, and transit authorities for the SBTRC's headquarters state must have representation on the planning committee. This committee shall be established no later than 60 days after the execution of the Cooperative agreement between the OSDBU and the selected SBRTC.

2. Provide a forum for the federal, state, and local agencies to disseminate information about upcoming procurements.

3. Hold either monthly or quarterly meetings at a time and place agreed upon by SBTRC and planning committee members.

4. Use the initial session (teleconference call) by the SBTRC explain the mission of the committee and identify roles of the staff and the members of the group.

5. Responsibility for the agenda and direction of the Planning Committee should be handled by the SBTRC Executive Director or his/her designee.

(E) Outreach Services/Conference Participation

1. Utilize the services of the Central Contractor Registration (CCR) and other sources to construct a database of regional small businesses that currently or may participate in DOT direct and DOT funded transportation related contracts, and make this database available to OSDBU, upon request.

2. Utilize the database of regional transportation-related small businesses to match opportunities identified through the planning committee forum, FedBiz Opps, a Web-based system for posting solicitations and other Federal procurement-related documents on the Internet, and other sources to eligible small businesses and contact the eligible small businesses about those opportunities.

3. Develop a "targeted" database of firms (100–150) that have the capacity and capabilities, and are ready, willing and able to participate in DOT contracts and subcontracts immediately. This control group will receive ample resources from the SBTRC, *i.e.,* access to working capital, bonding assistance, business counseling, management assistance and direct referrals to DOT agencies at the state and local levels, and to prime contractors as effective subcontractor firms.

4. Identify regional, state and local conferences where a significant number of small businesses, with transportation related capabilities, are expected to be in attendance. Maintain and submit a list of those events to the SBTRC Program Manager for review and for posting on the OSDBU Web site on a monthly basis. Clearly identify the events designated for SBTRC participation and include recommendations for OSDBU participation.

5. Conduct outreach and disseminate information to small businesses at regional transportation-related conferences, seminars, and workshops. In the event that the SBTRC is requested to participate in an event, the SBTRC will send DOT materials, the OSDBU banner and other information that is deemed necessary for the event.

6. Submit a conference summary report to OSDBU no later than 5 business days after participation in the event or conference. The conference summary report must summarize activities, contacts, outreach results, and recommendations for continued or discontinued participation in future similar events sponsored by that organization.

7. Upon approval by OSDBU, coordinate efforts with DOT's grantees and recipients at the state and/or local levels to sponsor or cosponsor an OSDBU transportation related conference in the region.

(F) Loan and Bond Assistance

1. Work with STLP participating banks and if not available, other lending institutions, to deliver a minimum of five (5) seminars/workshops per year on the STLP financial assistance program to the transportation-related small business community. The seminar/workshop must cover the entire STLP process, from completion of STLP loan applications and preparation of the loan package to graduation from the STLP.

2. Provide direct support, technical support, and advocacy services to potential STLP applicants to increase the probability of STLP loan approval and generate a minimum of 5 approved STLP applications per year.

3. Provide direct support, technical support, and advocacy services to potential Bonding Assistance Program (BAP) applicants to increase the probability of guaranteed bond approval and generate a minimum of 5 approved BAP applications per year from inception of the BAP program.

(G) Furnish All Labor, Facilities and Equipment To Perform the Services Described in This Announcement

2.2 Office of Small and Disadvantaged Business Utilization (OSDBU) Responsibilities

(A) Provide consultation and technical assistance in planning, implementing and evaluating activities under this announcement.

(B) Provide orientation and training to the applicant organization.

(C) Monitor SBTRC activities, cooperative agreement compliance, and overall SBTRC performance.

(D) Assist SBTRC to develop or strengthen its relationships with federal, state, and local transportation authorities, other technical assistance organizations, and DOT grantees.

(E) Facilitate the exchange and transfer of successful program activities and information among all SBTRC regions.

(F) Provide the SBTRC with DOT/OSDBU materials and other relevant transportation-related information for dissemination.

(G) Maintain effective communication with the SBTRC and inform them of transportation news and contracting opportunities to share with small businesses in their region.

(H) Provide all required forms to be used by the SBTRC for reporting purposes under the program.

(I) Perform an annual performance evaluation of the SBTRC. Satisfactory performance is a condition of continued participation of the organization as an SBTRC and execution of all option years.

3. Submission of Proposals

3.1 Format for Proposals

Each proposal must be submitted to DOT's OSDBU in the format set forth in the application form attached as Appendix A to this announcement.

3.2 Address; Number of Copies; Deadlines for Submission

Any eligible organization, as defined in Section 1.6 of this announcement, will submit only one proposal per region for consideration by OSDBU. Eligible organizations may submit proposals for multiple regions.

Applications must be double spaced, and printed in a font size not smaller than 12 points. Applications will not exceed 35 single-sided pages, not including any requested attachments.

All pages should be numbered at the top of each page. All documentation, attachments, or other information pertinent to the application must be included in a single submission.

Grant application packages must be submitted electronically to OSDBU at *SBTRC@dot.gov.* The applicant is advised to turn on request delivery receipt notification for e-mail submissions.

Proposals must be received by DOT/OSDBU no later than January 14, 2011 5 p.m., EST.

4. Selection Criteria

4.1 General Criteria

OSDBU will award the cooperative agreement on a best value basis, using the following criteria to rate and rank applications:

Applications will be evaluated using a point system (maximum number of points = 100):

- Approach and strategy (25 points)
- Linkages (25 points)
- Organizational Capability (25 points)
- Staff Capabilities and Experience (15 points)
- Cost Proposal (10 points)

(A) Approach and Strategy (25 Points)

The applicant must describe their strategy to achieve the overall mission of the SBTRC as described in this solicitation and service the small business community in their entire geographic regional area. The applicant must also describe how the specific activities outlined in Section 2.1 will be implemented and executed in the organization's regional area. OSDBU will consider the extent to which the proposed objectives are specific, measurable, time-specific, and consistent with OSDBU goals and the applicant organization's overall mission. OSDBU will give priority consideration to applicants that demonstrate innovation and creativity in their approach to assist small businesses to become successful transportation contractors and increase their ability to access DOT contracting opportunities and financial assistance programs. Applicants must also submit the estimated direct costs, other than labor, to execute their proposed strategy. OSDBU will consider the quality of the applicant's plan for conducting program activities and the likelihood that the proposed methods will be successful in achieving proposed objectives at the proposed cost.

(B) Linkages (25 Points)

The applicant must describe their established relationships within their geographic region and demonstrate their ability to coordinate and establish effective networks with DOT grant recipients and local/regional technical assistance agencies to maximize resources. OSDBU will consider innovative aspects of the applicant's approach and strategy to build upon their existing relationships and established networks with existing resources in their geographical area. The applicant should describe their strategy to obtain support and collaboration on SBTRC activities from DOT grantees and recipients, transportation prime contractors and subcontractors, the SBA, U.S. Department of Commerce's Minority Business Development Centers (MBDCs), Service Corps of Retired Executives (SCORE), Procurement Technical Assistance Centers (PTACs), Small Business Development Centers (SBDCs), State DOTs, and State highway supportive services contractors. In rating this factor, OSDBU will consider the extent to which the applicant demonstrates ability to be multidimensional. The applicant must demonstrate that they have the ability to access a broad range of supportive services to effectively serve a broad range of transportation-related small businesses within their respective geographical region. Emphasis will also be placed on the extent to which the applicant identifies a clear outreach strategy related to the identified needs that can be successfully carried out within the period of this agreement and a plan for involving the Planning Committee in the execution of that strategy.

(C) Organizational Capability (25 Points)

The applicant must demonstrate that they have the organizational capability to meet the program requirements set forth in Section 2. The applicant organization must have sufficient resources and past performance experience to successfully outreach to the small business transportation resources in their geographical area and carry out the mission of the SBTRC. In rating this factor, OSDBU will consider the extent to which the applicant's organization has recent, relevant and successful experience in advocating for and addressing the needs of small

businesses. Applicants will be given points for demonstrated past transportation-related performance. The applicant must also describe technical and administrative resources it plans to use in achieving proposed objectives. In their description, the applicant must describe their facilities, computer and technical facilities, ability to tap into volunteer staff time, and a plan for sufficient matching alternative financial resources to fund the general and administrative costs of the SBTRC. The applicant must also describe their administrative and financial management staff. OSDBU will place an emphasis on capabilities of the applicant's financial management staff.

(D) Staff Capability and Experience (15 Points)

The applicant organization must provide a list of proposed personnel for the project, with salaries, fringe benefit burden factors, educational levels and previous experience clearly delineated. The applicant's project team must be well-qualified, knowledgeable, and able to effectively serve the diverse and broad range of small businesses in their geographical region. The Executive Director and the Project Director shall be deemed key personnel. Detailed resumes must be submitted for all proposed key personnel and outside consultants and subcontractors. Proposed key personnel must have detailed demonstrated experience providing services similar in scope and nature to the proposed effort. The proposed Project Director will serve as the responsible individual for the program. 100% of the Project Director's time must be dedicated to the SBTRC. Both the Executive Director and the Project Director must be located on-site. In this element, OSDBU will consider the extent to which the applicant's proposed Staffing Plan; (a) clearly meets the education and experience requirements to accomplish the objectives of the cooperative agreement; (b) delineates staff responsibilities and accountability for all work required and; (c) presents a clear and feasible ability to execute the applicant's proposed approach and strategy.

(E) Cost Proposal (10 Points)

Applicants must submit the total proposed cost of establishing and administering the SBTRC in the applicant's geographical region for a 12 month period, inclusive of costs funded through alternative matching resources. The applicant's budget must be adequate to support the proposed strategy and costs must be reasonable in relation to project objectives. The portion of the submitted budget funded by OSDBU can not exceed the ceiling outlined in Section 1.3 Description of Competition per fiscal year. Applicants are encouraged to provide in-kind costs and other innovative cost approaches.

4.2 Scoring of Applications

A review panel will score each application based upon the evaluation criteria listed above. Points will be given for each evaluation criteria category, not to exceed the maximum number of points allowed for each category. Proposals which are deemed non–responsive, do not meet the established criteria, or incomplete at the time of submission will be disqualified.

OSDBU will perform a responsibility determination of the prospective winning recipient in each region, which may include a site visit, before awarding the cooperative agreement.

4.3 Conflicts of Interest

Applicants must submit signed statements by key personnel and all organization principals indicating that they, or members of their immediate families, do not have a personal, business or financial interest in any DOT-funded transportation projects, nor any relationships with local or state transportation agencies that may have the appearance of a conflict of interest.

Appendix A—Format for Proposals for the Department of Transportation Office of Small and Disadvantaged Business Utilization's Small Business Transportation Resource Center (SBTRC) Program

Submitted proposals for the DOT, Office of Small and Disadvantaged Business Utilization's Small Business Transportation Resource Center Program must contain the following 12 sections and be organized in the following order:

1. Table of Contents

Identify all parts, sections and attachments of the application.

2. Application Summary

Provide a *summary overview* of the following:

- The applicant's proposed SBTRC region and city and key elements of the plan of action/strategy to achieve the SBTRC objectives.
- The applicant's relevant organizational experience and capabilities.

3. Understanding of The Work

Provide a narrative which contains specific project information as follows:

- The applicant will describe its understanding of the OSDBU's SBTRC program mission and the role of the applicant's proposed SBTRC in advancing the program goals.
- The applicant will describe specific outreach needs of transportation-related small businesses in the applicant's region and how the SBTRC will address the identified needs.

4. Approach and Strategy

- Describe the applicant's plan of action/strategy for conducting the program in terms of the tasks to be performed.
- Describe the specific services or activities to be performed and how these services/activities will be implemented.
- Describe innovative and creative approaches to assist small businesses to become successful transportation contractors and increase their ability to access DOT contracting opportunities and financial assistance programs.
- Estimate direct costs, other than labor, to execute the proposed strategy.

5. Linkages

- Describe established relationships within the geographic region and demonstrate the ability to coordinate and establish effective networks with DOT grant recipients and local/regional technical assistance agencies.
- Describe the strategy to obtain support and collaboration on SBTRC activities from DOT grantees and recipients, transportation prime contractors and subcontractors, the SBA, U.S. Department of Commerce's Minority Business Development Centers (MBDCs), Service Corps of Retired Executives (SCORE), Procurement Technical Assistance Centers (PTACs), Small Business Development Centers (SBDCs), State DOTs, and State highway supportive services contractors.
- Describe the outreach strategy related to the identified needs that can be successfully carried out within the period of this agreement and a plan for involving the Planning Committee in the execution of that strategy.

6. Organizational Capability

- Describe recent and relevant past successful performance in addressing the needs of small businesses, particularly with respect to transportation-related small businesses.
- Describe internal technical, financial management, and administrative resources.
- Propose a plan for sufficient matching alternative financial resources to fund the general and administrative costs of the SBTRC.

7. Staff Capability and Experience

• List proposed key personnel, their salaries and proposed fringe benefit factors.

• Describe the education, qualifications and relevant experience of key personnel. Attach detailed resumes.

• Proposed staffing plan. Describe how personnel are to be organized for the program and how they will be used to accomplish program objectives. Outline staff responsibilities, accountability and a schedule for conducting program tasks.

8. Cost Proposal

• Outline the total proposed cost of establishing and administering the SBTRC in the applicant's geographical region for a 12 month period, inclusive of costs funded through alternative matching resources. Clearly identify the portion of the costs funded by OSDBU.

• Provide a brief narrative linking the cost proposal to the proposed strategy.

9. Proof of Tax Exempt Status

10. Assurances Signature Form

Complete Standard Form 424B ASSURANCES–NON–CONSTRUCTION PROGRAMS identified as Attachment 1. SF424B may be downloaded from *http://www.grants.gov/techlib/SF424B–V1.1.pdf.*

11. Certification Signature Forms

Complete form DOTF2307–1 DRUG–FREE WORKPLACE ACT CERTIFICATION FOR A GRANTEE OTHER THAN AN INDIVIDUAL and Form DOTF2308–1 CERTIFICATION REGARDING LOBBYING FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS identified as Attachment 2. The forms may be downloaded from *http://www.osdbu.dot.gov/financial/docs/Cert Drug-Free DOT F 2307–1.pdf* and *http://www.osdbu.dot.gov/financial/docs/Cert Lobbying DOT F 2308–1.pdf.*

12. Signed Conflict of Interest Statements

The statements must say that they, or members of their immediate families, do not have a personal, business or financial interest in any DOT-funded transportation projects, nor any relationships with local or state transportation agencies that may have the appearance of a conflict of interest.

13. Standard Form 424

Complete Standard Form 424 Application for Federal Assistance identified as Attachment 3. SF424 can be downloaded from *http://www.grants.gov/techlib/SF424–V2.0.pdf.*

Please be sure that all forms have been signed by an authorized official who can legally represent the organization.

Issued in Washington, DC on December 10, 2010.

Brandon Neal,

Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary, U.S. Department of Transportation.

[FR Doc. 2010–31719 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In November 2010, there were six applications approved. Additionally, 10 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Birmingham Airport Authority, Birmingham, Alabama.

Application Number: 10–09–C–00–BHM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $151,500,000.

Earliest Charge Effective Date: October 1, 2011.

Estimated Charge Expiration Date: June 1, 2031.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Birmingham—Shuttlesworth International Airport.

Brief Description of Project Approved for Collection and Use: Terminal modernization project construction and equipment.

Decision Date: November 4, 2010.

For Further Information Contact: Kevin Morgan, Jackson Airports District Office, (601) 664–9891.

Public Agency: County of Jefferson, Beaumont, Texas.

Application Number: 11–07–C–00–BPT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $926,595.

Earliest Charge Effective Date: June 1, 2011.

Estimated Charge Expiration Date: June 1, 2021.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Planning studies
Apron rehabilitation, phase I
Airfield sweeper
Airfield pavement markings
Airport operations area security improvements
Apron rehabilitation, phase II
PFC administration fees

Decision Date: November 4, 2010.

For Further Information Contact: Sarah Conner, Texas Airports Development Office, (817) 222–5643.

Public Agency: County of Broward, Fort Lauderdale, Florida.

Application Number: 10–11–C–00–FLL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $24,909,327.

Earliest Charge Effective Date: April 1, 2017.

Estimated Charge Expiration Date: January 1, 2018.

Class of Air Carriers Not Required to Collect PFC's: Non-scheduled/on-demand air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Fort Lauderdale/Hollywood International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

West Lake mitigation
Runway 9L/27R rehabilitation—corrective action plan—grading and re-grooving.

Airport Surveillance Radar-9 relocation.

Brief Description of Project Partially Approved for Collection and Use at a $4.50 PFC Level:

Taxiway C east end—phase 2.

Determination: Partially approved for collection and use. The approved amount is less than the amount requested because the public agency received an Airport Improvement Program grant to partially fund the project after the PFC application was submitted and the bid amounts were lower than had been estimated.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Permanent in-line baggage system design

Terminal 3 security checkpoint relocation

Decision Date: November 18, 2010.

For Further Information Contact: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: Metropolitan Nashville Airport Authority, Nashville, Tennessee.

Application Number: 10–16–C–00–BNA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $4,290,000.

Earliest Charge Effective Date: August 1, 2016.

Estimated Charge Expiration Date: November 1, 2016.

Class of Air Carriers Not Required to Collect PFC's: Air taxi operators that have less than 1 percent of the passenger boardings, enplane less than 25,000 passengers per year, and/or provide unscheduled air service at Nashville International Airport (BNA).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at BNA.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Upgrade3 security camera system

Airport master plan update

Upgrade stormwater treatment plant

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level:

Reconstruct taxiways T4 and S.

Decision Date: November 18, 2010.

For Further Information Contact: Cynthia Willis, Memphis Airports District Office, (901) 322–8190.

Public Agency: City of Chicago, Department of Aviation, Chicago, Illinois.

Application Number: 10–23–C–00–ORD.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $1,400,818,394.

Earliest Charge Effective Date: August 1, 2028.

Estimated Charge Expiration Date: January 1, 2038.

Class of Air Carriers Not Required to Collect PFC's: Air taxi.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Chicago O'Hare International Airport.

Brief Description of Projects Partially Approved for Collection and Use at a $4.50 PFC Level:

Construction of runway 9C/27C

Determination: Partially approved for collection and use. The approved amount is the same as was requested by the public agency. However, the FAA questions the public agency's treatment of the salvage value of the various demolition components. In addition, the FAA has determined that only that portion of the project relating to the demolition of the current facility is PFC-eligible for the component identified as "relocation of Chicago Department of Aviation communications service center and airport repair and construction complex. Finally, due to the complex topography and construction conditions, and that fact that the public agency is requesting less than the full amount which would be PFC-eligible, the FAA is allowing the line item identified as "contingency."

Runway 9R/27L Extension

Determination: Partially approved for collection and use. The approved amount is the same as was requested by the public agency. Due to the complex topography and construction conditions, and that fact that the public agency is requesting less than the full amount which would be PFC-eligible, the FAA is allowing the line item identified as "contingency."

Runway 10R/28L Construction

Determination: Partially approved for collection and use. The approved amount is the same as was requested by the public agency. However, after the PFC application was submitted, the City received funding from the FAA to design and construct the South Air Traffic Control Tower. In addition, due to the complex topography and construction conditions, and that fact that the public agency is requesting less than the full amount which would be PFC-eligible, the FAA is allowing the line item identified as "contingency."

Taxiway LL Construction

Determination: Partially approved for collection and use. The approved amount is the same as was requested by the public agency. Due to the complex topography and construction conditions, and that fact that the public agency is requesting less than the full amount which would be PFC-eligible, the FAA is allowing the line item identified as "contingency."

Decision Date: November 24, 2010.

For Further Information Contact: Amy Hanson, Chicago Airports District Office, (847) 294–7354.

Public Agency: Metropolitan Airport Authority of Rock Island County, Moline, Illinois.

Application Number: 10–05–C–00–MLI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $24,612,015.

Earliest Charge Effective Date: July 1, 2017.

Estimated Charge Expiration Date: July 1, 2037.

Classes of Air Carriers Not Required to Collect PFC's:

(1) Air taxi/commercial operators; (2) large certificated air carriers without scheduled service.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Quad City International Airport.

Brief Description of Projects Approved for Collection and Use:

Runway 9/27 rehabilitation

Loading bridges

Ground support tractor

Snow blower

Runway brooms

Decision Date: November 24, 2010.

For Further Information Contact: Amy Hanson, Chicago Airports District Office, (847) 294–7354.

AMENDMENT TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
99–02–C–02–RST, Rochester, MN	10/27/10	$4,771,743	$4,390,3700	07/01/07	08/01/08
95–01–C–08–MKE, Milwaukee, WI	11/01/10	21,160,635	21,428,585	05/01/98	05/01/98
95–03–C–08–MKE, Milwaukee, WI	11/01/10	42,759,321	42,945,325	12/01/04	12/01/04
00–06–C–07–MKE, Milwaukee, WI	11/01/10	130,073,834	124,348,365	11/01/13	07/01/13
02–07–C–05–MKE, Milwaukee, WI	11/01/10	35,786,991	35,251,806	02/01/16	11/01/15
00–02–I–03–HXD, Hilton Head, SC	11/15/10	1,380,509	1,375,158	10/01/07	10/01/07
00–03–U–02–HXD, Hilton Head, SC	11/15/10	NA	NA	10/01/07	10/01/07
94–01–C–11–CVG, Covington, KY	11/17/10	27,431,000	28,247,000	04/01/96	04/01/96
09–12–C–03–CVG, Covington, KY	11/17/10	21,455,000	22,477,000	01/01/16	12/01/15
03–04–C–01–BIS, Bismarck, ND	11/23/10	5,574,555	4,816,814	09/01/14	02/01/11

Issued in Washington, DC, on December 07, 2010.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2010–31514 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Request to Release Airport Property at New Century AirCenter, New Century, Kansas

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invites public comment on the release of land at New Century AirCenter under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before January 18, 2011.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 901 Locust, Kansas City, Missouri 64106–2325.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to R.E. Metcalfe, A.A.E., Executive Director, Johnson County Airport Commission, One New Century Parkway, New Century, Kansas, 66031.

FOR FURTHER INFORMATION CONTACT: Nicoletta Oliver, Airports Compliance Specialist, FAA, Central Region, 901 Locust, Kansas City, MO 64106–2325, (816) 329–2642.

The request to release property may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property at New Century AirCenter under the provisions of AIR21.

On December 3, 2010, the FAA determined that the request to release property at New Century AirCenter, submitted by the Johnson County Airport Commission, met the procedural requirements of the Federal Aviation Administration. The FAA will approve or disapprove the request, in whole or in part, no later than February 15, 2011.

The following is a brief overview of the request.

The Johnson County Airport Commission requests the release of approximately 9.81 acres of airport property. The land is currently not being used for aeronautical purposes. This parcel has a building constructed by a private developer for commercial use. The purpose of this release is to sell the land to the Johnson County Parks and Recreation Board who intends to convert the building to an indoor soccer facility with outdoor fields adjacent to the building and within the boundary of the parcel. The sale of this property will generate fair market value revenue for the airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents that are relevant to the request, in person at New Century AirCenter, New Century, Kansas.

Issued in Kansas City, Missouri, on December 10, 2010.

Rodney N. Joel,

Acting Manager, Airports Division, Central Region.

[FR Doc. 2010–31515 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26066; FMCSA–2006–24783; FMCSA–2002–12294; FMCSA–2000–7363; FMCSA–2000–7165; FMCSA–2000–8203; FMCSA–1998–3637]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 13, 2011. Comments must be received on or before *January 18, 2011.*

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) FMCSA–2006–26066; FMCSA–2006–24783; FMCSA–2002–12294; FMCSA–2000–7363; FMCSA–2000–7165; FMCSA–2000–8203; FMCSA–1998–3637, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building

Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the 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.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

David S. Brumfield.	Charles R. Kuderer	Arthur A. Sappington
Robert R. Buis.	William S. LaMar, Sr	David William Skillman
Leon C. Flynn	Clifford C. Priesmeyer	William H. Smith
George J. Ghigliotty.	Gerald R. Rietmann	Edward C. Williams

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285; 63 FR 54519; 65 FR 33406; 65 FR 57234; 65 FR 45817; 65 FR 77066; 65 FR 66293; 67 FR 57266; 67 FR 71610; 67 FR 46016; 67 FR 71610; 67 FR 57267; 68 FR 1654; 69 FR 71098; 71 FR 63379; 71 FR 32183; 71 FR 41310; 72 FR 1054; 72 FR 1050; 73 FR 75806; 73 FR 78421; 73 FR 78422). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 18, 2011.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 13, 2010.

Larry W. Minor,

Associate Administrator, Office of Policy.

[FR Doc. 2010–31770 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0327]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 16 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective December 17, 2010. The exemptions expire on December 17, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202)–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the 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 October 21, 2010, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (75 FR 65057). That notice listed 16 applicants' case histories. The 16 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 16 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 16 exemption applicants listed in this notice are in this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, complete loss of vision, loss of an eye, corneal scarring, histoplasmosis and prosthesis. In most cases, their eye conditions were not recently developed. 12 of the applicants were either born with their vision impairments or have had them since childhood. The 4 individuals who sustained their vision conditions as adults have had them for periods ranging from 11 to 25 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. While possessing a valid CDL or non-CDL, these 16 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 47 years. In the past 3 years, 2 of the drivers were involved in crashes or convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the October 21, 2010 notice (75 FR 65057).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR

391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrates the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers, collectively (*See* 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (*See* Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 16 applicants, none of the applicants were convicted for a moving violation and two of the applicants was involved in a crash. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 16 applicants listed in the notice of October 21, 2010 (75 FR 65057).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 16 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received two comments in this proceeding. The comments were considered and discussed below.

The first comment was from The Kansas Corporate Commission stated and was in favor of granting a Federal vision exemption to Charlene Brown.

The second comment was from Southern Illinois Healthcare, they recommended that from a safety sensitive point of view, Cynthia K. Linson should be evaluated by an ophthalmologist rather than an optometrist.

In response to the second comment, Cynthia K. Linson was evaluated by an ophthalmologist in April, 2010 and he certified that she had sufficient vision to perform the driving tasks required to operate a commercial vehicle.

Conclusion

Based upon its evaluation of the 16 exemption applications, FMCSA exempts, Jeisson Agudelo-Ortiz, Charles L. Alsager, Jr., Eddie A. Branham,

Charlene Brown, Nathan A. Buckles, Dale H. Dattler, Daryl Jonescheit, John N. Lanning, Cynthia K. Linson, Charles M. McDaris, Calvin J. Schaap, Frederick C. Schultz, Jr., Steve C. Sinclair, Eugene J. Smith, Jr., Daniel M. Veselitza, and John E. Westbrook from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 13, 2010.

Larry W. Minor,

Associate Administrator, Office of Policy.

[FR Doc. 2010–31774 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0266; FMCSA–2008–0231; FMCSA–2006–26066; FMCSA–2006–23773; FMCSA–2000–8398; FMCSA–2000–7918]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 36 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 9, 2011. Comments must be received on or before January 18, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) FMCSA–2008–0266; FMCSA–2008–0231; FMCSA–2006–26066; FMCSA–2006–23773; FMCSA–2000–8398; FMCSA–2000–7918, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. *Please see* the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the 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.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 36 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 36 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Dennis M. Boggs.	Ricky G. Jacks	Ronald C. Morris
David L. Cattoor.	Joe E. Jones	Kenneth E. Parrott
Roger E. Clark.	Damir Kocijan	Gary W. Phelps
Gary C. Cone	Robert T. Lantry	Billy R. Pierce
Cesar A. Cruz.	John W. Laskey	Randal C. Schmude
Arthur Dolengewicz.	Kenneth Liuzza	Steven M. Scholfield
Wayne A. Elkins, II.	Samson B. Margison	Dennis J. Smith
Barry J. Ferdinando.	Michael W. McClain	David C. Stitt
George R. Gorsuch, Jr..	Terrence L. McKinney	Kevin L. Truxell
Guadalupe J. Hernadez.	Ellis Tyrone McKneely	Earl M. Vaughan
James L. Houser.	Dennis N. McQuiston	Bruce A. Walker
Richard G. Isenhart.	Garth R. Mero	Lee A. Wiltjer

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical

examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two-year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 36 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (71 FR 63379; 73 FR 78422; 72 FR 1050; 71 FR 6826; 71 FR 19602; 73 FR 60398; 65 FR 78256; 66 FR 16311; 73 FR 51689; 73 FR 63047; 73 FR 46973; 73 FR 54888; 65 FR 66286; 66 FR 13825). Each of these 36 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 18, 2011.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 36 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 13, 2010.

Larry W. Minor,

Associate Administrator, Office of Policy.

[FR Doc. 2010–31767 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2004–19477]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 14, 2011. Comments must be received on or before January 18, 2011.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) FMCSA–2004–19477, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act

Statement for the 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.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Johnny Becerra	John B. Ethridge	Michael B. McClure
Ross E. Burroughs	Larry J. Folkerts	Francis M. McMullin
Lester W. Carter	Paul W. Hunter	Norman Mullins
Christopher L. DePuy	Ray P. Lenz	David Triplett

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (69 FR 64806; 70 FR 2705; 72 FR 1056; 73 FR 76349). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 18, 2011.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: December 13, 2010.

Larry W. Minor,

Associate Administrator, Office of Policy.

[FR Doc. 2010–31772 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2010–0353; Notice No. 10–9]

Notice and Request for Comments on the Clarification of the Fireworks Approvals Policy

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: PHMSA is seeking comment on its intent to clarify its fireworks approvals policy whereby the Office of Hazardous Materials Safety (OHMS), Approvals and Permits Division will only accept fireworks approvals applications from manufacturers and grant approvals only to manufacturers of fireworks devices.

DATES: *Comments Due Date:* January 18, 2011.

ADDRESSES: You may submit comments by identification of the docket number

(PHMSA–2010–0353 (Notice No. 10–9)) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. All comments received will be posted without change to the Federal Docket Management System (FDMS), including any personal information.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (*see* **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Paquet, Director, Approvals and Permits Division, Office of Hazardous Materials Safety, (202) 366–4512, PHMSA, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Background

The pyrotechnic industry is a global logistics supply chain comprised of mostly foreign fireworks manufacturers and domestic importers, retailers, distributors, and consumers. The transportation of a firework requires the issuance of an EX number approval by PHMSA. An EX number is a PHMSA-issued unique identifier that is more specific than just a hazard classification; an EX number applies to a particular explosive formula, device, and its packaging.

PHMSA understands that typically a fireworks device made by one manufacturer is packaged and marketed under a variety of different names according to the specifications of the various U.S. importers. Under the current approval process, before the fireworks device enters the U.S., each individual importer, retailer, and distributor, in addition to the original manufacturer, has been requesting separate and unique EX numbers for what are essentially identical fireworks devices. This results in multiple approval applications for functionally indistinguishable fireworks devices.

For at least ten years, PHMSA has been accepting these fireworks approval applications and issuing fireworks approvals to members of the pyrotechnic industry regardless of their actual position in the supply chain. It is unclear as to what was the justification for this action. Regardless, this redundant and burdensome process does not promote the safe transportation of fireworks devices, but rather has negative impacts on process efficiency and impedes the conduct of business for both the fireworks industry and PHMSA.

In this notice, PHMSA is seeking comment on its intent to only accept fireworks approval applications from, and issue fireworks approvals to, fireworks manufacturers. In addition, PHMSA is also seeking comment on its intent to consider a fireworks manufacturer to be an entity that formulates and produces a firework (for the definition of a firework, see § 173.59) or has previously produced a firework device but has made a change in the formulation, design, or process so as to alter the properties of the firework. After the comments received to this notice have been considered, PHMSA will issue a final notice responding to any comments received. PHMSA believes that by issuing fireworks approvals only to manufacturers, as described in this notice, it will enhance safety by ensuring uniform classification of fireworks devices, eliminating application duplicity, and minimizing the potential risks of the shipment of unapproved fireworks.

Issued in Washington, DC, on December 13, 2010 under authority delegated in 49 CFR part 1.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2010–31703 Filed 12–16–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1003 (Sub-No. 1X)]

Mohall Central Railroad, Inc.—Abandonment Exemption—in Cavalier County, ND

Mohall Central Railroad, Inc. (MCR) filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 5.4-mile line of railroad extending between milepost 67.5 near Calvin, N.D., and milepost 72.9 at Sarles, N.D.[1] The line traverses United States Postal Service Zip Codes 58323 and 58372.

MCR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 15, 2011, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December

[1] In *Northern Plains Railroad—Operation Exemption—Rail Line of Mohall Central Railroad,* FD 34780 (STB served Dec. 29. 2005), Northern Plains Railroad, Inc. (NPR) was authorized to operate a 69.15-mile line of railroad that includes this portion of the rail line. Applicant states that because NPR never instituted service on the line, MCR does not need NPR to obtain discontinuance authority before MCR seeks abandonment authority here. *See Mohall Cent. R.R.—Aban. Exemption—in Nelson, Ramsey, and Cavalier Counties, ND,* AB 1003X, slip op. at 1 n.1 (STB served Oct. 29, 2007). MCR has certified to the Board that it has notified NPR of its plans to abandon the 5.4-mile portion of the line and has served a copy of its notice on NPR.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

27, 2010. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 5, 2011, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to MCR's representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 N. Wacker Dr., Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

MCR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by December 21, 2010. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA, at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), MCR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by MCR's filing of a notice of consummation by December 16, 2011, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: December 13, 2010.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2010–31728 Filed 12–16–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the Supportive Services for Veteran Families Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is announcing the availability of funds for supportive services grants under the Supportive Services for Veteran Families Program (SSVF Program). This Notice contains information concerning the SSVF Program, application process, and amount of funding available.

DATES: Applications for assistance under the SSVF Program must be received by the SSVF Program Office by 4 p.m. Eastern Time on March 11, 2011. In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, computer service outages (in the case of Grants.gov), or other delivery-related problems.

For a Copy of the Application Package: Download directly from the SSVF Program Web page at: *http://www1.va.gov/HOMELESS/SSVF.asp.* Questions should be referred to the SSVF Program Office at (877) 737–0111 (this is a toll-free number). For detailed SSVF Program information and requirements, see the Final Rule published in the **Federal Register** (75 FR 68975) on November 10, 2010 (Final Rule), which is codified in 38 CFR Part 62.

Submission of Applications: An original completed and collated supportive services grant application in a three-ring binder (plus four completed, collated, unbound hard copies and a compact disc (CD) containing an electronic version of the entire application) must be submitted to the following address: Supportive Services for Veteran Families Program Office, National Center on Homelessness Among Veterans, 4100 Chester Avenue, Suite 201, Philadelphia, PA 19104. This requirement for submission of five hard copies and a CD also applies to applicants who submit via Grants.gov. Applications may not be sent by facsimile (FAX). Applications must be received in the SSVF Program Office by the application deadline. Applications must arrive as a complete package. Materials arriving separately will not be included in the application package for consideration and may result in the application being rejected. To encourage the equitable distribution of supportive services grants across geographic regions, in accordance with § 62.23(d)(2) of the Final Rule, an eligible entity may submit only one application per State.

FOR FURTHER INFORMATION CONTACT: John Kuhn, Supportive Services for Veteran Families Program Office, National Center on Homelessness Among Veterans, 4100 Chester Avenue, Suite 201, Philadelphia, PA 19104; (877) 737–0111 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: This Notice announces the availability of funds for supportive services grants under the SSVF Program and pertains to proposals for new supportive services grant programs. Please refer to the Final Rule, published in the **Federal Register** (75 FR 68975) on November 10, 2010, which is codified in 38 CFR Part 62, for detailed SSVF Program information and requirements.

A. *Purpose:* The SSVF Program's purpose is to provide supportive services grants to private non-profit organizations and consumer cooperatives who will coordinate or provide supportive services to very low-income veteran families who: (i) Are residing in permanent housing, (ii) are homeless and scheduled to become residents of permanent housing within a specified time period, or (iii) after exiting permanent housing within a specified time period, are seeking other housing that is responsive to such very low-income veteran family's needs and preferences.

B. *Definitions:* Sections 62.2 and 62.11(a) of the Final Rule contain definitions of terms used in the SSVF Program. Definitions of key terms are also provided below for reference; however, the Final Rule should be consulted for all definitions.

Consumer cooperative has the meaning given such term in section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

Eligible entity means a: (1) Private non-profit organization, or (2) consumer cooperative.

Homeless has the meaning given that term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302).

Occupying permanent housing means meeting any of the conditions set forth in § 62.11(a) of the Final Rule. **Note:** In accordance with § 62.11(a) of the Final Rule, a very low-income veteran family will be considered to be occupying permanent housing if the very low-income veteran family: (1) Is residing in permanent housing; (2) is homeless and scheduled to become a resident of permanent housing within 90 days pending the location or development of housing suitable for permanent housing;

or (3) has exited permanent housing within the previous 90 days to seek other housing that is responsive to the very low-income veteran family's needs and preferences. For limitations on and continuations of the provision of supportive services to participants classified under categories (2) and (3), *see* § 62.35 of the Final Rule.

Participant means a very low-income veteran family occupying permanent housing who is receiving supportive services from a grantee.

Permanent housing means community-based housing without a designated length of stay. Examples of permanent housing include, but are not limited to, a house or apartment with a month-to-month or annual lease term or home ownership.

Private non-profit organization means any of the following:

(1) An incorporated private institution or foundation that: (i) Has no part of the net earnings that inure to the benefit of any member, founder, contributor, or individual; (ii) has a governing board that is responsible for the operation of the supportive services provided under this part; and (iii) is approved by VA as to financial responsibility.

(2) A for-profit limited partnership, the sole general partner of which is an organization meeting the requirements of paragraphs (1)(i), (ii) and (iii) of this definition.

(3) A corporation wholly owned and controlled by an organization meeting the requirements of paragraphs (1)(i), (ii), and (iii) of this definition.

(4) A Tribally designated housing entity (as defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103)).

Supportive services means any of the following provided to address the needs of a participant:

(1) Outreach services as specified under § 62.30 of the Final Rule;

(2) Case management services as specified under § 62.31 of the Final Rule;

(3) Assisting participants in obtaining VA benefits as specified under § 62.32 of the Final Rule;

(4) Assisting participants in obtaining and coordinating other public benefits as specified under § 62.33 of the Final Rule; and

(5) Other services as specified under § 62.34 of the Final Rule.

Very low-income veteran family means a veteran family whose annual income, as determined in accordance with 24 CFR 5.609, does not exceed 50 percent of the median income for an area or community. The median income for an area or community will be determined using the income limits most recently published by the Department of Housing and Urban Development (HUD) for programs under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (*http://www.huduser.org*).

Veteran means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

Veteran family means a veteran who is a single person or a family in which the head of household, or the spouse of the head of household, is a veteran.

C. *Approach:* Grantees will be expected to leverage supportive services grant funds to enhance the housing stability of very low-income veteran families who are occupying permanent housing. In doing so, grantees are encouraged to establish relationships with the local community's Continuum of Care. (HUD defines a Continuum of Care as, "a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximize self-sufficiency. It includes action steps to end homelessness and prevent a return to homelessness.") The aim of the provision of supportive services is to rapidly transition to stable housing (i) very low-income veteran families who are homeless and scheduled to become residents of permanent housing within 90 days, including those leaving VA's Homeless Providers Grant and Per Diem projects, (ii) very low-income veteran families who have exited permanent housing within the previous 90 days to seek other housing that is responsive to their needs and preferences, and (iii) to assist very low-income veteran families residing in permanent housing to remain stably housed. Accordingly, VA encourages eligible entities skilled in facilitating housing stability and currently operating rapid re-housing programs (i.e., administering HUD's Homelessness Prevention and Rapid Re-Housing Program (HPRP) funds or other comparable Federal or community resources) to apply for supportive services grants. The SSVF Program is not intended to provide long-term support for participants, nor will it be able to address all of the financial and supportive services needs of participants that affect housing stability. Rather, when participants require long-term support, grantees should focus on connecting such participants to mainstream Federal and community resources (e.g., HUD–VA Supported Housing (VASH) program, HUD Housing Choice Voucher programs, McKinney-Vento funded supportive housing programs, Temporary Assistance for Needy Families (TANF), etc.) that can provide ongoing support as required.

D. *Authority:* Funding applied for under this Notice is authorized by the Veterans' Mental Health and Other Care Improvements Act of 2008, Public Law 110–387, codified at 38 U.S.C. 2044. The SSVF Program is implemented by the Final Rule codified at 38 CFR part 62. The regulations can be found in 38 CFR 62.1 through 62.81. Funds made available under this Notice are subject to the requirements of the aforementioned regulations and other applicable laws and regulations.

E. *Allocation:* Approximately $50 million is available for supportive services grants to be funded under this Notice for a 1-year period. The maximum allowable grant size is $1,000,000.00 per year per grantee.

F. *Supportive Services Grant Award Period:* Supportive services grants awarded under this Notice will be for a 1-year period. In accordance with § 62.20(b) of the Final Rule, subject to the availability of VA funds, VA may issue a future Notice of Fund Availability which would permit grantees to apply for the renewal of a supportive services grant in accordance with the terms and conditions of such Notice of Fund Availability.

G. *Requirements for the Use of Supportive Services Grant Funds:* The grantee's request for funding must be consistent with the limitations and uses of supportive services grant funds set forth in the Final Rule and this Notice. In accordance with the Final Rule and this Notice, the following requirements apply to supportive services grants awarded under this Notice:

1. Grantees may use a maximum of 10 percent of supportive services grant funds for administrative costs identified in § 62.70 of the Final Rule.

2. Grantees must use between 60 and 75 percent of supportive services grant funds to provide supportive services to very low-income veteran families who either (i) are homeless and scheduled to become residents of permanent housing within 90 days pending the location or development of housing suitable for permanent housing, as described in § 62.11(a)(2) of the Final Rule, or (ii) have exited permanent housing within the previous 90 days to seek other housing that is responsive to their needs and preferences, as described in § 62.11(a)(3) of the Final Rule.

3. Grantees must use between 20 and 35 percent of supportive services grant funds to provide supportive services to very low-income veteran families who

are residing in permanent housing, as described in § 62.11(a)(1) of the Final Rule. VA encourages grantees to target prevention assistance to those very low-income veteran families at the greatest risk of becoming homeless.

4. For supportive services grants awarded under this Notice, in conjunction with the requirements noted above, the grantee may utilize a maximum of 30 percent of supportive services grant funds to provide the supportive service of temporary financial assistance paid directly to a third party on behalf of a participant for child care, transportation, rental assistance, utility-fee payment assistance, security deposits, utility deposits, moving costs, and emergency supplies in accordance with §§ 62.33 and 62.34 of the Final Rule.

H. *Guidance for the Use of Supportive Services Grant Funds:* Grantees are encouraged to consider the following guidance for the use of supportive services grant funds:

1. When serving participants who (i) are homeless and scheduled to become residents of permanent housing or (ii) have exited permanent housing in order to seek other housing that is responsive to their needs and preferences, in addition to the required supportive services, grantees may focus on providing the following supportive services: Housing counseling; assisting participants in understanding leases; securing utilities; making moving arrangements; representative payee services concerning rent and utilities; and mediation and outreach to property owners related to locating or retaining housing. Grantees may also assist participants by providing rental assistance, security or utility deposits, moving costs or emergency supplies, using other Federal resources, such as the HPRP Program, or supportive services grant funds subject to the limitations described in this Notice and § 62.34 of the Final Rule.

2. When serving participants who are residing in permanent housing, it is helpful to remember that the defining question to ask is: "Would this individual or family be homeless but for this assistance?" To aid grantees in targeting SSVF Program funds toward very low-income veteran families most at risk of becoming homeless, a number of potential "risk factors" are listed below that could indicate a higher risk of becoming homeless. This list contains examples of some commonly identified risk factors for homelessness from scholarly research and practical experience drawn from existing homelessness prevention programs. One way a grantee could use these factors would be to require that a participant demonstrate some combination of the risk factors to qualify for assistance. Grantees should note that this list is optional and not exhaustive. Grantees may consider other risk factors or other ways to target persons at risk of homelessness based on past experience and available resources. A formalized screening tool should be developed to assess a very low-income veteran family's risk of homelessness and to prioritize the provision of supportive services to those very low-income veteran families most in need. The risk factors for homelessness for consideration by grantees in developing their programs are as follows:

a. Eviction within two weeks from a private dwelling (including housing provided by family or friends);

b. Discharge within two weeks from an institution in which the person has been a resident for more than 180 days (including prisons, mental health institutions, hospitals);

c. Residency in housing that has been condemned by housing officials and is no longer meant for human habitation;

d. Sudden and significant loss of income;

e. Sudden and significant increase in utility costs;

f. Mental health and substance use issues;

g. Physical disabilities and other chronic health issues, including HIV/AIDS;

h. Severe housing cost burden (greater than 50 percent of income for housing costs);

i. Homeless in last 12 months;

j. Young head of household (under 25 with children or pregnant);

k. Current or past involvement with child welfare, including foster care;

l. Pending foreclosure of rental housing;

m. Extremely low income (less than 30 percent of area median income);

n. High overcrowding (the number of persons in household exceeds health and/or safety standards for the housing unit size);

o. Past institutional care (prison, treatment facility, hospital);

p. Recent traumatic life event, such as death of a spouse or primary care provider, or recent health crisis that prevented the household from meeting its financial responsibilities;

q. Credit problems that preclude obtaining of housing; or

r. Significant amount of medical debt.

In addition to the required supportive services, supportive services provided to this category of very low-income veteran families should focus on the following: housing stabilization, linking participants to community resources and mainstream benefits, and helping participants develop a plan for preventing future housing instability.

3. Where HPRP funds or other funds from community resources are not readily available, grantees may choose to utilize supportive services grants, subject to the limitations described in this Notice and in §§ 62.33 and 62.34 of the Final Rule, to provide temporary financial assistance. Such assistance may, subject to the limitations in this Notice and the Final Rule, be paid directly to a third party on behalf of a participant for child care, transportation, rental assistance, utility-fee payment assistance, security or utility deposits, moving costs and emergency supplies as necessary.

I. *Application Selection Methodology:* VA will review all supportive services grant applications in response to this Notice according to the following steps:

1. Score all applicants that meet the threshold requirements described in § 62.21 of the Final Rule.

2. Rank those applicants who score at least 60 cumulative points and receive at least one point under each of the categories identified in § 62.22, paragraphs (a), (b), (c), (d), and (e) of the Final Rule. The applicants will be ranked in order from highest to lowest scores.

3. Utilize the ranked scores of applicants as the primary basis for selection. However, in accordance with § 62.23(d) of the Final Rule, VA will utilize the following considerations to select applicants for funding:

i. Preference applicants that provide or coordinate the provision of supportive services for very low-income veteran families transitioning from homelessness to permanent housing; and

ii. To the extent practicable, ensure that supportive services grants are equitably distributed across geographic regions, including rural communities and Tribal lands.

4. Subject to the considerations noted in paragraph I.3. above, VA will fund the highest-ranked applicants for which funding is available.

J. *VA's Goals and Objectives for Funds Awarded Under this Notice:* In accordance with § 62.22(b)(6) of the Final Rule, VA will evaluate an applicant's ability to meet VA's goals and objectives for the SSVF Program. VA's goals and objectives include the provision of supportive services designed to enhance the housing stability and independent living skills of very low-income veteran families occupying permanent housing across geographic regions. For purposes of this

Notice, VA's goals and objectives also include the provision of supportive services designed to rapidly re-house or prevent homelessness among people in the following target populations who also meet all requirements for being part of a very low-income veteran family occupying permanent housing:

1. Veteran families earning less than 30 percent of area median income as most recently published by HUD for programs under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (*http://www.huduser.org*).

2. Veterans with at least one dependent family member.

3. Chronically homeless veteran families (for the purposes of this Notice, the definition of a chronically homeless veteran family is an individual or family that (i) is homeless and lives or resides in a place not meant for human habitation, or safe haven, or in an emergency shelter; (ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least one year or on at least four separate occasions in the last three years; and (iii) has an adult head of household with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), Post-Traumatic Stress Disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of two or more of those conditions).

4. Formerly chronically homeless veteran families (for the purposes of this Notice, a formerly chronically homeless veteran family is defined as a veteran family who has been chronically homeless as defined in this Notice at one or more points in time within the past 3 years).

K. *Application Requirements:* Additional supportive services grant application requirements are specified in the application package. Submission of an incorrect or incomplete application package will result in the application being rejected during threshold review. The application package contains all required forms and certifications. Selections will be made based on criteria described in the Final Rule and this Notice. Applicants will be notified of any additional information needed to confirm or clarify information provided in the application and the deadline by which to submit such information.

L. *Payments of Supportive Services Grant Funds:* Grantees will receive payments electronically through the U.S. Department of Health and Human Services Payment Management System (HHS PMS). Grantees will have the ability to request payments as frequently as they choose subject to the following limitations:

1. During the first quarter of the grantee's supportive services grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 35 percent of the total supportive services grant award without written approval by VA.

2. By the end of the second quarter of the grantee's supportive services grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 60 percent of the total supportive services grant award without written approval by VA.

3. By the end of the third quarter of the grantee's supportive services grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 75 percent of the total supportive services grant award without written approval by VA.

4. By the end of the fourth quarter of the grantee's supportive services grant award period, the grantee's cumulative requests for supportive services grant funds may not exceed 100 percent of the total supportive services grant award.

M. *Monitoring:* VA places great emphasis on the responsibility and accountability of grantees. As described in §§ 62.23 and 62.71 of the Final Rule, VA has procedures in place to monitor supportive services provided to participants and outcomes associated with the supportive services provided under the SSVF Program. Applicants should be aware of the following:

1. Upon execution of a supportive services grant agreement with VA, grantees will have a liaison appointed by the SSVF Program Office who will provide oversight and monitor supportive services provided to participants.

2. Grantees will be required to enter data into a Homeless Management Information System (HMIS) Web-based software application. This data will consist of information on the participants served and types of supportive services provided by grantees. Grantees must treat the data for activities funded by the SSVF Program separate from that of activities funded by other programs. Grantees will be required to export client-level data for activities funded by the SSVF Program to VA on a regular basis.

3. Monitoring will also include the submittal of quarterly and annual financial and performance reports by the grantee. The grantee will be expected to demonstrate adherence to the grantee's proposed program concept, as described in the grantee's application.

4. Grantees will be required to provide each participant with a satisfaction survey which can be submitted by the participant directly to VA, within 45 to 60 days of the participant's entry into the grantee's program and again within 30 days of such participant's pending exit from the grantee's program. N. *Technical Assistance:* Information regarding how to obtain technical assistance with the preparation of a supportive services grant application is available on the SSVF Program Web page at: *http://www1.va.gov/HOMELESS/SSVF.asp*.

Dated: December 10, 2010.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. 2010–31742 Filed 12–16–10; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
December 17, 2010

Part II

Environmental Protection Agency

40 CFR Part 98

Mandatory Reporting of Greenhouse Gases; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2008–0508; FRL–9234–7]

RIN 2060–AQ33

Mandatory Reporting of Greenhouse Gases

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending specific provisions in the greenhouse gas reporting rule to clarify certain provisions, to correct technical and editorial errors, and to address certain questions and issues that have arisen since promulgation. These final changes include generally providing additional information and clarity on existing requirements, allowing greater flexibility or simplified calculation methods for certain sources, amending data reporting requirements to provide additional clarity on when different types of greenhouse gas emissions need to be calculated and reported, clarifying terms and definitions in certain equations and other technical corrections and amendments.

DATES: The final rule is effective on December 31, 2010. The incorporation by reference of certain publications listed in the final rule amendments are approved by the director of the **Federal Register** as of December 31, 2010.

ADDRESSES: EPA has established a docket under Docket ID No. EPA–HQ–OAR–2008–0508 for this action. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA's Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; e-mail address: *GHGReportingRule@epa.gov.* For technical information and implementation materials, please go to the Greenhouse Gas Reporting Program Web site *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.* To submit a question, select Rule Help Center, followed by Contact Us.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The Administrator determined that this action is subject to the provisions of Clean Air Act (CAA) section 307(d). See CAA section 307(d)(1)(V) (the provisions of section 307(d) apply to "such other actions as the Administrator may determine"). These are final amendments to existing regulations. These amended regulations affect owners or operators of certain suppliers and direct emitters of greenhouse gases (GHGs). Regulated categories and entities include those listed in Table 1 of this preamble:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Category	NAICS	Examples of affected facilities
General Stationary Fuel Combustion Sources.	.....	Facilities operating boilers, process heaters, incinerators, turbines, and internal combustion engines.
	211	Extractors of crude petroleum and natural gas.
	321	Manufacturers of lumber and wood products.
	322	Pulp and paper mills.
	325	Chemical manufacturers.
	324	Petroleum refineries and manufacturers of coal products.
	316, 326, 339	Manufacturers of rubber and miscellaneous plastic products.
	331	Steel works, blast furnaces.
	332	Electroplating, plating, polishing, anodizing, and coloring.
	336	Manufacturers of motor vehicle parts and accessories.
	221	Electric, gas, and sanitary services.
	622	Health services.
	611	Educational services.
Electricity Generation	221112	Fossil-fuel fired electric generating units, including units owned by Federal and municipal governments and units located in Indian Country.
Adipic Acid Production	325199	Adipic acid manufacturing facilities.
Aluminum Production	331312	Primary aluminum production facilities.
Ammonia Manufacturing	325311	Anhydrous and aqueous ammonia production facilities.
Cement Production	327310	Portland Cement manufacturing plants.
Ferroalloy Production	331112	Ferroalloys manufacturing facilities.
Glass Production	327211	Flat glass manufacturing facilities.
	327213	Glass container manufacturing facilities.
	327212	Other pressed and blown glass and glassware manufacturing facilities.
HCFC–22 Production and HFC–23 Destruction.	325120	Chlorodifluoromethane manufacturing facilities.
Hydrogen Production	325120	Hydrogen production facilities.
Iron and Steel Production	331111	Integrated iron and steel mills, steel companies, sinter plants, blast furnaces, basic oxygen process furnace shops.
Lead Production	331419	Primary lead smelting and refining facilities.
	331492	Secondary lead smelting and refining facilities.
Lime Production	327410	Calcium oxide, calcium hydroxide, dolomitic hydrates manufacturing facilities.
Nitric Acid Production	325311	Nitric acid production facilities.
Petrochemical Production	32511	Ethylene dichloride production facilities.

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY—Continued

Category	NAICS	Examples of affected facilities
	325199	Acrylonitrile, ethylene oxide, methanol production facilities.
	325110	Ethylene production facilities.
	325182	Carbon black production facilities.
Petroleum Refineries	324110	Petroleum refineries.
Phosphoric Acid Production	325312	Phosphoric acid manufacturing facilities.
Pulp and Paper Manufacturing	322110	Pulp mills.
	322121	Paper mills.
	322130	Paperboard mills.
Silicon Carbide Production	327910	Silicon carbide abrasives manufacturing facilities.
Soda Ash Manufacturing	325181	Alkalies and chlorine manufacturing facilities.
	212391	Soda ash, natural, mining and/or beneficiation.
Titanium Dioxide Production	325188	Titanium dioxide manufacturing facilities.
Zinc Production	331419	Primary zinc refining facilities.
	331492	Zinc dust reclaiming facilities, recovering from scrap and/or alloying purchased metals.
Municipal Solid Waste Landfills	562212	Solid waste landfills.
	221320	Sewage treatment facilities.
Manure Management [a]	112111	Beef cattle feedlots.
	112120	Dairy cattle and milk production facilities.
	112210	Hog and pig farms.
	112310	Chicken egg production facilities.
	112330	Turkey Production.
	112320	Broilers and other meat type chicken production.
Suppliers of Natural Gas and NGLs	221210	Natural gas distribution facilities.
	211112	Natural gas liquid extraction facilities.
Suppliers of Industrial GHGs	325120	Industrial gas production facilities.
Suppliers of Carbon Dioxide (CO_2)	325120	Industrial gas production facilities.

[a] EPA will not be implementing subpart JJ of 40 CFR part 98 using funds provided in its FY2010 appropriations or Continuing Appropriations Act, 2011 (Pub. L. 111–242), due to a Congressional restriction prohibiting the expenditure of funds for this purpose.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities and suppliers likely to be affected by this action. Table 1 of this preamble lists the types of facilities and suppliers that EPA is now aware could be potentially affected by the reporting requirements. Other types of facilities and suppliers than those listed in the table could also be subject to reporting requirements. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A or the relevant criteria in the subparts. If you have questions regarding the applicability of this action to a particular facility or supplier, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What is the effective date? The final rule is effective on December 31, 2010. Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register.** EPA is issuing this final rule under section 307(d)(1) of the Clean Air Act, which states: "The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies." Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the purposes underlying APA section 553(d) in making this rule effective on December 31, 2010. Section 5 U.S.C. 553(d)(3) allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." As explained below, EPA finds that there is good cause for this rule to become effective on December 31, 2010, even though this results in an effective date fewer than 30 days from date of publication in the **Federal Register**.

While this action is being signed prior to December 1, 2010, there is likely to be a significant delay in the publication of this rule as it contains complex equations and tables and is relatively long in length. As an example, EPA signed a shorter technical amendments package related to the same underlying reporting rule on October 7, 2010, and it was not published until October 28, 2010 (75 FR 66434), three weeks later.

The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Where, as here, the final rule will be signed and made available on the EPA Web site more than 30 days before the effective date, but where the publication is likely to be delayed due to the complexity and length of the rule, that purpose is still met. Moreover, most of the revisions being made in this package provide flexibilities to sources covered by the reporting rule, or otherwise relieve a restriction. Thus, a shorter effective date in such circumstances is consistent with the purposes of APA section 553(d), which provides an exception for any action that grants or recognizes an exemption or relieves a restriction. Accordingly, we find good cause exists to make this rule effective on December 31, 2010, consistent with the purposes of 5 U.S.C. 553(d)(3).

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit (the Court) by February 15, 2011. Under CAA section 307(d)(7)(B), only an objection to this final rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. CAA section 307(d)(7)(B) also provides a mechanism for EPA to convene a proceeding for reconsideration, "[i]f the person raising an objection can demonstrate to EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public

comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule." Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, Environmental Protection Agency, Room 3000, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with a copy to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20004. Note, under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

API American Petroleum Institute
ARP Acid Rain Program
ASME American Society of Mechanical Engineers
ASTM American Society for Testing and Materials
BAMM best available monitoring method
CAA Clean Air Act
cc cubic centimeters
CE calibration error
CEMS continuous emission monitoring system
CFR Code of Federal Regulations
CGA Cylinder gas audit
CH_4 methane
CO carbon monoxide
CO_2 carbon dioxide
CO_2e CO_2-equivalent
CWPB center worked prebake
FR Federal Register
FTIR Fourier transform infrared
GC gas chromatography
GHG greenhouse gas
GHGRP Greenhouse Gas Reporting Program
GPA Gas Processors Association
GWP global warming potential
HFCs hydrofluorocarbons
HHV high heat value
HSS horizontal stud Søderberg
IPCC Intergovernmental Panel on Climate Change
IR infrared
LDCs local natural gas distribution companies
mmBtu/hr million British thermal units per hour
mscf thousand standard cubic feet
MSW municipal solid waste
$mtCO_2e$ metric tons of CO_2 equivalents
MVC molar volume conversion factor
NESHAP National Emission Standards for Hazardous Air Pollutants
NIST National Institute of Standards and Technology
NMR nuclear magnetic resonance
NSPS New Source Performance Standards
N_2O nitrous oxide
NAICS North American Industry Classification System
NGLs natural gas liquids
O_2 oxygen
OMB Office of Management and Budget
PFC perfluorocarbon
psia pounds per square inch absolute
QA quality assurance
QA/QC quality assurance/quality control
RATA relative accuracy test audit
RFA Regulatory Flexibility Act
scf standard cubic feet
scfm standard cubic feet per minute
SF_6 sulfur hexafluoride
SO_2 sulfur dioxide
SWPB side worked prebake
U.S. United States
VSS vertical stud Søderberg

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I. Background

A. How is this preamble organized?

The first section of this preamble contains the basic background information about the origin of these rule amendments. This section also discusses EPA's use of our legal authority under the CAA to collect data on GHGs.

The second section of this preamble describes in detail the rule changes that are being promulgated to, among other things, correct technical errors, provide clarification, and address implementation issues identified by EPA and others. This section also presents a summary and EPA's response to the major public comments submitted on the proposed rule amendments, and significant changes, if any, made since proposal in response to those comments.

Finally, the last (third) section discusses the various statutory and executive order requirements applicable to this rulemaking.

B. Background on This Action

The final Mandatory Reporting of Greenhouse Gases Rule was signed by EPA Administrator Lisa Jackson on September 22, 2009 and published in the **Federal Register** on October 30, 2009 (74 FR 56260–56519). This rule, which added Part 98 to chapter 40 of the Code of Federal Regulations (CFR) as well as amending other parts of 40 CFR, became effective on December 29, 2009, and included reporting of GHG information from facilities and suppliers, consistent with the 2008 Consolidated Appropriations Act.[1] These source categories capture approximately 85 percent of U.S. GHG emissions through reporting by direct emitters as well as certain suppliers (*e.g.,* fossil fuel, petroleum products, industrial gases and CO_2) and manufacturers of mobile sources.

EPA published a notice proposing these amendments to Part 98 to, among other things, correct certain technical and editorial errors that have been identified since promulgation and clarify or propose amendments to certain provisions that have been the subject of questions from reporting entities. The proposal was published on

[1] Consolidated Appropriations Act, 2008, Pub. L. 110–161, 121 Stat. 1844, 2128.

August 11, 2010 (75 FR 48744). The public comment period for the proposed rule amendments ended on September 27, 2010. EPA did not receive any requests to hold a public hearing.

This is the second time that EPA has published a notice promulgating amendments to Part 98 to, among other things, correct certain technical and editorial errors identified since Part 98 was originally promulgated and to clarify and amend certain provisions that have been the subject of questions from reporting entities. The first final rule amendments were published on October 28, 2010 (75 FR 66434). This final rule complements the final rule published on October 28, 2010 and is not intended to duplicate or replace those amendments.

C. Legal Authority

EPA is promulgating these rule amendments under its existing CAA authority, specifically authorities provided in CAA section 114.

As stated in the preamble to the 2009 final rule (74 FR 56260, October 30, 2009), CAA section 114 provides EPA broad authority to require the information mandated by Part 98 because such data would inform and are relevant to EPA's obligation to carry out a wide variety of CAA provisions. As discussed in the preamble to the initial proposal (74 FR 16448, April 10, 2009), CAA section 114(a)(1) authorizes the Administrator to require emissions sources, persons subject to the CAA, manufacturers of process or control equipment, and persons whom the Administrator believes may have necessary information to monitor and report emissions and provide such other information the Administrator requests for the purposes of carrying out any provision of the CAA. For further information about EPA's legal authority, see the preambles to the proposed and final rule, and Response to Comments Documents.[2]

D. How will these amendments apply to 2011 reports?

We have determined that it is feasible for sources to implement these changes for the 2010 reporting year because the revisions primarily provide additional clarifications regarding the existing regulatory requirements, generally do not affect the type of information that must be collected and do not substantially affect how emissions are calculated. Our rationale for this determination is explained in the preamble to the proposed rule amendments.[3] In response to general comments submitted on the proposed rulemaking, we have again reviewed the final amendments and determined that, with one limited exception, they can be implemented, as finalized, for the 2010 reporting year.

The one new requirement, regarding reporting of biogenic CO_2 emissions from units subject to 40 CFR Part 75, is being phased in, so that it remains optional for reporting year 2010, but becomes mandatory for each subsequent year. Therefore this revision, as finalized, already accommodates implementation for the 2010 reporting year.

In summary, except for the exception discussed above regarding biogenic CO_2 emissions, these amendments do not require any additional monitoring or data collection above what was already included in Part 98. Therefore, we have determined that reporters can use the same information that they have been collecting under Part 98 for each subpart to calculate and report GHG emissions for 2010 and submit reports in 2011 under the amended subparts.

Following is a brief summary of major comments and responses. Several comments were received on this topic. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: Several commenters requested that we make use of the amendments optional for the 2010 reporting year and mandatory beginning with the 2011 reporting year. The commenters expressed concern that in 2010, sources may not have been collecting the required data to implement certain amendments.

Response: We sought comment on the feasibility of incorporating the proposed revisions for the 2010 reporting year. In the proposal, we explained that we felt implementation for the 2010 reporting year would be feasible because the proposed revisions, to a great extent, would simply clarify existing regulatory requirements or add flexibility to the rule. Further, the proposed amendments would not substantially affect the type of information that must be collected or how emissions are calculated. We sought comment on this conclusion and whether this timeline is feasible or appropriate, considering the nature of the proposed changes and the way in which data have been collected thus far in 2010. We requested that commenters provide specific reasons why they believe that the proposed implementation schedule would or would not be feasible. We received some comments about making optional the use of the amendments in 2010, as well as comments proposing to extend submission of the first reports until June 1, 2011. We received a few industry-specific examples providing a rationale for extending the deadline for reporting, or making use of the amendments optional for the 2010 reporting year. For example, some commenters expressed concern that the proposed clarification of the definition of natural gas, as well as the introduction of fuel gas into Table C–1, could affect applicability under the rule and the use of the tiers under subpart C. We have addressed the underlying concerns expressed by these commenters, as EPA did not intend to change applicability or force facilities to use higher tiered calculation methodologies. Therefore, because we addressed the underlying concerns, we are finalizing requirements to incorporate the amendments into 2010 reporting year data.

II. Final Amendments and Responses to Public Comments

We are amending various subparts in Part 98 to correct errors in the regulatory language that were identified as a result of working with reporters to implement the various subparts of Part 98. We are also amending certain rule provisions to provide greater clarity. The amendments to Part 98 include the following types of changes:

- Additional information to understand better or more fully compliance obligations in a specific provision, such as the reference to a standardized method that must be followed.
- Amendments to certain equations to better reflect actual operating conditions.
- Corrections to terms and definitions in certain equations.
- Corrections to data reporting requirements so that they more closely conform to the information used to perform emission calculations.
- Amendments, in limited cases, to allow for the use of simplified emissions calculation methods.
- Changes to correct cross references within and between subparts.
- Other amendments related to certain issues identified as a result of working with reporters during rule implementation and outreach.
- Applying a threshold for reporting for local distribution companies of equal to or greater than 460,000 thousand

[2] 74 FR 16448 (April 10, 2009) and 74 FR 56260 (October 30, 2009). Response to Comments Documents can be found at *http://www.epa.gov/climatechange/emissions/responses.html*

[3] 75 FR 48747 (August 11, 2010).

standard cubic feet (mscf) of natural gas delivered per year.

• Requiring separate reporting of biogenic CO_2 emissions for units that are also subject to 40 CFR part 75, beginning with the 2011 reporting year.

The final amendments promulgated by this action reflect EPA's consideration of the comments received on the proposal. The major public comments and EPA's responses for each subpart are provided in this preamble. Our responses to additional significant public comments on the proposal are presented in a comment response document available in Docket ID No. EPA–HQ–OAR–2008–0508.

A. Subpart A—General Provisions: Best Available Monitoring Methods

1. Summary of Final Amendments and Major Changes Since Proposal

EPA is finalizing the petition process established in 40 CFR 98.3(j) that allows use of Best Available Monitoring Methods (BAMM) past December 31, 2010 for owners and operators required to report under subpart P (Hydrogen Production), subpart X (Petrochemical Production), or subpart Y (Petroleum Refineries), under limited circumstances. Owners or operators subject to these subparts can petition EPA to extend use of BAMM past December 31, 2010, if compliance with a specific provision in the regulation requires measurement device installation, and installation would necessitate an unscheduled process equipment or unit shutdown, or could be installed only through a "hot tap." If the application is approved, the owner or operator can postpone installation of the measurement device until the next scheduled maintenance outage, but initially no later than December 31, 2013. If, in 2013, owners or operators still determine and certify that a scheduled shutdown will not occur by December 31, 2013, they may re-apply to use best available monitoring methods for an additional two years.

Process for requesting an extension of best available monitoring methods. We are adding a similar petition process to that recently concluded for the use of BAMM for 2010 in 40 CFR 98.3(j). The process is for quantifying emissions from any source category at facilities subject to subparts P, X and/or Y, and solely for the installation of measurement devices that cannot be installed safely except during full process equipment or unit shutdown or through installation via a hot tap. BAMM is allowable initially no later than December 31, 2013. Subpart P, X, and/or Y owners or operators requesting to use BAMM beyond 2010 are required to electronically notify EPA by January 1, 2011 that they intend to apply for BAMM for installation of measurement devices and certify that such installation will require a hot tap or unscheduled shutdown.

Owners or operators must submit the full extension request for BAMM by February 15, 2011. The full extension request must include a description of the measurement devices that could not be installed in 2010 without a process equipment or unit shutdown, or through a hot tap, a clear explanation of why that activity could not be accomplished in 2010 with supporting material, an estimated date for the next planned maintenance outage, and a discussion of how emissions will be calculated in the interim. More specifically, the full extension request must identify the specific monitoring instrumentation for which the request is being made, indicate the locations where each piece of monitoring instrumentation will be installed, and note the specific rule requirements (by rule subpart, section, and paragraph numbers) for which the instrumentation is needed. The extension requests must also include supporting documentation demonstrating that it is not practicable to isolate the equipment and install the monitoring instrument without a full process equipment or unit shutdown, or through a hot tap, as well as providing the dates of the three most recent process equipment or unit shutdowns, the typical frequency of shutdowns for the respective equipment or unit, and the date of the next planned shutdown.

Once subpart P, X, and/or Y owners or operators have notified EPA of their plan to apply for BAMM for measurement device installation, by January 1, 2011, and subsequently submitted a full extension request, by February 15, 2011, they can automatically use BAMM consistent with their request through June 30, 2011. This automatic extension is necessary because the current BAMM requests submitted by these facilities will end no later than December 31, 2010. The BAMM must be extended automatically to provide EPA the time to review thoroughly the BAMM requests submitted for post-2010, while ensuring that the petitioning facilities are not out of compliance with the rule during that review process. All measurement devices must be installed by July 1, 2011 unless EPA approves the BAMM extension request before that date.

Approval of extension requests. In any approval of an extension request, EPA will approve the extension itself, establish a date by which all measurement devices must be installed, and indicate the approved alternate method for calculating GHG emissions in the interim.

If EPA approves an extension request, the owner/operator has until the date approved by EPA to install the relevant remaining meters or other measurement devices, however initial approvals will not grant extensions beyond December 31, 2013. An owner/operator that already received approval from EPA to use BAMM during part or all of 2010 is required to submit a new request for use of BAMM beyond 2010. Unless EPA has approved an extension request, all owners or operators that submit a timely request under this new process for BAMM will be required to install all measurement devices by July 1, 2011.

We recognize that occasionally a facility may plan a scheduled process equipment or unit shutdown and the installation of required monitoring equipment, but the date of the scheduled shutdown is changed. We are adding a process by which owners or operators who receive an extension will have the opportunity to extend the use of BAMM beyond the date approved by EPA if they can demonstrate to the Administrator's satisfaction that they are making a good faith effort to install the required equipment. At a minimum, facilities that determine that the date of a scheduled shutdown will be postponed are required to notify EPA within 4 weeks of such a determination, but no later than 4 weeks before the date for which the planned shutdown was scheduled.

One-time request to extend best available monitoring methods past December 31, 2013. If subpart P, X, and/or Y owners or operators determine that a scheduled shutdown will not occur by December 31, 2013 and thus they want to continue to use BAMM, they are required to re-apply to use BAMM for one additional time period, not to extend beyond December 31, 2015. To obtain an extension for the use of BAMM past December 13, 2013, owners or operators are required to submit a new extension request by June 1, 2013 that contains the information required in 40 CFR 98.3(j)(4). All owners or operators that submit a request under this paragraph to extend the use of best available monitoring methods for measurement device installation are required to install all measurement devices by December 31, 2013, unless the additional extension request under this paragraph is approved by EPA.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this topic. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: EPA received several comments, both in support of and in opposition to, the proposed extension of BAMM for facilities subject to subparts P, X and Y. Some commenters that supported the new BAMM process also recommended that EPA extend the process beyond hydrogen producers, petrochemical facilities and petroleum refineries. They suggested that the same logic should apply to all facilities, that installation of monitoring equipment should not require process equipment or unit shutdown.

Other commenters were concerned that the new BAMM process conflicts with the need for consistent data. The commenters urged that if EPA nevertheless decides to finalize the requirements, there should be only a one-time application process with BAMM ending no later than December 2013. Further, they asserted that EPA should require facilities to make use of unplanned shutdowns as an opportunity to install equipment.

Response: EPA carefully considered the issues raised by commenters and decided to retain the BAMM extension process, as proposed, only for facilities subject to subparts P, X and Y. The proposal preamble sought comment on this very issue and requested that commenters provide information on additional subparts, if any, that would need this flexibility, and include information on why installation could not be done in the absence of such a shutdown or why such shutdowns did not or could not occur in 2010 without unreasonable burden on the facility. Commenters did not provide the requested information to support their position that the provision should be extended to other industries. In summary, the commenters argued only that EPA should provide this flexibility, but did not provide a rationale as to why additional industries needed the flexibility.

Regarding concerns that the new BAMM process would lead to inconsistent data, EPA has determined that this limited opportunity for a BAMM extension will provide sufficiently consistent data for these industries without causing the unnecessary burden or potential safety concerns that would be associated with installation of monitoring devices during unplanned shutdowns or hot taps. EPA notes that the BAMM process will still require facilities to follow the calculation methods in the rule, but will allow owners or operators to use alternative methods to provide the inputs to those calculations. Further, unlike the BAMM process that was established by promulgation of the October 30, 2009 reporting rule (74 FR 56379–56380), any request for BAMM after 2010 will require EPA approval of a facility's proposed approach to be implemented in lieu of the requirements in the rule. This further ensures that EPA will continue to receive data of the appropriate quality.

EPA decided not to limit BAMM to a one-time extension through 2013, because we determined that the reasons supporting extension through 2013 were still valid post 2013. Specifically, facilities in these particularly complex industries should not have to shut down unnecessarily in order to install equipment. Data provided by these industries show that some units, for example crude distillation units, are shut down only every 4 to 7 years. Other units such as vacuum distillation units, fluid catalytic cracking units, distillate hydrotreating units, catalytic feed hydrotreaters, hydrocrackers, coking units, sulfur recovery units and cogeneration units can be shut down as infrequently as every 5 years (*see* final Background Technical Support document to the Revision of Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule). Thus, providing a potential end date for BAMM of December 31, 2015, is appropriate based on information presented for these industries on the typical frequency of shutdown for these facilities.

We also are not requiring a facility to order the measurement equipment early and have it on hand in the event of an unplanned shutdown before the scheduled shutdown. First, it would be hard to enforce a requirement to install equipment during an unplanned shutdown "if feasible" because it would be hard to objectively determine whether a facility should have installed equipment during an unplanned shutdown. Moreover, during an unplanned shutdown, the priority is often to get the equipment up and running as quickly and safely as possible; therefore, there is not necessarily time to install the measurement equipment.

Comment: In a related comment, one commenter raised concerns about Tier 3 monitoring requirements for a stream at its facility that is dangerous to monitor due to the presence of hydrogen cyanide. They indicated that they used BAMM to implement an approach other than direct sampling of the inputs to the equations for the 2010 reporting year, and now are considering implementing the Tier 4 method for future years. However, they argued the rule should provide a mechanism to address these dangerous streams.

Response: No rule change has been made as a result of the comment. For the 2010 reporting year, the BAMM provisions were designed for use where it was not possible to acquire, install and operate a required piece of equipment during the early months of the GHG Reporting Program. Safety concerns were a valid reason for approving these early BAMM applications.

Although the commenter notes concerns with conducting the Tier 3 method for quantifying emissions from stationary combustion at the facility due to the presence of a hydrogen cyanide stream, EPA notes that the rule does not limit them to use of a Tier 3 approach. As acknowledged by the commenter, they also have the opportunity to use Tier 4 to meet the requirements of the rule and, by taking advantage of BAMM for 2010, had one year to install the Tier 4 equipment. The commenter merely wants additional time beyond that already provided in the rule to comply with the Tier 4 requirements. The commenter does not justify the requested extension by pointing to issues like unplanned shutdowns or hot taps, as discussed in the proposal. EPA has determined the unique situation raised by the commenter does not warrant expanding the BAMM process generally beyond industries subject to subparts P, X and Y.

B. Subpart A—General Provisions: Calibration Requirements

1. Summary of Final Amendments and Major Changes Since Proposal

EPA has finalized amendments to 40 CFR 98.3(i)(1) to specify that the calibration accuracy requirements of 40 CFR 98.3(i)(2) and (i)(3) are required only for flow meters that measure liquid and gaseous fuel feed rates, feedstock flow rates, or process stream flow rates that are used in the GHG emissions calculations, and only when the calibration accuracy requirement is specified in an applicable subpart of Part 98. For instance, the QA/QC requirements in 40 CFR 98.34(b)(1) of

subpart C require all flow meters that measure liquid and gaseous fuel flow rates for the Tier 3 CO_2 calculation methodology to be calibrated according to 40 CFR 98.3(i); therefore, the accuracy standards in 40 CFR 98.3(i)(2) and (i)(3) will continue to apply to these meters.

We are also amending 40 CFR 98.3(i) to clarify that the calibration accuracy specifications of 40 CFR 98.3(i)(2) and (i)(3) do not apply where the use of company records or the use of best available information is specified to quantify fuel usage or other parameters, nor do they apply to sources that use Part 75 methodologies to calculate CO_2 mass emissions because the Part 75 quality-assurance is sufficient. Although calibration accuracy requirements are not applicable for these data sources, per the requirements of 98.3(g)(5), reporters are still required to explain in their monitoring plan the processes and methods used to collect the necessary data for the GHG calculations.

We are also amending 40 CFR 98.3(i)(1) to clarify that the calibration accuracy specifications in 40 CFR 98.3(i)(2) and (i)(3) do not apply to other measurement devices (*e.g.,* weighing devices) that provide data for the GHG emissions calculations. Rather, these devices must be calibrated to meet the accuracy requirements of the relevant subpart(s), or, in the absence of such requirements, meet appropriate, technology-based error-limits, such as industry consensus standards or manufacturer's accuracy specifications. Consistent with 40 CFR 98.3(g)(5)(i)(C), the procedures and methods used to quality-assure the data from the measurement devices must be documented in the written monitoring plan.

We are adding a new paragraph 40 CFR 98.3(i)(1)(ii) to clarify that flow meters and other measurement devices need to be installed and calibrated by the date on which data collection needs to begin, if a facility or supplier becomes subject to Part 98 after April 1, 2010.

We are adding new paragraph 40 CFR 98.3(i)(1)(iii) to specify the frequency at which subsequent recalibrations of flow meters and other measurement devices must be performed. Recalibration must be at the frequency specified in each applicable subpart, or at the frequency recommended by the manufacturer or by an industry consensus standard practice, if no recalibration frequency was specified in an applicable subpart.

We are adding new paragraph 40 CFR 98.3(i)(7) to specify the consequences of a failed flow meter calibration. Data become invalid prospectively, beginning at the hour of the failed calibration and continuing until a successful calibration is completed. Appropriate substitute data values must be used during the period of data invalidation.

In 40 CFR 98.3(i)(2) and (3), we are adding absolute value signs to the numerators of Equations A–2 and A–3. These were inadvertently omitted in the October 30, 2009 Part 98.

We are also amending 40 CFR 98.3(i)(3) to increase the alternative accuracy specification for orifice, nozzle, and venturi flow meters (*i.e.,* the arithmetic sum of the three transmitter calibration errors (CE) at each calibration level) from 5.0 percent to 6.0 percent, since each transmitter is individually allowed an accuracy of 2.0 percent. We are also amending 40 CFR 98.3(i)(3) for orifice, nozzle, and venturi flow meters to account for cases where not all three transmitters for total pressure, differential pressure, and temperature are located in the vicinity of a flow meter's primary element. Instead of being required to install additional transmitters, reporters are, as described below, conditionally allowed to use assumed values for temperature and/or total pressure based on measurements of these parameters at remote locations. If only two of the three transmitters are installed and an assumed value is used for temperature or total pressure, the maximum allowable calibration error is 4.0 percent. If two assumed values are used and only the differential pressure transmitter is calibrated, the maximum allowable calibration error is 2.0 percent.

We are also amending 40 CFR 98.3(i)(3) to add five conditions that must be met in order for a source to use assumed values for temperature and/or total pressure at the flow meter location, based on measurements of these parameters at a remote location (or locations).

- The owner or operator must demonstrate that the remote readings, when corrected, are truly representative of the actual temperature and/or total pressure at the flow meter location, under all expected ambient conditions. Pressure and temperature surveys can be performed to determine the difference between the readings obtained with the remote transmitters and the actual conditions at the flow meter location.
- All temperature and/or total pressure measurements in the demonstration must be made with calibrated gauges, sensors, transmitters, or other appropriate measurement devices.
- The methods used for the demonstration, along with the data from the demonstration, supporting engineering calculations (if any), and the mathematical relationship(s) between the remote readings and the actual flow meter conditions derived from the demonstration data must be documented in the monitoring plan for the unit and maintained in a format suitable for auditing and inspection.
- The temperature and/or total pressure at the flow meter must be calculated on a daily basis from the remotely measured values, and the measured flow rates must then be corrected to standard conditions.
- The mathematical correlation(s) between the remote readings and actual flow meter conditions must be checked at least once a year, and any necessary adjustments must be made to the correlation(s) going forward.

We are amending 40 CFR 98.3(i)(4) to include an additional exemption from the calibration requirements of 40 CFR 98.3(i) for flow meters that are used exclusively to measure the flow rates of fuels used for unit startup. For instance, a meter that is used only to measure the flow rate of startup fuel (*e.g.,* natural gas) to a coal-fired unit is exempted.

Section 98.3(i)(4) is being further amended to clarify that gas billing meters are exempted from the monitoring plan and recordkeeping provisions of 40 CFR 98.3(g)(5)(i)(c), (g)(6) and (g)(7), which require, respectively, that a description of the methods used to quality-assure data from instruments used to provide data for the GHG emissions calculations be included in the written monitoring plan, that the results of all required certification and QA tests be kept, and that maintenance records be kept for those instruments.

We are amending 40 CFR 98.3(i)(5) to clarify that flow meters that were already calibrated according to 40 CFR 98.3(i)(1) following a manufacturer's recommended calibration schedule or an industry consensus calibration schedule do not need to be recalibrated by the date specified in 40 CFR 98.3(i)(1) as long as the flow meter is still within the recommended calibration interval. This paragraph is also being amended to clarify that the deadline for successive calibrations will be according to the manufacturer's recommended calibration schedule or an industry consensus calibration schedule.

We are amending 40 CFR 98.3(i)(6) to account for units and processes that operate continuously with infrequent outages and cannot meet the flow meter calibration deadline without disrupting

normal process operation. Part 98 allowed the owner or operator to postpone the initial calibration until the next scheduled maintenance outage. Although the rule allowed postponement of calibration, it did not specify how to report fuel consumption for the entire time period extending from January 1, 2010 until the next maintenance outage. We are amending 40 CFR 98.3(i)(6) to permit sources to use the best available data from company records to quantify fuel usage until the next scheduled maintenance outage. This revision addresses situations where the next scheduled outage is in 2011, or later.

The major change since proposal is identified in the following list. The rationale for this and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

• Removed the words "ignition" and "ignition fuel" from 40 CFR 98.3(i)(4), so that only fuel flow meters that are used exclusively for startup are exempted from the calibration requirements of 40 CFR 98.3(i).

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this topic. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: We received several comments relating to the proposed changes to the calibration accuracy requirements set in 40 CFR 98.3(i). Commenters expressed concern that removing the rule-wide 5 percent calibration accuracy requirement would compromise the rule's data quality. The commenters noted that a global calibration accuracy requirement is necessary to provide data that are accurate and comparable within and across industries. By dropping this requirement, the commenters believed small calibration errors will systematically produce major errors in reported data. For measuring devices other than flow meters they argued that it is not clear what an "appropriate" error range is, or what calibration standards a reporter would deem "applicable," and suggest that by stating calibration standards are "not limited to industry standards * * *, " EPA is waiving calibration requirements for other measuring devices altogether. They acknowledge that there is a requirement to document the calibration procedure used in the monitoring plan, but they believe it is not enforceable and severely reduces transparency. The commenters contend that the use of different calibration methods and varying levels of accuracy would make it difficult to correctly interpret and compare the emissions data, and would render future policy development very difficult.

In summary, commenters that were concerned about our removal of the blanket 5 percent calibration accuracy requirements asserted that EPA has a mandate to implement the rule and cannot promulgate any subsequent rule that would compromise the quality of the data reported. They further argue that it is arbitrary and capricious, in light of EPA's reporting mandate, to waive the calibration accuracy requirements for any flow meters. All such meters, they contend, should be required to meet these minimum accuracy requirements, with no exceptions.

Response: We acknowledge the concerns of the commenters and agree that a high level of data quality is a valuable component of any environmental program. However, we believe the changes to the calibration accuracy requirements of 40 CFR 98.3(i) do not jeopardize the integrity of the reporting program nor compromise EPA's ability to use the data in the future to support climate policy development.

As originally promulgated, 40 CFR 98.3(i) required that "all measurement devices shall be calibrated to an accuracy of 5 percent." However, as promulgated, 40 CFR 98.3(i)(2) and (i)(3) only provided calibration procedures for flow meters. No specific procedures were provided for other measurement devices. As a result, measurement devices other than flow meters would necessarily be calibrated according to procedures specified in other subparts, industry consensus methods, or manufacturer specifications.

In the "Technical Support Document for Revision of Certain Provisions: Proposed Rule for Mandatory Reporting of Greenhouse Gases," dated July 8, 2010 (the TSD), vendor information on various types of measuring devices shows accuracy ranges of significantly less than 5 percent. Requiring the calibrations to be performed according to the accuracy specified by the device manufacturer, rather than 5 percent, would likely actually increase the data accuracy of the rule. In addition, we recognize that other programs to which reporters may be subject impose calibration standards that will affect many of the instruments used for reporting under Part 98. For example, the tested accuracy of fuel flow meters and transmitter transducers used in the Acid Rain Program from 2005 through 2009 was well below 1 percent.

As a result of the wide range of industries and measuring devices used within each industry, we have determined it is not practical to set a global calibration standard or method that would apply generically to every measurement device. Replacing the 5 percent requirement from the 2009 fine rule with manufacturer's specifications or industry specific standards will provide a higher level of data certainty across the rule while accommodating the wide variety of industries and equipment covered by the rule. We think it is highly unlikely that companies will choose to use arbitrary standards, as the procedures and methods used to quality-assure the measurement data must be listed in the facility or supplier's monitoring plan.

The commenters correctly note that the calibration accuracy requirements of 40 CFR 98.3(i) have been removed where company records or best available information are used. Since promulgation, we have consistently affirmed that meters used to generate company records are not required to be calibrated according to 40 CFR 98.3(i). The purpose behind allowing the use of company records and best available information was to permit companies to use fuel billing receipts or other quality assured information they currently maintain. EPA authorized the use of company records to alleviate burden and did not intend for such data to be subject to additional calibration requirements, which would defeat the purpose of this flexibility.

To be clear, we disagree with the commenter's assertions that we are "waiving" any calibration accuracy requirements or that certain types of flow meters would not have to be calibrated. All measurement technologies, except for the limited exceptions in 40 CFR 98.3(i) must meet calibration accuracy requirements. Further, most major emission sources should be covered by either the requirements of 40 CFR 98.38(i) or another program that provides a similarly, if not significantly more, stringent accuracy requirement. We have concluded that the amendments to the calibration accuracy requirements do not compromise our ability to implement successfully this reporting rule.

Comment: One commenter pointed out an inconsistency in the proposed rule regarding the term "ignition fuel." EPA proposed to amend 40 CFR 98.3(i)(4) to exempt fuel flow meters that are used exclusively for startup and ignition fuel from the calibration requirements of 40 CFR 98.3(i). However, EPA also proposed in 40 CFR 98.30(d) to exempt pilot lights from GHG emission reporting requirements. The commenter noted that pilot lights are essentially the same as ignitors, and the reference in 40 CFR 98.3(i)(4) to flow meters that measure ignition fuel appears to imply that GHG emissions from the combustion of ignition fuel must be reported.

Response: The GHG emissions reporting exemption for pilot lights in 40 CFR 98.30(d) refers to emissions from combustion of the fuel that supplies the pilot light. Therefore, in the final rule, we have removed the words "ignition" and "ignition fuel" from 40 CFR 98.3(i)(4). Paragraph (i)(4) now refers only to startup fuel, which is distinctly different from ignition fuel. For instance, at startup, a coal-fired boiler may burn natural gas for several hours at high heat input values, whereas a pilot light is a small flame that simply ignites or initiates combustion of the main fuel (*e.g.,* fuel oil).

C. Subpart A—General Provisions: Reporting of Biogenic Emissions

1. Summary of Final Amendments and Major Changes Since Proposal

Under the proposed amendments, EPA's goal was to reflect in regulatory language clarifications that have been issued stating that separate reporting of biogenic emissions for units subject to 40 CFR part 75 was optional. To clarify this optional reporting, we proposed to amend the data elements in subpart A (specifically 40 CFR 98.3(c)(4)) and subpart C that currently require separate accounting and reporting of biogenic CO_2 emissions so that it is optional for units that are subject to subpart D of this part or units that use the methods in part 75 to quantify CO_2 mass emissions in accordance with 40 CFR 98.33(a)(5) (40 CFR part 75 units or "part 75 units"). More specifically, to effect this clarification, we proposed to revise the reporting for all facilities such that all facilities would report combined non-biogenic and biogenic CO_2, and all facilities, except those with "part 75 units," would still have been required to calculate and report biogenic CO_2 emissions separately.

We received numerous adverse comments on the proposed amendments that would re-structure 40 CFR 98.3(c)(4) and clarify that separate reporting of biogenic CO_2 emissions was optional for "part 75 units". Most commenters urged EPA to make separate reporting of biogenic emissions mandatory for all reporters. Many commenters also objected to the restructuring of 40 CFR 98.3(c)(4), which would have had all units reporting combined biogenic and non-biogenic CO_2 emissions.

Based on the comments received, we have decided to withdraw the proposed re-structuring of 40 CFR 98.3(c)(4). We have also reconsidered the optional reporting of biogenic CO_2 emissions reporting for "part 75 units". In the final rule, a new paragraph, (c)(12), has been added to 40 CFR 98.3(c), which states that reporting biogenic CO_2 is optional for "part 75 units" only for the first year of the program (*i.e.,* for the 2010 reporting year). Thereafter, all "part 75 units" must separately report their biogenic CO_2 emissions. We are allowing the optional biogenic CO_2 emissions reporting for the 2010 reporting year in light of the 2009 final rule, as well as our previous statements and guidance on the issue. It is likely that at least some 40 CFR part 75 sources are following that policy guidance and have elected not to separately report biogenic CO_2 emissions. It is equally likely that these sources have not been keeping the necessary records or performing the required emission testing to enable them to report these emissions for 2010.

Major changes since proposal are identified in the following list. The rationale for these and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

- Retaining the facility level reporting requirements from the 2009 final rule (74 FR 56373) in 40 CFR 98.3(c)(4) that requires reporting of CO_2 emissions (excluding biogenic CO_2) and separate reporting of biogenic emissions.
- Introducing new paragraph 40 CFR 98.3(c)(12) that allows facilities with 40 CFR part 75 units the option to include biogenic emissions in their facility totals for the 2010 reporting year only.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this topic. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: EPA received a large number of comments related to the proposed amendments to make separate reporting of biogenic CO_2 emissions optional for units subject to 40 CFR part 75. The three main concerns, each raised by multiple commenters, were that (1) all reporters should be required to separately report biogenic CO_2 emissions; (2) reporters should never be required to combine fossil CO_2 and biogenic CO_2; and, (3) if EPA nevertheless finalizes requirements allowing separate reporting of biogenic CO_2 to be optional for units subject to 40 CFR part 75, then EPA's implementation of the proposed revisions should be narrower in scope and not affect reporting requirements for all reporters.

Regarding the first issue, some commenters argued that the requirements of the Acid Rain Program (ARP) should not constrain EPA in the GHG context and that all reporters under 40 CFR part 98 should be required to report biogenic CO_2 emissions, regardless of the fact that such separate reporting is not a requirement in ARP. Commenters suggested that this is important for consistency across the GHG Reporting Program.

Several commenters suggested that it is never appropriate to combine fossil CO_2 and biogenic CO_2 into a single reported value. Commenters noted that there is a distinction between fossil CO_2 and biogenic CO_2 and that in order to ensure transparency for future climate policy these two values should not be combined into a single reported emissions value. Further, they argued that EPA's proposed requirement for sources to combine fossil and biogenic emissions together in one total ignores the natural biomass carbon cycle and is counter to the principle of "carbon neutrality," thereby overstating net CO_2 entering the atmosphere.

The commenters suggested that requiring separate reporting of biogenic CO_2 is consistent with the Intergovernmental Panel on Climate Change and national, regional, and corporate GHG protocols and that EPA should not depart from this established accounting convention. These commenters also pointed out that EPA uses this same rationale for requiring separate reporting of biogenic CO_2 emissions in its own response to comments to the GHG Reporting Rule (74 FR 56351). Further, the commenters articulated that separate reporting of biogenic emissions is necessary to

provide the public and policymakers with information on the extent of biomass combustion and the sectors of the economy where biomass fuels are used, which is information important for developing future climate policy. Several organizations also commented that an accurate, economy-wide inventory of biogenic CO_2 emissions is important because the evidence to date demonstrates that biomass is not inherently carbon neutral.

Finally, commenters noted that if EPA nevertheless decides to finalize the rule allowing optional reporting of biogenic CO_2 emissions for 40 CFR part 75 units, EPA should modify the proposed rule so the amendments affect only facilities with part 75 units, and do not change the reporting requirements for all other reporters. Commenters were concerned that EPA's proposed change required all reporters to report total CO_2 (including biogenic CO_2 emissions), but only required facilities with non-part 75 units to report their biogenic emissions separately. Facilities with part 75 units would have the option to report separately biogenic CO_2 from those units. The commenters suggested that if EPA chooses to finalize optional separate reporting for part 75 units, then EPA should revert to the reporting requirements in subpart A that were in the 2009 final rule (*i.e.,* report CO_2 excluding biogenic CO_2) (74 FR 56379) for all other reporters and add a new paragraph specifically for facilities with part 75 units.

Response: We appreciate the significant feedback generated by the proposed amendments designed to clarify that separate reporting of biogenic emissions was optional for units subject to 40 CFR part 75. We also recognize that many industry and environmental groups have significant interest in the treatment of biomass in GHG reports, and specifically in the accounting of biogenic CO_2 emissions. Based on the significant feedback received, including comments received from facilities with 40 CFR part 75 units, as well as the fact that one of the fundamental goals of the Greenhouse Gas Reporting Program (GHGRP) is to collect data to support a range of potential future climate policies, we have reconsidered our position and decided to make the separate reporting of biogenic emissions mandatory for part 75 units beginning in the 2011 reporting year. Separate reporting of biogenic CO_2 emissions is optional for these units in the 2010 reporting year.

Per the requirements in the new paragraph 40 CFR 98.3(c)(12), facilities with one or more part 75 units must elect in the 2010 reporting year whether to report biogenic CO_2 emissions from 40 CFR part 75 units separately, or report only total CO_2 emissions (including biogenic CO_2) for the 40 CFR part 75 units at their facility. Beginning in the 2011 reporting year, these facilities must separately report biogenic CO_2 emissions for the entire facility per the requirements in 40 CFR 98.3(c)(4), like all other facilities.

In addition, the final rule does not adopt the proposed restructuring of 40 CFR 98.3(c)(4) and leaves in place the facility-level reporting requirements in 40 CFR 98.3(c)(4) for any facility in 2010 or for future years. All other facilities, except those with part 75 units, must, as finalized in the 2009 final rule, report CO_2 (excluding biogenic CO_2) and then report separately biogenic CO_2 emissions. We would note that neither the original proposed amendments, nor the amendments finalized today, affect the fact that biogenic CO_2 emissions are excluded from the applicability determination under 40 CFR 98.2.

Commenters provided many reasons for supporting mandatory separate reporting of biogenic CO_2 emissions from all facilities, including the increased transparency that such reporting brings. Some commenters supported the assumption of the carbon neutrality of biomass while others dispelled it, but both sides were united in their comments that it is important to understand the GHG emissions associated with biomass consumption. Our decision to also require separate reporting of biogenic emissions for units that use the methods in 40 CFR part 75 is founded solely on the principle that having data available at a more disaggregated level for a reporting program like this one improves transparency and better enables us and other stakeholders to use the data to evaluate future potential policy options, without prejudging what those policies might be. This decision is not based on any conclusions about "carbon neutrality" or the appropriateness of combining fossil CO_2 and biogenic CO_2 into a single value.[4] Rather, EPA's approach preserves the flexibility for the Agency and for stakeholders to understand reported CO_2 emissions in multiple ways. Despite the benefits of having separate data with which to distinguish biogenic CO_2 emissions, which we do not dispute, the 2009 final rule did not require this reporting for units subject to 40 CFR part 75. This is consistent with the Response to Comments document for subpart D of the final rule[5] where it states "It is EPA's intent that Acid Rain Program units will be able to continue to measure and report CO_2 emissions as they do under the Acid Rain Program" which did not require separate reporting of biogenic CO_2. However, when we opened the relevant paragraphs to notice and comment, we received overwhelming support for making the separate reporting of biogenic CO_2 emissions mandatory, including from facilities with part 75 units. This support, in combination with the value of having the data for policy analysis, led us to reconsider our position and require separate reporting of biogenic CO_2 emissions beginning in the 2011 reporting year for the 40 CFR part 75 units. We decided to retain optional reporting for the 2010 reporting year due to the fact that we have provided guidance indicating that separate reporting was optional for these part 75 units, and therefore, some facilities may not have incorporated procedures into their monitoring plans or developed internal systems for collecting the necessary information to facilitate the biogenic CO_2 emissions calculations.

To implement the changes described above, we are adding new paragraph 40 CFR 98.3(c)(12), as well as amending paragraphs 40 CFR 98.33(e) (to provide an additional option for part 75 units to calculate the biogenic CO_2 emissions), 40 CFR 98.34(f), several paragraphs in 40 CFR 98.36(d), and 40 CFR 98.43.

D. Subpart A—General Provisions: Requirements for Correction and Resubmission of Annual Reports

1. Summary of Final Amendments and Major Changes Since Proposal

Subpart A, as promulgated in October 2009, required that an "owner or operator shall submit a revised report within 45 days of discovering or being notified by EPA of errors in an annual GHG report. The revised report must correct all identified errors. * * *" We are amending 40 CFR 98.3(h) to clarify the types of errors that trigger a resubmission and the process for resubmitting annual GHG reports.

First, reports only have to be resubmitted when the owner or operator or the Administrator determines that a

[4] EPA requested comment on approaches to accounting for GHG emissions from bioenergy and other biogenic sources earlier this year. The Call for Information (75 FR 41173 and 75 FR 45112), supporting information and comments can be found in docket EPA–HQ–OAR–2010–0560. Please refer to those documents for more information about this issue.

[5] Mandatory Greenhouse Gas Reporting Rule, EPA's Response to Public Comments, Volume 16, Subpart D Electricity Generation. Found at *http://www.epa.gov/climatechange/emissions/downloads09/documents/SubpartD–Comment Reponses.pdf.*

substantive error exists. A substantive error is defined as one that impacts the quantity of GHG emissions reported or otherwise prevents the reported data from being validated or verified. This clarification is important because some errors are not significant (*e.g.,* an error in the zip code) and do not impact emissions. Such non-significant errors will not obligate the owner or operator to resubmit the annual report.

The owner or operator is required to resubmit the report within 45 days of identifying the substantive error, or of being notified by the Administrator of a substantive error, unless the owner or operator provides information demonstrating that the previously submitted report does not contain the identified substantive error or that the identified error is not a substantive error. This amendment provides owners and operators the opportunity to demonstrate whether an error the Administrator has deemed to be a substantive error is not, in fact, a substantive error.

Finally, we are also allowing owners and operators to request an extension of the 45-day resubmission deadline to address facility-specific circumstances that arise in either correcting an error or determining whether or not an identified error is, in fact, a substantive error. Owners and operators are required to notify EPA by e-mail at least two business days prior to the end of the 45-day resubmission deadline if they seek an extension. An automatic 30-day extension will be granted if EPA does not respond to the extension request by the end of the 45-day period.

We are including the opportunity to extend the period for resubmission in recognition that the data system is still under development and we do not yet fully know the full range of errors that will be identified and, therefore, the time required to address such errors. Verification and quality assurance and quality control checks are currently under development in the data system. Some flags that the data system might generate will not necessarily reflect substantive errors, but rather will be flags to alert the owner or operator to review the submission carefully to make sure the information provided is correct. On the other hand, some flags could identify substantive errors that affect the overall GHG emissions reported to EPA. Although we have concluded that it is important to provide facilities and suppliers the opportunity to extend this deadline, we believe that the 45-day time period is a sufficient time period for the vast majority of facilities and suppliers.

There have been no major changes from proposal regarding requirements for correction and resubmission of annual reports.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: One commenter, representing several organizations, was concerned that the amended process for submitting revised annual GHG reports upon identification or notification by EPA of an error was too complex and would substantially slow down correction of reported errors. Generally, they asserted that the 45-day process that was in the final Part 98 (74 FR 56381) should be appropriate for most reporters, and to the extent there were any outliers, then EPA could use enforcement discretion for those specific reporters as opposed to changing the rule for all reporters. The commenter was further concerned that EPA proposed to allow reporters to extend their resubmission deadline in the event of a disagreement between EPA and the reporter, by at least 30 days. The commenters suggested that the process does not give EPA a clear method to dispute these points with operators, does not specify that EPA's view trumps the operator's opinion, and does not allow members of the public to argue that an error is, in fact, substantive, and must be corrected. They contended that the overall process could take months or years to correct errors, and the operators may still refuse to correct some of them. They argued this is a departure from the existing rule, and serves only to hinder what was a straightforward and effective process.

Response: The process in these final rule amendments for submission of revised annual GHG reports to correct any substantive errors in these reports is reasonable and consistent with the purpose of the GHG Reporting Program. The purpose of these reporting requirements is to provide EPA with accurate and timely information on greenhouse gases in order to gain a better understanding of the relative emissions of specific industries and facilities, the factors that influence emission rates, and the actions that facilities could in the future, or already take, to reduce emissions. In light of this purpose, it is reasonable to focus an ongoing requirement to correct errors in an annual report on "substantive errors," *i.e.,* errors that affect emissions data quality, validation, or verification. Further, because this is a new program covering a wide variety of industries and processes, some of whom may not be familiar with GHG accounting and reporting, we have determined that under these circumstances it is reasonable to establish a procedure engaging owners and operators on whether the annual report actually contains identified "substantive errors."

The commenters' claims that this procedure provides no "clear method" of determining what are substantive errors, may take "months, perhaps years," may result in owners refusing to correct errors, and is unnecessary are unsupported and speculative. First, EPA has concluded that the definition of "substantive error"—an error that impacts emissions data quality or otherwise prevents the data from being validated or verified—is reasonably clear and is consistent with the purposes of GHG emissions reporting. The commenter fails to show what is unclear about this definition, nor why it is unreasonable to focus corrections on substantive errors, versus insignificant ones that do not impact the accuracy of submitted information.

Second, these final rule amendments set time limits for correction of substantive errors, *i.e.,* correction through submission of a revised annual GHG report within 45 days of discovery (or notification by EPA of the errors) plus any "reasonable extensions" of time (including one automatic 30 day extension). The commenter fails to provide any basis for conflating these limited time frames into periods of many months or years. Further, because refusal by an owner or operator to correct substantive errors within the appropriate time frame would be a violation of the CAA and subject to significant civil penalties, the commenter has no basis for assuming that owners and operators would simply refuse to make the corrections.

Third, the error correction process provides a standard process that is applicable to all owners and operators and that owners and operators and EPA can use to attempt to resolve issues concerning error correction. EPA has determined that this process will likely result in more efficient error correction and resolution of error correction issues by setting a limited time for contesting EPA's identification of substantive errors. In addition, EPA's provision of a standard process provides more certainty for owners and operators of an

opportunity to resolve issues than if EPA were simply to rely on enforcement discretion, as recommended by a commenter.

The commenters also claimed the public will have no opportunity to argue that errors are substantive and should be corrected. However, this does not represent a change from the error correction process under the 2009 final rule. The amendments for resubmission of annual reports did not change public involvement in the resubmission process.

The process in today's rule better focuses the resources of EPA, regulated industries and the public on those errors that are most relevant to generating accurate data.

Comment: Several commenters requested that EPA provide a numerical determination of what is a "substantive error." One commenter proposed a +/− 10 percent change in the reported GHG emissions value as a result of the identified error. Another commenter requested that EPA clarify that substantive errors are only those that exceed 1 percent to 5 percent of the total annual CO_2 equivalent emissions.

One commenter requested that, in the final preamble, EPA clarify that any error not be considered substantive unless it exceeds 1 percent to 5 percent of the total annual CO_2 equivalent ("CO_2e") emission amount reported by an individual reporting facility. The commenter also requested that EPA modify the "contains one or more substantive errors" language to allow the agency flexibility to investigate potential as well as documented errors.

Response: The final rule defines substantive error as an error that impacts the quantity of GHG emissions reported or otherwise prevents the reported data from being validated or verified. EPA has determined that it is not appropriate to establish a threshold below which errors do not have to be corrected and resubmitted. EPA has determined that if an error in the GHG emissions estimate occurs, then that emissions error should be corrected and the annual GHG emissions report resubmitted. If a facility were to go through the process of identifying the estimate in GHG emissions, calculating what the GHG emissions total should have been, and then determining the percent difference between the original reported estimate and the revised estimate, then the reporter has all of the information necessary to report that revised estimate.

E. Subpart A—General Provisions: Information To Record for Missing Data Events

1. Summary of Final Amendments and Major Changes Since Proposal

We are amending 40 CFR 98.3(g)(4) by removing requirements to maintain records on the duration of a missing data event and actions taken to minimize future occurrences, while retaining the requirement that records be kept of the cause of each missing data event and the corrective actions taken. We are also clarifying that the records retained pursuant to 40 CFR 75.57(h) may be used to meet the recordkeeping requirements under Part 98 for the same missing data events.

There have been no major changes from proposal regarding recordkeeping requirements for missing data events.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: Some commenters stated that although EPA has justified this proposal by noting that 40 CFR part 75 does not require separate accounting of "the duration of missing data events or * * * actions taken to minimize occurrence in the future," that alone is not sufficient justification for not including these requirements under the reporting program. The commenters asserted that part 75's requirements do not constrain EPA's obligations in the GHG context. The commenters wrote that reporting the duration of a missing data event cannot be considered overly burdensome because reporters that accurately use missing data procedures must know the duration of missing data events and so must be collecting this information regardless. Also, the commenters indicated that most facilities covered by the rule do not use CEMS, and thus, EPA should not change the "minimize occurrence" requirement for all reporters (CEMS users and non-CEMS users) because missing data events associated with the use of CEMS often have no clear measures to avoid similar occurrences in the future.

Response: With respect to removal of the requirement to record the duration of a missing data event, EPA determined that the requirement in 40 CFR 98.3(c)(8) to report the total number of hours in the year that missing data are used for each data element provides sufficient information for purposes of the GHG Reporting Program. Although the "total number of hours" will not provide information on the duration of each missing data event, EPA will know the total fraction of the year for which missing data are used for a particular data element. We have determined that this information provides EPA sufficient information on the extent of use of the missing data provisions for any given reporter.

EPA also decided to remove recordkeeping requirements related to "actions taken to prevent or minimize occurrence in the future" after considering the value of the potential loss of data as compared to the burden of compliance with the rule as written. As described below, we determined that sufficient information is available regarding missing data without requiring this additional information.

First, reporters must report annual hours for each missing data element. Through this reported data, EPA can identify whether missing data is particularly prevalent for a given data element at a given facility. Second, records must be retained on the cause of the event and actions taken to restore malfunctioning equipment. If EPA elects to review these records, this information, along with reported information on the total hours of missing data for each data element, will suggest whether the source is taking action to prevent or minimize occurrence in the future. Therefore, we have determined that it is not necessary to collect information specifically on actions taken to prevent or minimize occurrence of missing data in the future.

EPA acknowledges the point made by the commenters that most facilities subject to the rule do not use CEMS, and therefore, this fact can not be used as a justification for removing requirements related to minimizing future occurrence. Further, EPA agrees that information on duration would likely be collected when following the applicable missing data procedures. Nevertheless, based on the preceding discussion, EPA has concluded that sufficient data will be available on missing data through the required reporting of total number of hours in the year that missing data are used for each data element (per 40 CFR 98.3(c)(8)), and the recordkeeping requirements on cause of the event and actions taken to restore malfunctioning equipment. EPA has determined that requiring collection and retention of additional data on duration and actions taken to prevent or minimize occurrence

in the future is not necessary under the reporting program at this time.

F. Subpart A—General Provisions: Other Technical Corrections and Amendments

1. Summary of Final Amendments and Major Changes Since Proposal

We are making several additional amendments to subpart A, as follows.

We are making technical corrections to 40 CFR 98.3(c)(4)(i) through (c)(4)(iii) and (c)(4)(vi) to clarify that facilities must report GHG emissions from all applicable source categories, which includes general stationary fuel combustion, miscellaneous carbonates and any other source category covered by Part 98. This is consistent with the language in the 2009 final rule which required facilities to report emissions from all applicable source categories in subparts C through JJ. In a recent final rule (July 12, 2010, 75 FR 39736) we updated 40 CFR 98.2 to remove the lists of source categories covered by the rule and replace the list with Tables, specifically Table A–3 and Table A–4 of this chapter. This change was merely a reorganization and did not change applicability under the rule. The reformatting from lists to tables would enable EPA to add source categories in the future, and therefore add new subparts to the rule, without having to update all language referring to "subparts C through JJ." In finalizing that rule, we made the appropriate changes to 40 CFR 98.2 indicating facilities must report GHG emissions from stationary fuel combustion sources, miscellaneous use of carbonates and all applicable source categories in Table A–3 and Table A–4. However, only the references to Table A–3 and Table A–4 were carried over to 40 CFR 98.3(c), which might suggest that facilities did not have to report emissions from general stationary combustion, because combustion is not in Table A–3 or Table A–4. We are therefore amending 40 CFR 98.3(c) to clarify that facilities must also report emissions from general stationary combustion and miscellaneous use of carbonates.

We are amending 40 CFR 98.3(c)(5)(i) to clarify that for the purposes of meeting the requirements of this paragraph, suppliers of industrial fluorinated GHGs only need to calculate and report GHG emissions in $mtCO_2e$ for those fluorinated GHGs that are listed in Table A–1. Suppliers of industrial fluorinated GHGs do not need to calculate and report GHG emissions in metric tons CO_2 equivalents ($mtCO_2e$) for fluorinated GHGs not listed in Table A–1. However, it is important to note that suppliers are still required to report these gases under 40 CFR 98.3(c)(5)(ii) (in metric tons of GHG).

We are amending 40 CFR 98.3(d)(3) to correct the year in which reporters that submit an abbreviated report for 2010 must submit a full report, from 2011 to 2012. The full report submitted in 2012 will be for the 2011 reporting year.

We are amending 40 CFR 98.3(f) to correct the cross-reference from "§ 98.3(c)(8)" to "§ 98.3(c)(9)." We are amending 40 CFR 98.3(g)(5)(iii) to correct a spelling error.

We are amending the elements required with a certificate of representation under 40 CFR 98.4(i)(2) to include organization name (company affiliation-employer). We are also adding the same element to the delegation by designated representative and alternate designated representative under 40 CFR 98.4(m)(2). Part 98 and the amendments do not require the designated representative, alternate designated representative, or agent to be an employee of the reporting entity. If a designated representative further delegates their authority to an agent the agent gains access to all data for that facility or supplier. To underline the importance of granting access to the correct person, EPA requires the designated representative (or alternate) to confirm each agent delegation. Adding organization name to the certificate of representation and notice of delegation adds a level of assurance to the confirmation process.

Finally, we are amending 40 CFR 98.6 (Definitions) and 40 CFR 98.7 (What standardized methods are incorporated by reference into this part?). We are adding or changing several definitions to subpart A, which are needed to clarify terms used in other subparts of Part 98.

We are amending the definitions of several terms in 40 CFR 98.6:

- Bulk natural gas liquid
- Distillate fuel oil
- Fossil fuel
- Fuel gas
- Municipal solid waste or MSW
- Natural gas
- Natural gas liquids, and
- Standard conditions

Bulk natural gas liquid. We are amending the definitions of "bulk natural gas liquid or NGL" and "natural gas liquids (NGL)" by removing the phrase "lease separators and field facilities" for enhanced clarity. We have retained the words "or other methods" in both definitions because the list of separation processes in the definitions (absorption, condensation, adsorption) is not exhaustive, and other separation/extraction processes may be employed at some facilities. We do not wish to exclude the reporting of emissions associated with products separated/extracted by means not explicitly stated in the rule.

Distillate fuel oil. We are expanding the definition of "Distillate fuel oil" to include kerosene-type jet fuel.

Fossil fuel. We are amending the definition of fossil fuel, as proposed, to read, "*Fossil fuel* means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material for purpose of creating useful heat." This amendment finalizes the same definition of fossil fuel that was originally proposed in April 2009 (74 FR 16621), but was subsequently amended in the final Part 98 (74 FR 56387). The change is not intended to have any impact on coverage of greenhouse gases under the GHG Reporting Program.

Fuel gas. We are amending the definition of fuel gas to clarify that it includes only gas generated at refineries or petrochemical processes subject to subpart X and to remove the phrase "or similar industrial process unit." For a fuel explanation of this final change, please see the Comments and Response discussion under Section II.G of this preamble.

Municipal solid waste. We are amending the definition of municipal solid waste to be similar to, but not exactly the same as, the definition of "municipal solid waste" in subpart Ea of the NSPS regulations (40 CFR 60.51a). The amended definition explains what is meant by "household waste," "commercial/retail waste," and "institutional waste." Household, commercial/retail, and institutional wastes include yard waste, refuse-derived fuel, and motor vehicle maintenance materials. Insofar as there is separate collection, processing and disposal of industrial source waste streams consisting of used oil, wood pallets, construction, renovation, and demolition wastes (which includes, but is not limited to, railroad ties and telephone poles), paper, clean wood, plastics, industrial process or manufacturing wastes, medical waste, motor vehicle parts or vehicle fluff, or used tires that do not contain hazardous waste identified or listed under 42 U.S.C. 6921, such wastes are not municipal solid waste. However, such wastes qualify as municipal solid waste where they are collected with other municipal solid waste or are otherwise combined with other municipal solid waste for processing and/or disposal.

Natural gas. We are finalizing the definition of natural gas to remove any specifications regarding Btu value or methane content. The final definition

reads, "Natural gas means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal constituent is methane. Natural gas may be field quality or pipeline quality." For a full explanation of this final change, please see the Comments and Response discussion under this section of the preamble.

Standard conditions. For consistency across the rule, and to reflect typical operating procedures at various types of industries covered by 40 CFR part 98, we are amending the definition of standard conditions to mean either 60 or 68 degrees Fahrenheit and 14.7 pounds per square inch absolute.

We are adding definitions of the following terms to 40 CFR 98.6 to address the large number of questions received requesting clarification on the meaning of these terms:

- Agricultural by-products,
- Primary fuel,
- Solid by-products,
- Used oil, and
- Wood residuals.

We received no comments on the definitions of "Agricultural by-products," "Primary fuel," and "Solid by-products." Therefore, these definitions have been finalized, as proposed. For the purposes of Part 98, "Agricultural by-products" includes the parts of crops that are not ordinarily used for food (*e.g.,* corn straw, peanut shells, pomace, *etc.*). "Primary fuel" is defined as the fuel that contributes the greatest percentage of the annual heat input to a combustion unit. "Solid by-products" includes plant matter such as vegetable waste, animal materials/wastes, and other solid biomass, except for wood, wood waste and sulphite lyes (black liquor).

We proposed to add the term "waste oil" to Table C–1 but we received comment use of the term "waste oil" could result in used oil being classified as hazardous waste. We have therefore changed the term to "used oil." Used oil has been added to Table C–1 as a new fuel type, and is defined as a petroleum-derived or synthetically-derived oil whose physical properties have changed as a result of handling or use, such that the oil cannot be used for its original purpose. Used oil consists primarily of automotive oils (*e.g.,* used motor oil, transmission oil, hydraulic fluids, brake fluid, *etc.*) and industrial oils (*e.g.,* industrial engine oils, metalworking oils, process oils, industrial grease, *etc*). For a full explanation of this final change, please see the Comments and Response discussion under this section of the preamble.

The definition of "wood residuals" has been finalized similar to the proposal, but EPA has also specifically included trim, sander dust, and sawdust from wood products manufacturing (including resinated wood product residuals) in the final definition.

We are amending 40 CFR 98.7 (Incorporation by reference) to accommodate changes in the standard methods that are allowed by other subparts of Part 98. The rationale for any additions or deletions of methods in a particular subpart is discussed in the relevant subpart.

Major changes since proposal are identified in the following list. The rationale for these and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

- Not adopting the proposed amendments to 40 CFR 98.3(c)(1) to report a facility or supplier ID number.
- Clarifying the definition of municipal solid waste. Clarifying that separate collection, processing and disposal of industrial source waste streams consisting of used oil, wood pallets, construction, renovation, and demolition wastes, clean wood, industrial process or manufacturing wastes, medical waste, motor vehicle parts or vehicle fluff, or used tires that do not contain hazardous waste identified or listed under 42 U.S.C. 6921, are not municipal solid waste. However, such wastes qualify as municipal solid waste where they are collected with other municipal solid waste or are otherwise combined with other municipal solid waste for processing and/or disposal.
- Finalizing the definition of natural gas to remove any specifications regarding Btu value or methane content.
- Amending the definition of standard conditions to provide two alternatives.
- Replacing the term "waste oil" with "used oil."
- Amending the definition of "wood residuals" to include trim, sander dust and sawdust from wood products manufacturing, including resinated wood product residuals.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: Several commenters objected to the proposed definition of municipal solid waste or MSW. One commenter in particular pointed to the regulatory history of the definition in 40 CFR 60, subpart Ea, indicating that some of the materials excluded by the proposed definition under 40 CFR part 98 are often included in MSW. According to the commenter, some of the exclusions in subpart Ea were added to the definition to provide an exemption to certain sources that combust materials such as used oil or wood pellets separately. By excluding materials often considered to be part of MSW, the commenter expressed concern that the proposed definition of MSW in 40 CFR part 98 might force some municipal waste combustors who considered themselves to be combusting MSW and would therefore otherwise be allowed to use Tier 2, to not meet the definition of MSW under 40 CFR part 98 and therefore have to install CEMS and use the Tier 4 methodology to quantify CO_2 emissions.

Response: EPA proposed to amend the definition of MSW to provide greater clarity on what is included as MSW. Several questions were raised during implementation of the GHGRP because the definition of MSW in the final Part 98 rule was too generic and did not define terms such as "house, commercial/retail, and institutional waste." To clarify the definition, EPA sought to use another EPA definition of the term, and did not intend to push some municipal waste combustors into a higher tier. Based on supplementary information provided by the commenter (please refer to EPA–HQ–OAR–2008–0508), the final definition of MSW includes materials that should not have been excluded, and clarifies that when these materials are extracted from MSW and combusted separately, they are not classified as MSW.

Comment: Two commenters on the definition of "Natural gas" pointed out that not all natural gas (particularly field gas) can consistently meet the proposed specifications. The commenters were concerned that EPA's proposal to include specifications that natural gas must be composed of at least 70 percent methane by volume or have a high heat value between 910 and 1,150 Btu per standard cubic foot would be problematic for subpart W, when finalized, because these ranges could exclude field gas.

Response: The definition of natural gas in the final rule caused significant confusion because it included not only

naturally occurring mixtures of hydrocarbons, but also fuels such as field gas, process gas and fuel gas. We proposed to change the definition of "natural gas" to include specifications on the methane content and a range of Btu values that must be achieved before the gas can be referred to as "natural gas." Clarifying the definition of natural gas is important, particularly given that it is a fuel in Table C–1 and if an owner or operator burns a fuel outside the range of the specifications, then they could be pushed into Tier 3 if any unit has a maximum rated heat input capacity greater than 250 million British thermal units per hour (mmBtu/hr).

Based on the comments received we have decided to finalize the definition of natural gas without any specifications regarding minimum or maximum Btu values or a minimum methane content. Although the commenters were concerned specifically about the implications of the definition of natural gas for the oil and gas industry, where the fuels combusted can often fall outside the listed specifications thereby potentially forcing them into Tier 3, these concerns did not weigh heavily into our determination to remove the specifications. Rather, we considered that most facilities subject to subpart C only typically burn natural gas within the proposed specifications. For these facilities, it was not necessary to list specifications, because most would already fall into the specifications we had proposed. Further, we were concerned that by introducing specifications to the definition of natural gas we could inadvertently push a small number of owners or operators into Tier 3, if they have been combusting a fuel outside that range.

It is true that facilities in the oil and gas industry are more likely to combust gas outside the listed specifications (*e.g.,* field gas). However, facilities in the oil and gas industry will be subject to the reporting requirements under subpart W beginning with the 2011 reporting year. The concerns raised by the commenters with respect to calculating combustion-related emissions from natural gas were explicitly considered within the context of subpart W.

Comment: One commenter brought to our attention that the term "used oil" is more appropriate than "waste oil." According to the commenter, the term "waste oil" could result in used oil being classified as hazardous waste rather than traditional fuel, and might bring the Resource Conservation and Recovery Act program into view.

Response: Without indicating whether we agree with the commenter's concern or not, we have decided to avoid potential complication or confusion and have replaced the term "waste oil" with "used oil" in the final rule.

Comment: We received two comments on the definition of "wood residuals." Both commenters requested that the definition explicitly include trim, sander dust and sawdust from wood products manufacturing, including resinated wood product residuals because they were concerned that the proposed definition was too broad and it was not clear if these products were included.

Response: We agree with the commenter. We did not intend to exclude these types of products from the definition of wood residuals and agree that these terms should be included in the definition in order to provide clarity.

Comment: Several commenters expressed concern about EPA's proposal to add a reporting requirement for facility ID. Two commenters suggested that EPA provide a separate public comment period for including a facility ID reporting requirement, and in that proposal, include a specific mechanism for assigning the ID numbers.

Response: Although we maintain that assigning a unique ID number to each facility or supplier, for administrative purposes, is important to facilitate program implementation, we have decided it is not necessary to finalize this reporting requirement at this time, given the concerns raised by the commenters. We will consider this issue further for future rulemakings. Note that we are still finalizing the technical clarification in 40 CFR 98.3(c)(1) that it is the physical street address of the facility or supplier that must be reported.

G. Subpart C—General Stationary Fuel Combustion

1. Summary of Final Amendments and Major Changes Since Proposal

Numerous issues have been raised by owners and operators in relation to the requirements in subpart C for general stationary fuel combustion. The issues being addressed by the final amendments include the following:

- Definition of the source category.
- GHGs to report.
- Calculating GHG emissions.
- Natural gas consumption expressed in therms.
- Use of Equation C–2b.
- Categories of gaseous fuels.
- Use of mass-based gas flow meters.
- Site-specific stack gas moisture content values.
- Determining emissions from an exhaust stream diverted from a CEMS monitored stack.
- Biomass combustion in Part 75 units using the CO_2 calculation methodologies in 40 CFR 98.33(a)(5).
- Use of Tier 3.
- Tier 4 monitoring threshold for units that combust MSW.
- Applicability of Tier 4 to common stack configurations.
- Starting dates for the use of Tier 4.
- Methane (CH_4) and nitrous oxide (N_2O) calculations.
- CO_2 emissions from sorbent.
- Biogenic CO_2 emissions from biomass combustion.
- Fuel sampling for coal and fuel oil.
- Tier 3 sampling frequency for gaseous fuels.
- GHG emissions from blended fuel combustion.
- Use of consensus standard methods.
- CO_2 monitor span values.
- CEMS data validation.
- Use of American Society of Testing and Materials (ASTM) Methods D7459–08 and D6866–08.
- Electronic data reporting and recordkeeping.
- Common stack reporting option.
- Common fuel supply pipe reporting option.
- Table C–1 default HHV and CO_2 emission factors.
- Table C–2 default CH_4 and N_2O emission factors.

Definition of the source category. We are adding new paragraph 40 CFR 98.30(d), clarifying that the GHG emissions from a pilot light need not be included in the emissions totals for the facility. A pilot light is a small auxiliary flame that simply ignites the burner of a combustion process in a boiler, turbine, or other fuel combustion device, and is not used to produce electricity or steam, or provide useful energy to an industrial process, or reduce waste by removing combustible matter.

GHGs to report. We are amending 40 CFR 98.32 to clarify that CO_2, CH_4, and N_2O mass emissions from a stationary fuel combustion unit do not need to be reported under subpart C if such an exclusion is indicated elsewhere in subpart C.

Calculating GHG emissions. We are amending the introductory text of 40 CFR 98.33(a) to provide additional detail and clarify who may (or must) use the calculation methods in the subsequent paragraphs to calculate and report GHG emissions. Specifically, we are amending this text to point out that certain sources may use the methods in 40 CFR part 75 to calculate CO_2 emissions, if they are already using part

75 to report heat input data year-round under another CAA program. The introductory text of 40 CFR 98.33(a) is also being amended to clarify the reporting of CO_2 emissions from biomass combustion when a unit combusts both biomass and fossil fuels.

Natural gas consumption expressed in therms. We are amending 40 CFR 98.33(a)(1) by adding two new equations to Tier 1. When natural gas consumption is expressed in therms, Equation C–1a enables sources to calculate CO_2 mass emissions directly from the information on the billing records, without having to request or obtain additional data from the fuel suppliers. We are also allowing Equation C–1a to be used for units of any size when the fuel usage information on natural gas billing records is expressed in units of therms. A new paragraph, (b)(1)(v), has been added to 40 CFR 98.33 to reflect this. Section 98.36(e)(2)(i) is also amended to allow gaseous fuel consumption to be reported in units of therms.

Equation C–1b has been added to Tier 1 to accommodate situations in which the fuel usage information on gas billing records is expressed in mmBtu. We are also adding two new equations to 40 CFR 98.33(c), *i.e.,* Equations C–8a and C–8b, for calculating CH_4 and N_2O emissions when the fuel usage information on natural gas billing records is in units of therms or mmBtu.

Use of Equation C–2b. We are amending 40 CFR 98.33(a)(2)(ii), to require calculation of a weighted HHV, using Equation C–2b, only for individual Tier 2 units with a maximum rated heat input capacity greater than or equal to 100 mmBtu/hr, and for groups of units that contain at least one unit of that size. For Tier 2 units smaller than 100 mmBtu/hr and for aggregated groups of Tier 2 units under 40 CFR 98.36(c)(1) in which all units in the group are smaller than 100 mmBtu/hr, we are allowing reporters to use either an annual arithmetic average HHV or an annual fuel-weighted average HHV in Equation C–2a.

Categories of gaseous fuels. We have revised 40 CFR 98.34(a)(2)(iii) by replacing the term "fossil fuel-derived gaseous fuels" with a more inclusive term, *i.e.,* "gaseous fuels other than natural gas." Corresponding changes to Table C–1 were also made for consistency, placing blast furnace gas, coke oven gas, fuel gas, and propane in a new category, "Other fuels (gaseous)."

Use of mass-based gas flow meters. The Tier 3 CO_2 emissions calculation methodology in 40 CFR 98.33(a)(3) allows reporters to use flow meters that measure mass flow rates of liquid fuels to quantify fuel consumption, provided that they (the reporters) determine the density of the fuel and convert the measured mass of fuel to units of volume (*i.e.,* gallons), for use in Equation C–4. In response to a number of requests, we are amending 40 CFR 98.33(a)(3)(iv), to conditionally allow reporters to use flow meters that measure mass flow rates of gaseous fuels for Tier 3 applications, as well as for liquid fuels. A reporter wanting to use this option will have to measure the density of the gaseous fuel, either with a calibrated density meter or by using a consensus standard method or standard industry practice, in order to convert the measured mass of fuel to units of standard cubic feet, for use in Equation C–5.

Site-specific stack gas moisture content values. We are amending 40 CFR 98.33(a)(4)(iii) to allow the use of site-specific moisture constants under the Tier 4 methodology. The site-specific moisture default value(s) must represent the fuel(s) or fuel blends that are combusted in the unit during normal, stable operation, and must account for any distinct difference(s) in stack gas moisture content associated with different process operating conditions. Generally, for each site-specific default moisture percentage, at least nine runs are required using EPA Method 4—Determination of Moisture Content In Stack Gases (40 CFR part 60, appendix A–3). Each site-specific default moisture value would be calculated by taking the arithmetic average of the Method 4 runs. Moisture data from the relative accuracy test audit (RATA) of a CEMS could be used for this purpose. The final rule does allow the site-specific moisture default values to be based on fewer than nine Method 4 runs in cases where moisture data from the RATA of a CEMS are used to derive the default value and the applicable regulation allows a single moisture run to represent two or more RATA runs.

Each site-specific moisture default value must be updated at least annually and whenever the reporter determines the current value is non-representative due to changes in unit or process operation. The updated moisture value must be used in the subsequent CO_2 emissions calculations.

Determining emissions from an exhaust stream diverted from a CEMS monitored stack. We are finalizing amendments to 40 CFR 98.33(a)(4) by adding a new paragraph, (a)(4)(viii), to address the determination of CO_2 mass emissions from a unit subject to the Tier 4 calculation methodology when a portion of the flue gases generated by the unit exhaust through a stack that is not equipped with a CEMS to measure CO_2 emissions (herein referred to as an "unmonitored stack"). The final amendments require annual emission testing of a diverted gas stream to be performed at a set point that best represents normal operation, using EPA Methods 2 and 3A and (if moisture correction is necessary) Method 4. A CO_2 mass emission rate is calculated from the test results. If, over time, flow rate of the diverted stream varies little from the tested flow rate, then the annual CO_2 mass emissions for the diverted stream (which must be added to the CO_2 mass emissions measured at the main stack) are determined simply by multiplying the CO_2 mass emission rate from the emission testing by the number of operating hours in which a portion of the flue gas was diverted from the main flue gas exhaust system. However, if the flow rate of the diverted stream varies significantly over the reporting year, the owner or operator must either perform additional stack testing or use the best available information (*e.g.,* fan settings and damper positions) and engineering judgment to estimate the CO_2 mass emission rate at a minimum of two additional set points, to represent the variation across the normal operating range. Then, the most appropriate CO_2 mass emission rate must be applied to each hour in which a portion of flue gas is diverted from the main exhaust system. The procedures used to determine the annual CO_2 mass emissions for the diverted stream must be documented in the GHG monitoring plan.

Biomass combustion in Part 75 units using the CO_2 *calculation methodologies in 40 CFR 98.33(a)(5).* We are amending 40 CFR 98.33(a)(5)(iii)(D) to redesignate it as 40 CFR 98.33(a)(5)(iv). This is to correct a paragraph numbering error in subpart C, because this paragraph applies to all of 40 CFR 98.33(a)(5) and not just to 40 CFR 98.33(a)(5)(iii).

We had proposed to amend 40 CFR 98.3(c) in subpart A and 40 CFR 98.33(a)(5) to clarify that the separate reporting of biogenic CO_2 is optional for units that are not subject to the Acid Rain Program, but are using 40 CFR part 75 methodologies to calculate CO_2 mass emissions, as described in 40 CFR 98.33(a)(5)(i) through (a)(5)(iii). After considering the comments received on this proposal and other information (*see* EPA–HQ–OAR–2008–0508), however, we are finalizing language which makes it clear that reporting of biogenic CO_2 emissions from these units is optional for reporting year 2010, and mandatory

thereafter. Please see the discussion in Section II.C of this preamble regarding separate reporting of biogenic emissions for units subject to 40 CFR part 75.

Use of Tier 3. We are amending 40 CFR 98.33(b)(3)(iii) to clarify that the paragraph applies also to common pipe configurations where at least one unit served by the common pipe has a heat input capacity greater than 250 mmBtu/hr.

We are also adding a new paragraph, (b)(3)(iv), to 40 CFR 98.33, requiring Tier 3 to be used when specified in another subpart of Part 98, regardless of unit size. For example, subpart Y requires certain units that combust fuel gas to use Equation C–5 in subpart C (which is the Tier 3 equation for gaseous fuel combustion) to calculate CO_2 mass emissions, without regard to unit size.

Tier 4 monitoring threshold for units that combust MSW. We are amending 40 CFR 98.33(b)(4)(ii)(A) to change the Tier 4 monitoring threshold from 250 tons MSW per day to 600 tons MSW per day, based on analysis that this value is approximately equivalent to the 250 mmBtu/hr Tier 4 heat input threshold for other large stationary combustion units. Units less than 600 tons MSW per day that do not meet the requirements in 40 CFR 98.33(b)(4)(iii) are allowed to use Tier 2 to calculate CO_2 mass emissions (specifically, Equation C–2c).

Applicability of Tier 4 to common stack configurations. We are amending 40 CFR 98.33(b)(4) by adding provisions to clarify how the Tier 4 criteria apply to common stack configurations. Paragraph (b)(4)(i) is expanded to include monitored common stack configurations that consist of stationary combustion units, process units, or both types of units. A new paragraph, (b)(4)(iv) is also added describing the following three distinct common stack configurations to which Tier 4 might apply.

The first, most basic configuration is one in which the combined effluent gas streams from two or more stationary fuel combustion units are vented through a monitored common stack (or duct). In this case, Tier 4 applies if the following conditions are met:

- There is at least one large unit in the configuration that has a maximum rated heat input capacity greater than 250 mmBtu/hr or an input capacity greater than 600 tons/day of MSW (as applicable).
- At least one large combustion unit in the configuration meets the conditions of 40 CFR 98.33(b)(4)(ii)(A) through (b)(4)(ii)(C).
- The CEMS installed at the common stack (or duct) meets all of the requirements of 40 CFR 98.33 (b)(4)(ii)(D) through (b)(4)(ii)(F).

Tier 4 also applies when all of the combustion units in the configuration are small (not greater than 250 mmBtu/hr or 600 tons/day of MSW), if at least one of the units meets the conditions of 40 CFR 98.33(b)(4)(iii).

The second configuration is one in which the combined effluent gas streams from a stationary combustion unit and a process or manufacturing unit are vented through a common stack or duct. Many subparts of Part 98 describe this situation (*see* subparts F, G, K, Q, Z, BB, EE, and GG). In this case, the use of Tier 4 is required if the stationary combustion unit and the monitors installed at the common stack or duct meet the applicability criteria of 40 CFR 98.33(b)(4)(ii) or 98.33(b)(4)(iii). If multiple stationary combustion units and a process unit (or units) are vented through a common stack or duct, Tier 4 is required if at least one of the combustion units and the monitors installed at the common stack or duct meet the conditions of 40 CFR 98.33(b)(4)(ii) or 98.33(b)(4)(iii).

The third configuration is one in which the combined effluent streams from two or more process or manufacturing units are vented through a common stack or duct. In this case, if any of these units is required to use Tier 4 under an applicable subpart of Part 98, the owner or operator can either monitor the CO_2 mass emissions at the Tier 4 unit(s) before the effluent streams are combined together, or monitor the combined CO_2 mass emissions from all units at the common stack or duct. However, if it is not feasible to monitor the individual units, the combined CO_2 mass emissions will have to be monitored at the common stack or duct, using Tier 4.

Starting dates for the use of Tier 4. In the October 30, 2009 final rule, 40 CFR 98.33(b)(5) of subpart C states that units that are required to use the Tier 4 methodology must begin using it on January 1, 2010 if all required CEMS are in place. Otherwise, use of Tier 4 begins on January 1, 2011, and Tier 2 or Tier 3 may be used to report CO_2 mass emissions in 2010. We are amending 40 CFR 98.33(b)(5) to clarify that sources can begin monitoring CO_2 emissions data prior to January 1, 2011 from CEMS that successfully complete certification testing in 2010. Note that changes in methodology during a reporting year are allowed by Part 98, and must be documented in the annual GHG emissions report (*see* 40 CFR 98.3(c)(6)).

This revision will allow sources to discontinue using Tier 2 or 3 and begin reporting their 2010 emissions under Tier 4 as of the date on which all required certification tests are passed. Data recorded during the certification test period for a CEMS can also be used for Part 98 reporting, provided that: All required certification tests are passed in sequence, with no test failures; and no unscheduled maintenance or repair of the CEMS is required during the test period.

We are also amending 40 CFR 98.33(b)(5) by adding a new paragraph, (b)(5)(iii), to address situations where the owner or operator of an affected unit that has been using Tier 1, 2, or 3 to calculate CO_2 mass emissions makes a change that triggers Tier 4 applicability by changing: The primary fuel, the manner of unit operation, or the installed continuous monitoring equipment. In such cases, the owner or operator will be required to begin using Tier 4 no later than 180 days from the date on which the change is implemented. This allows adequate time for the owner or operator to obtain and/or certify any of the required Tier 4 continuous monitors.

Methane and nitrous oxide calculations. Today's amendments remove the term "normal operation" from 40 CFR 98.33(c)(4)(i) and (c)(4)(ii). Therefore, calculation of CH_4 and N_2O emissions is simply required for each Table C–2 fuel combusted in the unit during the reporting year.

We are also further amending 40 CFR 98.33(c)(4)(ii), to allow additional reporting flexibility for certain units that combust more than one type of fuel; specifically, for units that report heat input data to EPA year-round using part 75 CEMS. Under the final amendments to 40 CFR 98.33(c)(4)(ii), 40 CFR part 75 units that use the worst-case F-factor reporting option can attribute 100 percent of the unit's annual heat input to the fuel with the highest F-factor, as though it were the only fuel combusted during the report year.

For Tier 4 units, the requirement to use the best available information to determine the annual heat input from each type of fuel is being retained in 40 CFR 98.33(c)(4)(i), but we are also now allowing it under 40 CFR 98.33(c)(4)(ii)(D) as an alternative for part 75 units, in cases where fuel-specific heat input values cannot be determined solely from the part 75 electronic data reports.

Carbon dioxide emissions from sorbent. We are amending 40 CFR 98.33(d) to make it more generally applicable to different types of CO_2-producing sorbents. The term "R" is redefined as the number of moles of CO_2 released upon capture of one mole of acid gas. When the sorbent is $CaCO_3$, the

value of R is 1.00. For other CO_2-producing sorbents, a specific value of R is determined by the reporting facility from the chemical formula of the sorbent and the chemical reaction with the acid gas species that is being removed.

Biogenic CO_2 emissions from biomass combustion.

The title and introductory text of 40 CFR 98.33(e) are being amended to more precisely define the requirements for reporting biogenic CO_2 emissions. In general, biogenic CO_2 emissions reporting is required only for the combustion of the biomass fuels listed in Table C–1 and for municipal solid waste (which consists partly of biomass and partly of fossil fuel derivatives).

We are also amending 40 CFR 98.33(e) to describe three cases in which reporters may not need to report biogenic CO_2 emissions separate from total CO_2 emissions, for units that combust biomass:

1. If a biomass fuel is not listed in Table C–1 and is combusted in a unit that is not required to use Tier 4, a reporter is not required to separately report the biogenic CO_2 emissions from combustion of that fuel unless:

—The fuel is combusted in a large unit (greater than 250 mmBtu/hr heat input capacity).

—The biomass fuel accounts for 10 percent or more of the annual heat input to the unit.

In that case, according to 40 CFR 98.33(b)(3)(iii), Tier 3 must be used to determine the carbon content of the biomass fuel and to calculate the biogenic CO_2 emissions.

2. If a unit is subject to subpart C or D and uses the CO_2 mass emissions calculation methodologies in 40 CFR part 75 to satisfy the Part 98 reporting requirements, the reporter has the option to report biogenic CO_2 emissions for the 2010 reporting year, but is required to report them thereafter.

3. For the combustion of tires, which are also partly biogenic (typically about 20 percent biomass, for car and truck tires), the reporter has the option, but not the requirement, to separately report the biogenic CO_2 emissions, by following the applicable provisions in 40 CFR 98.33(e).

No comments were received on the proposal to make biogenic CO_2 emissions reporting optional for the combustion of tires, and the proposal has been finalized without modification. However, tire-derived fuel has a biomass component, and perhaps it should be treated in the same manner as MSW, which is also partly biogenic. A number of units that are subject to Part 98 combust tires as the primary fuel or as a secondary fuel. Therefore, we are considering whether these units should be required to account for their biogenic CO_2 emissions. However, before making this mandatory we intend to open it to notice and comment in a future rulemaking.

We are amending 40 CFR 98.33(e)(1) by removing the restriction against using Tier 1 to calculate biogenic CO_2 emissions on units that use CEMS to measure the total CO_2 mass emissions. However, the use of Tier 1 is not allowed for calculating biogenic CO_2 emissions for combustion of MSW, as originally specified in 40 CFR 98.33(e)(1) of subpart C, and is also not allowed for the combustion of tires, if biogenic CO_2 emissions are calculated for tires.

We are amending the methodology in 40 CFR 98.33(e)(2), which is specifically for units using a CEMS to measure CO_2 mass emissions, by limiting it to cases where the CO_2 emissions measured by the CEMS are solely from combustion, *i.e.,* the stack gas contains no additional process CO_2 or CO_2 from sorbent; and prohibiting its use if the unit combusts MSW or tires.

For sources that combust MSW, we are amending 40 CFR 98.33(e)(3) to require, except as provided below, the quarterly use of ASTM methods D7459–08 and D6866–08, as described in 40 CFR 98.34(d), when any MSW is combusted either as the primary fuel or as the only fuel with a biogenic component. We are also amending 40 CFR 98.33(e)(3) to allow the ASTM methods to be used, as described in 40 CFR 98.34(e), for any unit in which biogenic (or partly biogenic) fuels, and non-biogenic fuels are combusted, in any proportions.

In response to comments, we have added an alternative calculation methodology for biogenic CO_2 emissions from the combustion of MSW and/or tires, which may be used when the total contribution of these fuels to the unit's heat input is 10 percent or less. If a unit combusts both MSW and tires and the reporter exercises the option not to separately report biogenic CO_2 emissions from the tires, the alternative calculation methodology may still be used for the MSW, provided that the contribution of MSW to the unit's total heat input does not exceed 10 percent. The methodology may also be used for small, batch incinerators that burn no more than 1,000 tons of MSW per year.

Units that qualify for and elect to use the alternative methodology will use Tier 1 to calculate the total annual CO_2 emissions from the combustion of the MSW or tires, and multiply the result by an appropriate default factor that represents the biomass fraction of the fuel, to obtain an estimate of the annual biogenic CO_2 emissions. Based on additional background research conducted, we have concluded that reasonable default factors are 0.20 for tires and 0.60 for MSW (please refer to the Background Technical Support Document—Revision of Certain Provisions).

We are also amending 40 CFR 98.33(e) to delete and reserve 40 CFR 98.33(e)(4) and the related subparagraphs. Although 40 CFR 98.33(e)(4) allowed the ASTM methods to be used to determine biogenic CO_2 emissions for various combinations of biogenic and fossil fuels, we are deleting and reserving that paragraph because the paragraph also included an unnecessary restriction, *i.e.,* it only applied to units that use CEMS to measure total CO_2 mass emissions. The amendments to 40 CFR 98.33(e)(3) described above will achieve the same intended purpose as paragraph (e)(4), without imposing this restriction, so paragraph (e)(4) is no longer needed.

We are amending 40 CFR 98.33(e)(5) so that it also applies to units that are using Tier 2 (Equation C–2a), as well as Tier 1 (Equation C–1), for calculating biogenic CO_2 mass emissions. The approach in 40 CFR 98.33(e)(5) for estimating solid biomass fuel consumption is equally applicable to units using those two equations to calculate biogenic CO_2 emissions. Equation C–2a applies when HHV data for a biomass fuel are available at the minimum frequency specified in 40 CFR 98.34(a)(2).

Finally, one commenter asked EPA to allow Part 75 units to calculate biogenic CO_2 emissions using the same general approach that is used in 40 CFR 98.33(c)(4)(ii) for the CH_4 and N_2O emissions calculations. This requires a heat input-based equation similar to Equation C–10 to be added to the rule. We find this request to be reasonable and have added a new paragraph, (e)(6), to 40 CFR 98.33(e). Paragraph (e)(6) provides the required equation, *i.e.,* Equation C–15a. In cases where $(HI)_A$, the fraction of unit heat input from combustion of the biomass fuel, cannot be determined from the information in Part 75 electronic data reports (*e.g.,* for units that measure the total CO_2 emissions with CEMS, if the "worst-case" F-factor option is used, or if biomass and fossil fuels with identical F-factors are combusted), facilities must use the "best available information" (as described in 40 CFR 98.33(c)(4)(ii)(C) and (c)(4)(ii)(D)) to determine $(HI)_A$.

Fuel sampling for coal and fuel oil. We are amending 40 CFR 98.34(a)(2), to clarify the frequency at which the HHV needs to be determined for different types of fuels.

First, we are amending 40 CFR 98.34(a)(2)(ii) to expand the list of fuels for which sampling of each fuel lot is sufficient to include other solid or liquid fuels that are delivered in lots.

Second, we are amending the definition of the term "fuel lot" in 40 CFR 98.34(a)(2)(ii), as it pertains to facilities that receive multiple deliveries of a particular type of fuel from the same supply source each month, either by truck, rail, or pipeline. The amendment clarifies that a fuel lot consists of all of the deliveries of that fuel for a given calendar month. Thus, for these facilities, the required HHV sampling has to be no more frequent than once per month. We did receive requests to clarify the meaning of the terms "type of fuel" and "supply source," pertaining to the proposal to require only one monthly sample to represent multiple fuel deliveries. The final rule clarifies that for coal, the type of fuel refers to the coal rank (*i.e.,* anthracite, bituminous, sub-bituminous, or lignite). For fuel oil, the type of fuel refers to the grade number or classification of the oil (*e.g.,* No. 2 oil, No. 6 oil, jet-A fuel, *etc.*). The term "supply source" is not so easily defined. For the reasons set forth in the Response to Comments (Section II.G.2 of this preamble), we have chosen not to include a definition of "supply source" in the final rule.

Third, we are adding parallel language to 40 CFR 98.34(b)(3)(ii), the Tier 3 fuel sampling provisions for coal and fuel oil, for consistency with the revisions to 40 CFR 98.34(a)(2)(ii).

Finally, we are amending 40 CFR 98.34(a)(2)(ii) and 40 CFR 98.34(b)(3)(ii) to allow manual oil samples to be taken after each addition of oil to the storage tank. Daily manual sampling, flow-proportional sampling, and continuous drip sampling are also allowed. The final rule requires at least one sample to be obtained from each storage tank that is currently in service, and whenever oil is added, for as long as the tank remains in service. If multiple additions (*e.g.,* from multiple deliveries) are made on a given day, taking one sample after the final addition is sufficient. No sampling is required for addition of fuel to a tank that is out of service. Rather, a sample must be taken when the tank is brought into service and whenever oil is added to the tank, for as long as the tank remains in service. If the daily manual sampling option is implemented, sampling from a particular tank is required only on those days when oil from that tank is combusted in the unit(s).

Tier 3 sampling frequency for gaseous fuels.

We are amending 40 CFR 98.34(b)(3)(ii)(E) to clarify that daily sampling of gaseous fuels other than natural gas and biogas for carbon content and molecular weight is only required where continuous, on-line equipment is in place; weekly sampling is required in all other cases.

GHG emissions from blended fuel combustion. One of the most frequently asked questions by the regulated community since publication of the October 30, 2009 final Part 98 is, "How does one calculate CO_2 mass emissions from the combustion of blended fuels?" Subpart C provided only limited guidance on this issue. We are now finalizing amendments to 40 CFR 98.34(a)(3), (b)(1)(vi), and (b)(3)(v) to clarify reporting requirements for calculating emissions from blended fuels. The amendments make a clear distinction between cases where the mass or volume of each fuel in the blend is accurately measured prior to mixing (*e.g.,* using individual flow meters for each component) and cases where the exact composition of the blend is not known. In the former case, the fact that the fuels are blended is of no consequence; because the exact quantity of each fuel in the blend is known, the CO_2 emissions from combustion of each component must be calculated separately. In the latter case, the blend is considered to be a distinct "fuel type," and the reporter must measure its mass or volume and essential properties (*e.g.,* HHV, carbon content, *etc.*) at a prescribed frequency.

When the mass or volume of each individual component of a blend is not precisely known prior to mixing, the appropriate method used to calculate the CO_2 mass emissions from combustion of the blend is as follows. For smaller combustion units (heat input capacity not more than 250 mmBtu/hr), Tier 2 (or possibly Tier 1) can be used when all components of the blend are listed in Table C–1 of subpart C. In order to perform these CO_2 emissions calculations for the blend, a reasonable estimate of the percentage composition of the blend would be required, using the best available information (*e.g.,* from the typical or expected range of values of each component). A heat-weighted CO_2 emission factor must be calculated, using new Equation C–16. For Tier 1 applications, a heat-weighted default HHV must be determined, using new Equation C–17.

In cases where a fuel blend consists of a mixture of fuel(s) listed in Table C–1 and fuel(s) not listed in Table C–1, calculation of CO_2 and other GHG emissions from combustion of the blend is required only for the Table C–1 fuel(s), using the best available estimate of the mass or volume percentage(s) of the Table C–1 fuel(s) in the blend. In these cases, the use of Tier 1 is required, with modifications to certain terms in Equations C–17 and C–1, to account for the fact that the blend is not composed entirely of Table C–1 fuels. An example calculation is provided in 40 CFR 98.34(a)(3)(iv).

For larger combustion units (heat input capacity greater than 250 mmBtu/hr) that do not qualify to use Tier 1 or 2, the owner or operator must use Tier 3 to calculate the CO_2 mass emissions from combustion of a blended fuel. The mathematics for Tier 3 are simpler than for Tiers 1 and 2, since no default values are used in the calculations, and an estimate of the percentage composition of the blend is not required. To apply Tier 3, the only requirements are to accurately measure the annual consumption of the blended fuel and to determine its carbon content and (if necessary) molecular weight, at a prescribed frequency. By considering the blended fuel to be a distinct "fuel type," in cases where that fuel is not listed in Table C–1, GHG emissions reporting is required in accordance with 40 CFR 98.33(b)(3)(iii), if the blended fuel (as opposed to each individual component of the blend) provides at least 10 percent of the annual heat input to a unit or group of units, and if the use of Tier 4 is not required.

To address the calculation of CH_4 and N_2O mass emissions from the combustion of blended fuels, we are adding a new paragraph, (c)(6), to 40 CFR 98.33. Calculation of CH_4 and N_2O emissions is required only for components of a blend that are listed in Table C–2 of subpart C.

If the mass or volume of each component of a blend is measured before the fuels are mixed and combusted, the existing CH_4 and N_2O mass emissions calculation procedures in 40 CFR 98.33(c)(1) through (5) must be followed for each component separately. The fact that the fuels are mixed prior to combustion is of no consequence in this case.

If the mass or volume of each individual component is not measured prior to mixing, a reasonable estimate of the percentage composition of the blend is required, based on the best available information, and the procedures in 40 CFR 98.33(c)(6)(ii) will be followed. First, the annual consumption of each

component fuel in the blend is calculated by multiplying the total quantity of the blend combusted during the reporting year by the estimated mass or volume percentage of that component. Next, the annual heat input from the combustion of each component is calculated by multiplying its annual consumption by the appropriate HHV (either the default HHV from Table C–1 or, if available, the measured annual average value). The annual CH_4 and N_2O mass emissions for each component must then be calculated using the applicable equation in 40 CFR 98.33(c), *i.e.,* Equation C–8, C–9a, or C–10. Finally, the calculated CH_4 and N_2O emissions are summed across all components, and these sums are reported as the annual CH_4 and N_2O mass emissions for the blend.

Use of consensus standard methods. We are amending 40 CFR 98.33(a)(3)(iv) and (a)(3)(v) to remove reference to specific standard methods and allow the use of standards from consensus-based organizations or industry standard practice. We are amending 40 CFR 98.34 to remove the specific ASTM and GPA method list for fuel sampling and analysis in 40 CFR 98.34(a)(6), to remove the list of American Gas Association (AGA) and American Society of Mechanical Engineers (ASME) methods for fuel meter calibration in 40 CFR 98.34(b)(4), and to delete the list of ASTM methods to determine carbon content and molecular weight in 40 CFR 98.34(b)(5). We are also redesignating 40 CFR 98.34(b)(5) as 40 CFR 98.34(b)(4), and amending newly designated 40 CFR 98.34(b)(4). Finally, we are amending 40 CFR 98.34(b)(1)(A) to remove the cross-reference to the fuel flow meter test methods listed in 40 CFR 98.34(b)(4). These amendments allow the owner or operator to use manufacturers' procedures, appropriate methods published by consensus-based standards organizations such as ASTM, ASME, American Petroleum Institute (API), AGA, ISO, *etc.;* or use industry-accepted practice. The methods used must be documented in the monitoring plan under 40 CFR 98.3(g)(5).

CO_2 monitor span values. The Tier 4 calculation method in 40 CFR 98.33(a)(4) requires a CO_2 concentration monitor and a stack gas flow rate monitor to measure CO_2 mass emissions. The CO_2 monitor must be certified and quality-assured according to one of the following: 40 CFR part 60, 40 CFR part 75, or an applicable State CEM program. When the part 60 option is selected, one of the required quality assurance (QA) tests of the CO_2 monitor is a cylinder gas audit (CGA). The CGA checks the response of the CO_2 analyzer at two calibration gas concentrations, *i.e.,* one between 5 and 8 percent CO_2 and one between 10 and 14 percent CO_2. These CO_2 concentration levels are appropriate for most stationary combustion applications. However, when CO_2 emissions from an industrial process (*e.g.,* cement manufacturing) are combined with combustion CO_2 emissions, the resultant CO_2 concentration in the stack gas can be substantially higher than for the combustion emissions alone. In such cases, a span value of 30 percent CO_2 (or higher) may be required.

When the CO_2 span exceeds 20 percent CO_2, the CGA concentrations specified in Part 60 only evaluate the lower portion of the measurement scale and are no longer representative. Therefore, we are amending 40 CFR 98.34(c) by adding a new paragraph (c)(6), which allows the CGA of a CO_2 monitor to be performed using calibration gas concentrations of 40 to 60 percent of span and 80 to 100 percent of span, when the CO_2 span value is set higher than 20 percent CO_2.

CEMS data validation. In subpart C, 40 CFR 98.34(c) provides the monitoring and QA requirements for Tier 4. However, no criteria for hourly CEMS data validation were specified in the final rule. We are adding a new paragraph, (c)(7), to 40 CFR 98.34, which requires hourly CEMS data validation to be consistent with the sections of 40 CFR part 60 or part 75 cited in the preceding paragraph of this preamble. Alternatively, the hourly data validation procedures in an applicable State CEM program can be followed.

Use of ASTM Methods D7459–08 and D6866–08. Sections 98.34(d) and (e) of subpart C, respectively, outline procedures for quantifying biogenic CO_2 emissions for units that combust MSW and other units that combust combinations of fossil fuels and biomass. Flue gas samples are taken quarterly using ASTM Method D7459–08 and analyzed using ASTM Method D6866–08. We are amending 40 CFR 98.34(d) and (e), as discussed in the following paragraphs.

The amendments to 40 CFR 98.34(d) require the ASTM methods to be used when MSW is combusted in a unit, either as the primary fuel, or as the only fuel with a biogenic component, unless the unit qualifies for the alternative Tier 1 calculation methodology described above, under "Biogenic CO_2 emissions from biomass combustion." Quarterly sampling with ASTM Method D7459–08 is required for a minimum of 24 cumulative hours of sampling per quarter, except as provided below.

We are amending 40 CFR 98.34(e) to remove the restriction limiting the use of ASTM Methods D7459–08 and D6866–08 to units with CEMS. Rather, any unit that combusts combinations of fossil and biogenic fuels (or partly biogenic fuels, such as tires), in any proportions, is allowed to determine biogenic CO_2 emissions using the ASTM methods on a quarterly basis. At least 24 cumulative hours of sampling per quarter are required, except as provided immediately below.

We are adding an option to 40 CFR 98.34(d) and (e), allowing sources to demonstrate that 8 hours of sampling per quarter is sufficient. The demonstration requires a minimum of two 8-hour tests and one 24-hour test, performed under normal, stable operating conditions. The demonstration tests must be distinct, *i.e.,* no overlapping of the 8-hour and 24-hour test periods is permitted. If the average biogenic fraction obtained from the 8-hour tests is within ±5 percent of the results from the 24-hour test, then, in subsequent quarters, the Method D7459–08 sampling time may be reduced to 8 hours. The results of the demonstration must be documented in the monitoring plan.

We are also amending 40 CFR 98.34(d) by adding an alternative to allow the owner or operator to collect an integrated sample by extracting a small amount of flue gas (1 to 5 cubic centimeters (cc)) during every unit operating hour in the quarter, in order to obtain a more representative sample for analysis.

Procedures for estimating missing data. We are amending 40 CFR 98.35(a) to clarify that the missing data procedures in 40 CFR part 75 are only to be followed by units that are in the Acid Rain Program and those that monitor and report emissions and heat input data year round. Units that only monitor and report during the ozone season must follow the missing data procedures in 40 CFR 98.35(b).

Electronic data reporting and recordkeeping. We are amending the data element lists in 40 CFR 98.36 by adding a number of essential data elements and eliminating or modifying others. The most significant revisions to the data element lists are summarized in the following paragraphs. We are also adding an alternative reporting option to 40 CFR 98.36(c) to reduce the reporting burden for certain facilities.

We are adding the reporting of methodology start and end dates in several places throughout 40 CFR 98.36(b), (c), and (d).

We are amending the data element lists in 40 CFR 98.36 to be consistent

with respect to reporting of emissions by fuel type and reporting of biogenic CO_2 emissions. Specifically, for clarity and consistency with the changes to 40 CFR 98.3(c), we have modified the amendments to 40 CFR 98.36(d)(1)(ii), (d)(1)(ix), (d)(2)(ii)(I), and (d)(2)(iii)(I) from the proposal. These sections state that for units subject to 40 CFR part 75, reporting of biogenic CO_2 emissions is optional only for the 2010 reporting year. Reporting of these emissions becomes mandatory starting with the 2011 reporting year.

We are removing 40 CFR 98.36(b)(10) to remove the requirement to report the customer meter number for units that combust natural gas.

We are finalizing requirements in 40 CFR 98.36(c)(1)(ii) that only the maximum rated heat input capacity of the largest unit in a group must be reported. We are also finalizing requirements for 98.36(c)(3) in a similar manner, for groups of units served by a common pipe.

We are amending 40 CFR 98.36 to remove the requirement to report the combined annual GHG emissions from fossil fuel combustion in metric tons of CO_2e (*i.e.,* the sum of the CO_2, CH_4, and N_2O emissions) by removing 40 CFR 98.36(b)(9), (c)(1)(ix), (c)(2)(viii), and (c)(3)(viii). These data elements were duplicative of requirements in subpart A.

We are amending 40 CFR 98.36(b), (c), and (d) to require reporting the fuel-specific annual heat input estimates, for the purpose of verifying the reported CH_4 and N_2O emissions. Also, we are amending 40 CFR 98.36(e)(2)(iv) to require reporting of the annual average HHV when measured HHV data are used to calculate CH_4 and N_2O emissions for a Tier 3 unit, in lieu of using a default HHV from Table C–1.

We are amending 40 CFR 98.36(b) and (d) to make the data elements reported under Tiers 1 through 4 consistent for the reporting of biogenic CO_2 emissions and CO_2 from fossil fuel combustion. Also, as previously noted in Section II.C of this preamble, the amendments to 40 CFR 98.36(d) state that reporting of biogenic CO_2 emissions is optional only for the 2010 reporting year for units using the CO_2 mass emissions calculation methods in 40 CFR part 75.

For units that use the Tier 4 methodology to calculate CO_2 mass emissions, we are amending 40 CFR 98.36(b)(7)(i) and (b)(7)(ii) (redesignated as 40 CFR 98.36(b)(9)(i) and (b)(9)(ii), respectively) and 40 CFR 98.36(c)(2)(vi) (redesignated as 40 CFR 98.36 (c)(2)(viii)). The amendments to these sections require the annual "non-biogenic" CO_2 mass emissions to be reported instead of reporting the annual CO_2 mass emissions from fossil fuel combustion.

We are adding a new alternative reporting option, under 40 CFR 98.36(c)(4). This new option applies to specific situations where a common liquid or gaseous fuel supply is shared between large combustion units such as boilers or combustion turbines (including Acid Rain Program units and other combustion units that use the methods in 40 CFR part 75 to calculate CO_2 mass emissions), and small combustion sources such as space heaters, hot water heaters, *etc.* In such cases, a source can simplify reporting by attributing all of the GHG emissions from combustion of the shared fuel to the large combustion unit(s), provided that:

- The total quantity of the shared fuel supply that is combusted during the report year is measured, either at the "gate" to the facility or at a point inside the facility, using a fuel flow meter, a billing meter or tank drop measurements; and
- On an annual basis, at least 95 percent of the shared fuel supply (by mass or volume) is burned in the large combustion unit(s) and the remainder of the fuel is fed to the small combustion sources.

Company records can be used to determine the percentage distribution of the shared fuel to the large and small units. Facilities using this reporting option are required to document in their monitoring plan which units share the common fuel supply and the method used to determine that the reporting option applies. For the small combustion sources, a description of the type(s) and approximate number of units involved is sufficient.

Finally, we are amending 40 CFR 98.36(e)(2)(iii) to simplify the recordkeeping requirements in cases where the results of fuel analyses for HHV are provided by the fuel supplier. Parallel language is added in a new paragraph, 40 CFR 98.36(e)(2)(v)(E), for the results of carbon content and molecular weight analyses received from the fuel supplier. In both cases, the owner or operator is required to keep records of only the dates on which the fuel sampling results are received, rather than keeping records of the dates on which the supplier's fuel samples were taken (which may not be readily available).

Common stack reporting option. Section 98.36(c)(2) of subpart C allows subpart C stationary fuel combustion units that share a common stack or duct to use the Tier 4 Calculation Methodology to monitor and report the combined CO_2 mass emissions at the common stack or duct, in lieu of monitoring each unit individually. However, 40 CFR 98.36(c)(2) does not address circumstances where at least one of the units sharing the common stack is not a subpart C stationary fuel combustion unit, but is subject to another subpart of 40 CFR part 98. In view of this, we are amending 40 CFR 98.36(c)(2) by extending the applicability of the common stack monitoring and reporting option to situations where off-gases from multiple process units or mixtures of combustion products and process off-gases are combined together and vented through a common stack or duct.

The amendments to 40 CFR 98.36(c)(2) apply not only to ordinary common stack or duct situations where the gas streams from multiple units are combined together, but also apply when combustion and/or process off-gas streams from a single unit (*e.g.,* from a kiln, furnace, petrochemical process unit, or smelter) are routed to a stack. To accommodate this variation on the concept of a common stack, 40 CFR 98.36(c)(2)(ii) is amended to require sources to report "1" as the "Number of units sharing the common stack or duct" where combustion and/or process emissions from a single unit are vented through the same stack or duct.

Finally, since the concept of maximum rated heat input capacity may not be applicable to certain types of process or manufacturing units, we are amending 40 CFR 98.36(c)(2)(iii), to require that the "combined maximum rated heat input capacity of the units sharing the common stack or duct" only be reported when all of the units sharing the common stack or duct are stationary fuel combustion units.

Common fuel supply pipe reporting option. Section 98.36(c)(3) of subpart C allows units that are served by a common fuel supply pipe to report the combined CO_2 emissions from all of the units in lieu of reporting CO_2 emissions separately from each unit. To use this reporting option, the total amount of fuel combusted in the units must be accurately measured with a flow meter calibrated according to the requirements in 40 CFR 98.34. Section 98.36(c)(3) also states that the applicable tier to use for this reporting option is based on the maximum rated heat input of the largest unit in the group.

We are amending 40 CFR 98.36(c)(3) as follows. First, the erroneous citation of "§ 98.34(a)" is corrected to read "§ 98.34(b)." Second, we are amending the requirement in 40 CFR 98.36(c)(3) to calibrate the fuel flow meter to the accuracy required by 40 CFR 98.34(b)

(which cross-references the accuracy specifications in 40 CFR 98.3(i)), so that this calibration requirement applies only when Tier 3 is the required tier for calculating CO_2 mass emissions. This is consistent with the final amendments to 40 CFR 98.3(i), where we clarify that the equipment used to generate company records under Tier 1 and 2 is not required to meet the calibration accuracy specifications of 40 CFR 98.3(i).

The applicable measurement tier for the common pipe option, according to subpart C, is based on the rated heat input capacity of the largest unit in the group. On the surface, this appears to mean that the use of Tiers 1 and 2 is restricted to common pipe configurations where the highest rated heat input capacity of any unit is 250 mmBtu/hr or less, and that Tier 3 is required if any unit has a maximum rated heat input capacity greater than 250 mmBtu/hr. In general, this is true. However, there is one exception in the current rule and we are amending the rule to add a second one. Section 98.33(b)(2)(ii) of the current rule allows the use of Tier 2 instead of Tier 3 for the combustion of natural gas and/or distillate oil in a unit with a rated heat input capacity greater than 250 mmBtu/hr. Today's rule adds a new paragraph, (b)(1)(v), to 40 CFR 98.33, allowing Tier 1 to be used when natural gas consumption is determined from billing records, and fuel usage on those records is expressed in units of therms or mmBtu. Therefore, we are also amending 40 CFR 98.36(c)(3) to reflect these two exceptions for common pipe configurations that include a unit with a maximum rated heat input capacity greater than 250 mmBtu/hr.

Finally, we are amending the provision in 40 CFR 98.36(c)(3) regarding the partial diversion of a fuel stream such as natural gas that is measured "at the gate" to a facility (*e.g.,* using a calibrated flow meter or a gas billing meter). Subpart C specifies that when part of a fuel stream is diverted to a chemical or industrial process where it is used but not combusted, and the remainder of the fuel is sent to a group of combustion units, you may subtract the diverted portion of the fuel stream from the total quantity of the fuel measured at the gate before applying the common pipe methodology to the combustion units. We are amending the rule to expand this provision to include cases where the diverted portion of the fuel stream is sent either to a flare or to another stationary combustion unit (or units) on site, including units that use 40 CFR part 75 methodologies to calculate annual CO_2 mass emissions (*e.g.,* Acid Rain Program units). Provided that the GHG emissions from the flare and/or other combustion unit(s) are properly accounted for according to the applicable subpart(s) of Part 98, you are allowed to subtract the diverted portion of the fuel stream from the total quantity of the fuel measured at the gate, and then apply the common pipe reporting option to the group of combustion units served by the common pipe, using the Tier 1, Tier 2, or Tier 3 calculation methodology (as applicable).

Table C–1. Table C–1 of subpart C provides default HHV values and default CO_2 emission factors for various types of fuel. We are finalizing several amendments to Table C–1; specifically, we have:

- Replaced the categories "fossil fuel-derived fuels (solid)" and "fossil fuel-derived fuels (gaseous)" with more inclusive terms, *i.e.,* "other fuels (solid)" and "other fuels (gaseous)." The "other fuels (solid)" category includes four fuels: plastics, municipal solid waste, tires, and petroleum coke. The "other fuels (gaseous)" category includes blast furnace gas, coke oven gas, propane gas, and fuel gas.
- Removed the word "pipeline" from the description of natural gas.
- Retained the following fuels: "wood residuals," "agricultural by-products," and "solid by-products", and added definitions of these terms to 40 CFR 98.6 (*see* section II.F of this preamble for further discussion).
- Added "Used oil" to the list of petroleum products, and added a definition to 40 CFR 98.6 (*see* section II.F of this preamble for further discussion).
- Removed "still gas" from the list of petroleum products and added "fuel gas."
- Corrected a typographic error in the HHV for ethane; changing it to 0.069 mmBtu/gal, rather than 0.096 mmBtu/gal.
- Revised footnote 1 regarding municipal waste combustor (MWC) units to make it clear that only MWC units that produce steam are prohibited from using the default HHV for MSW in Table C–1; MWC units that produce steam can still use the default CO_2 emission factor for MSW.
- Modified footnote 1 to Table C–1, to reflect the new biogenic CO_2 emissions calculation options for certain units that combust MSW and/or tires.
- Revised footnote 2 to clarify that if the conditions in 40 CFR 98.243(d)(2)(i) and (d)(2)(ii) and 40 CFR 98.252(a)(1) and (a)(2) do not apply, reporters subject to 40 CFR 98.243(d) of subpart X or subpart Y shall use either Tier 3 or Tier 4.
- Remove the qualifier of 100 percent for ethanol and biodiesel.
- Added a default CO_2 emission factor and a default high heat value for petroleum-derived ethanol. These are the same as the default values for biomass-derived ethanol.

Table C–2. We are finalizing the proposed amendments to remove the first iteration of Table C–2 and make minor corrections to the second one. The amendments consist of correcting the exponents (powers-of-ten) of several emission factors.

Standard conditions. A number of commenters requested that, for consistency with the rest of Part 98, we allow sources to use 60 °F as standard temperature instead of 68 °F, when Equation C–5 is used to calculate CO_2 mass emissions from the combustion of gaseous fuel. We proposed to allow this alternative for subparts X and Y, because the refining and petrochemical industries use 60 °F as standard temperature. We have concluded that the commenters' request to modify Equation C–5 accordingly is reasonable, and we are revising the definition of the term "MVC (molar volume conversion)" in the nomenclature of Equation C–5 (*see* revised 40 CFR 98.33(a)(3)(iii)). The revised definition of MVC allows sources to use a MVC value of either 849.5 standard cubic feet per kilogram mole (scf/kg mole) for a standard temperature of 68 °F, or 836.6 scf/kg mole for a standard temperature of 60 °F. A corresponding change has been made to the definition of "Standard conditions" in 40 CFR 98.6. For verification purposes, a data element has been added at 40 CFR 98.36(e)(2)(iv)(G), requiring sources using Equation C–5 to report which MVC value was used in the emissions calculations.

Miscellaneous revisions. We are amending 40 CFR 98.34(c) by adding the citations from 40 CFR part 75 that pertain to the initial certification of Tier 4 moisture monitoring systems. These amendments also correct an inadvertent omission in the verification section of subpart C, specifically, in 40 CFR 98.36(e)(2)(v)(C). That section requires units using the Tier 3 methodology to keep records of the method(s) used for carbon content determination. However, no mention is made of keeping records of the method(s) used to determine the molecular weight, which is a requirement for gaseous fuels. To correct this inadvertent oversight, we have amended 40 CFR 98.36(e)(2)(v)(C) to require records to be kept of the method(s) used for both carbon content and (if applicable) molecular weight determination. Finally, we have

corrected typographical errors in the definition of "CC" in the nomenclature of Equation C–5. This equation applies to gaseous fuels, not liquid fuels, and the units of measure for CC must be kg C per kg of fuel, rather than kg C per gallon.

Major changes since proposal are identified in the following list. The rationale for these and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

- A new equation has been added to Tier 1 to accommodate situations in which the fuel usage information on gas billing records is expressed in mmBtu. We have also added two new equations to 40 CFR 98.33(c) for calculating CH_4 and N_2O emissions when the fuel usage information on natural gas billing records is in units of therms or mmBtu.
- For units using the Tier 2 methodology that receive HHV data less frequently than monthly, or, for small units (< 100 mmBtu/hr) regardless of the HHV sampling frequency, we are allowing Equation C–2b to be used to calculate a fuel-weighted annual average HHV, instead of calculating the arithmetic average annual HHV.
- For consistency with other subparts, we have revised the nomenclature of Equation C–5, to allow reporters to use a molar volume conversion (MVC) constant referenced to a standard temperature of either 60 °F or 68 °F.
- For Tier 4 applications, we are allowing site-specific moisture default values to be based on fewer than nine Method 4 runs in cases where moisture data from the RATA of a CEMS are used to derive the default value and the applicable regulation allows a single moisture run to represent two or more RATA runs.
- We have modified the approach for calculating CO_2 mass emissions from an exhaust stream diverted from a CEMS monitored stack.
- For consistency with Subpart A, we have added language in several places stating that for Part 75 units, separate reporting of biogenic CO_2 emissions is optional in reporting year 2010 and mandatory thereafter.
- We have added a new paragraph, (e)(6), to 40 CFR 98.33, allowing Part 75 units to calculate biogenic CO_2 emissions using the same general approach that is used in 40 CFR 98.33(c)(4)(ii) for the CH_4 and N_2O emissions calculations.
- We have added an alternative calculation methodology, for biogenic CO_2 emissions from the combustion of MSW and tires that may be used when the total contribution of these fuels to the unit's heat input is 10 percent or less. The methodology, which uses the Tier 1 equation together with default biogenic percentages, may also be used for small, batch incinerators that burn no more than 1,000 tons of MSW per year.
- We have removed the term "consecutive" between the words "24" and "hours", in reference to the minimum required sampling time for determining the percentage of biogenic CO_2 in flue gas when ASTM Method D7459–08 is used, thereby allowing samples to be collected for 24 total hours in a quarter, rather than 24 consecutive hours. We have also added a provision allowing sources to perform additional testing to demonstrate that sampling for 8 hours is sufficient.
- We have added language to 40 CFR 98.34(a)(2)(ii) and (b)(3)(ii)(B) explaining how to implement certain fuel oil sampling options, specifically, daily manual sampling and sampling after each addition of oil to the tank.
- To minimize unnecessary burden related to collecting information on small units aggregated in a group and for the common pipe configuration, we are removing and reserving 40 CFR 98.36 (c)(1)(ii), (c)(1)(iii), and (c)(3)(ii). We are no longer requiring sources to report the number of units in, or the cumulative heat input capacity of, an aggregated group of units or a group of units served by a common pipe. Only the maximum rated heat input capacity of the largest unit in the group must be reported.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Natural gas consumption expressed in therms.

Comment: Commenters were generally supportive of EPA's proposal to provide equations for cases where natural gas consumption is expressed in therms in billing records. One commenter noted that the proposed rule failed to take into account that on some natural gas billing records, the fuel usage is expressed in units of mmBtu. The commenter also brought to our attention that the proposed rule did not provide corresponding equations for calculating CH_4 and N_2O emissions when the fuel usage information on gas billing records is expressed in therms.

Response: We agree with these comments and have made the following adjustments to the final rule text. First, a new equation, Equation C–1b, has been added to Tier 1 to accommodate situations in which the fuel usage information on gas billing records is expressed in mmBtu. Second, we have added two new equations to 40 CFR 98.33(c), *i.e.,* Equations C–8a and C–8b, for calculating CH_4 and N_2O emissions when the fuel usage information on natural gas billing records is in units of therms or mmBtu.

Site-specific stack gas moisture content values.

Comment: Commenters were generally supportive of the proposed rule changes related to determining the site-specific moisture default values. Two commenters requested that we allow the site-specific moisture default values to be based on fewer than nine Method 4 runs, in cases where moisture data from the RATA of a CEMS are used to derive the default value and the applicable regulation allows a single moisture run to represent two or more RATA runs.

Response: We believe that this is a reasonable request and have incorporated it into the final rule.

Determining emissions from an exhaust stream diverted from a CEMS monitored stack.

Comment: Commenters were supportive of the intent of the proposed amendments, but indicated that the proposed methodology for estimating the CO_2 mass emissions from the diverted gas stream would not be implementable at every affected facility. Specifically, commenters took issue with EPA's assumption that the CO_2 concentration in the diverted stream will be the same as the concentration in the main stack. According to the commenters, this is not the case, because dilution air introduced via auxiliary fans and other equipment will lower the CO_2 concentration of the side stream.

Response: We agree with the commenters' assessment and have modified the proposed approach for quantifying emissions in the diverted stream. The final rule requires annual emission testing of the diverted gas stream to be performed at a set point that best represents normal operation, using EPA Methods 2 and 3A and (if moisture correction is necessary) Method 4. A CO_2 mass emission rate is calculated from the test results. If, over time, flow rate of the diverted stream

varies little from the tested flow rate, then the annual CO_2 mass emissions for the diverted stream (which must be added to the CO_2 mass emissions measured at the main stack) will be determined simply by multiplying the CO_2 mass emission rate from the emission testing by the number of operating hours in which a portion of the flue gas was diverted from the main flue gas exhaust system. However, if the flow rate of the diverted stream varies significantly over the reporting year, the owner or operator must either perform additional stack testing or use the best available information (*e.g.,* fan settings and damper positions) and engineering judgment to estimate the CO_2 mass emission rate at a minimum of two additional set points, to represent the variation across the normal operating range. Then, the most appropriate CO_2 mass emission rate must be applied to each hour in which a portion of flue gas is diverted from the main exhaust system. The procedures used to determine the annual CO_2 mass emissions for the diverted stream must be documented in the monitoring plan.

Fuel sampling for coal and fuel oil.

Comment: Commenters were generally supportive of the proposed amendments to 40 CFR 98.34(a)(2)(ii) and 40 CFR 98.34(b)(3)(ii) regarding the definition of "fuel lot." However, we did receive requests to clarify the meaning of the terms "type of fuel" and "supply source," pertaining to the proposal to require only one monthly sample to represent multiple fuel deliveries.

Response: The final rule clarifies that for coal, the type of fuel refers to the coal rank (*i.e.,* anthracite, bituminous, sub-bituminous, or lignite). For fuel oil, the type of fuel refers to the grade number or classification of the oil (*e.g.,* No. 2 oil, No. 6 oil, jet-A fuel, *etc.*). The term "supply source" is not so easily defined, however, and we have chosen not to include a definition to the final rule. Instead, you may use the following general guidelines. The term "supply source" can certainly refer to the coal mine, bulk terminal, or refinery from which the fuel is obtained. However, it also can apply to a fuel vendor who receives a particular type of fuel from different locations and distributes the fuel to his customers, provided the important properties of the fuel, such as its heating value, sulfur content, carbon content, *etc.,* are guaranteed to be within specified ranges.

Comment: With respect to the HHV sampling requirements for each fuel lot, commenters expressed concern that the option to sample fuel oil after each addition of fuel to the storage tank might not represent the fuel actually being combusted. For instance, fuel may be added to an empty or a partly full tank that is out of service. Also, for a tank that is currently in service, due to infrequent combustion of fuel oil, it may have been months, or even years, since oil was last added to the tank, and it may be months or years before oil is added again.

Response: To address these concerns, the final rule requires at least one sample to be obtained from each storage tank that is currently in service, and an additional sample whenever fuel is added to the tank while it remains in service. If multiple additions are made to an in-service tank on a given day (*e.g.,* from multiple deliveries) one sample taken after the final addition is sufficient. No sampling is required for addition of fuel to a tank that is out of service. Rather, a sample must be taken when the tank is brought into service and whenever oil is added to the tank, for as long as the tank remains in service.

Tier 4 monitoring threshold for units that combust MSW.

Comment: Commenters were generally supportive of the proposed amendment to increase the Tier 4 monitoring threshold for combustion of municipal solid waste from 250 to 600 tons per day. One concern was that the amendment might not be finalized before the end of 2010; therefore, they asked for the final rule to provide a six month extension of the January 1, 2011 regulatory deadline for installing and certifying CEMS. Some commenters were concerned that this proposed change would affect the quantity of emissions reported under the program and were, therefore, concerned about finalizing this proposed amendment.

Response: There is no need for the requested extension because units at or above the 600 ton per day threshold have been on notice since the 2009 final rule that they are required to use CEMS. The proposed revision to the Tier 4 monitoring threshold should not have caused them to think otherwise. For units in-between the original threshold of 250 tons per day and the revised threshold of 600 tons per day, an extension is unnecessary because these units can use Tier 2 for the 2010 reporting year. We disagree with concerns that the final amendments will impact the quantity of data reported to the program, because the final amendments still require the same units to report GHG emissions. The only difference is that they may be using the Tier 2 methodology instead of Tier 4.

Biogenic CO_2 emissions from biomass combustion.

Comment: Regarding the proposed revisions to the optional biogenic CO_2 emissions calculation methodology for units with CEMS described in 40 CFR 98.33(e)(2), one commenter recommended that we make the methodology more flexible by modifying Equation C–13. The change to this equation proposed by the commenter would allow the volume of CO_2 from combustion of the biomass fuel (rather than the fossil fuel) to be calculated directly and then used in Equation C–14 to calculate the biogenic percentage of the annual CO_2 mass emissions.

Response: EPA has not incorporated the commenter's proposed changes. Although the proposed modification to the methodology could work for fuels such as wood residue and bark (which have F-factors listed in Table 1 in section 3.3.5 of 40 CFR part 75, appendix F), the commenter appears to be unaware that we proposed to remove from 40 CFR 98.33(e)(1) the restriction prohibiting units with CEMS from using the Tier 1 methodology to calculate biogenic CO_2 emissions. As stated above, we are finalizing that amendment as proposed. Therefore, since both Tier 1 and the commenter's suggested methodology require sources to quantify the amount of biomass fuel combusted, and since the Tier 1 methodology is significantly simpler than the commenter's proposal, there is no need to revise the calculation procedures in 40 CFR 98.33(e)(2).

Comment: Many units and industrial processes burn relatively small amounts of partly biogenic fuels such as tires and MSW, as supplementary fuels. Quarterly sampling and analysis of the flue gas using ASTM Methods D7459–08 and D6866–08 is the only available methodology in Part 98 for quantifying biogenic CO_2 emissions from these fuels. Some commenters requested relief from reporting biogenic CO_2 emissions from such fuels when they account for less than 10 percent of a unit's heat input. Another commenter asked EPA to either make reporting of biogenic CO_2 optional or reduce the amount of required testing with the ASTM methods to once every five years, for small batch incinerators that combust MSW. The commenter provided data for a typical batch incinerator, showing that in 2009, less than 400 metric tons of biogenic CO_2 were emitted from the unit.

Response: We do not intend to grant a reporting exemption for MSW combustion, and, for tires, although the reporting is optional at present, we intend to revisit this issue in the future. However, we are persuaded that the cost

of performing the ASTM methods (roughly $5,000 to $10,000 each quarter) is unreasonably high for sources that burn very small amounts of MSW and/or tires and emit comparatively little biogenic CO_2. Also, for sources that combust tires and wish to report biogenic CO_2, the ASTM methods are their only option. In view of these considerations, we have added an alternative calculation methodology for biogenic CO_2 emissions from the combustion of tires and/or MSW. The methodology is found at 40 CFR 98.33(e)(3)(iv), and may be used when the total contribution of these fuels to the unit's heat input is 10 percent or less. We are also allowing this methodology to be used for small batch incinerators that burn no more than 1,000 tons of MSW per year. Supplementary information provided by the commenter who requested reduced testing of these incinerators indicates that the rated capacities of the units can be as high as 1,300 lb/hr of MSW, but that in practice, since the units operate in batch mode, a more realistic estimate of the actual, annualized capacity of the units is somewhere between 100 and 200 lb/hr (*see* EPA–HQ–OAR–2008–0508). If one of these incinerators were to combust as much as 200 lb/hr of MSW on an annualized basis, this would equate to approximately 875 tons of MSW per year. The total annual CO_2 emissions from the combustion of 875 tons of MSW is estimated to be about 800 metric tons, based on the default emission factors in Table C–1. Assuming a biogenic fraction of 0.60 for MSW, the biogenic portion of the total annual CO_2 emissions would be 480 metric tons, which is less than 2 percent of the 25,000 metric ton applicability threshold in 40 CFR 98.2 for Part 98 facilities. Based on the above analysis, we have concluded that it is appropriate to allow Tier 1 to be used together with a default biogenic percentage of 0.60 to estimate the biogenic CO_2 emissions from MSW combustion in small batch incinerators, in lieu of using ASTM Methods D7459–08 and D6866–08. To allow for some possible variation in the annualized capacity of these units, the final rule extends the use of the alternative calculation methodology to batch incinerators that combust no more than 1,000 tons of MSW per year (which corresponds to about 540 tons of biogenic CO_2 per year).

Comment: With regard to the use of ASTM Methods D7459–08 and D6866–08, two commenters from facilities that combust refuse-derived fuel (RDF) asked us to consider shortening the sampling time to 8 hours, in cases where the fuel is relatively homogeneous. Both commenters submitted data comparing the results of 8-hour samples against the results of 24-hour samples. For one source, the 8-hour sample results were within 3.3 percent of the 24-hour results, and for the other source the results were within 1.7 percent.

Response: EPA agrees that under certain circumstances, it may be appropriate to shorten the sampling time. Therefore, we are adding an option to 40 CFR 98.34(d) and (e), allowing sources to demonstrate that 8 hours of sampling per quarter is sufficient. The demonstration requires a minimum of two 8-hour tests and one 24-hour test, performed under normal, stable operating conditions. The demonstration tests must be distinct, *i.e.,* no overlapping of the 8-hour and 24-hour test periods is permitted. If the average biogenic fraction obtained from the 8-hour tests is within ± 5 percent of the results from the 24-hour test, then, in subsequent quarters, the Method D7459–08 sampling time may be reduced to 8 hours. The results of the demonstration must be documented in the monitoring plan. Note that although the data provided by the commenters showed that the 8-hour and 24-hour sample results differed by no more that 3.3 percent, we believe that ± 5 percent is a more reasonable acceptance criterion. This is because the methodology will likely be used for the combustion of tires as well as MSW. Tire-derived fuel (TDF) has a much lower biogenic fraction than MSW (typically about 0.20, compared to 0.60 for MSW). An acceptance criterion lower than 5 percent for TDF combustion would require the difference between the 8-hour and 24-hour sample results to be less than 0.01, and would be overly stringent.

Use of consensus standard methods.

Comment: We received both supportive and adverse comments on the proposed amendments to remove reference to specific consensus standards. Commenters that objected to the proposal stated that elimination of the lists of acceptable methods and allowing the use of "industry standard practice" weakens the rule. According to these commenters, there is no way to evaluate the technical merits of an "industry standard practice," and the quality of the reported GHG emissions data could suffer as a result.

Response: We do not agree with the objections raised by these commenters. Subpart C covers a large range of industries, perhaps including some that we are not even aware of yet that are significant emitters of GHG emissions and therefore covered by the rule. In these early years of the program, we want to ensure that the methods required by the rule are appropriate for all facilities subject to subpart C of the rule. Although we attempted to assemble a comprehensive list of methods and provide appropriate alternatives in the 2009 final rule, based on questions received we determined that it was likely that other valid methods from these organizations and practices were overlooked. For instance, under the 2009 final rule, even updates to the IBR methods to reflect the latest practices would not have been acceptable without a rulemaking. The commenters did not sufficiently justify why opening up to industry consensus standards would compromise data quality. In fact, the opposite could be said where more updated versions of previously incorporated standards are now allowable.

Further, subpart C already includes a mechanism by which we can evaluate the methods being used by industry. Sections 98.36(e)(2)(iii) and 98.36(e)(2)(v) require that records be kept of the methods that are used for flow meter calibration and for HHV and carbon content determinations, and 40 CFR 98.36(e)(4) requires sources to provide this information to EPA within 30 days of receiving a request for it.

We note that we have not opened all subparts more broadly to industry consensus standards. Please see the responses to comments in Section II.K (Hydrogen Production) and Section II.M (Petrochemical Production) of this preamble for our response to similar comments under these subparts.

Electronic data reporting and recordkeeping.

Comment: Two commenters asked us to either remove or modify the proposed requirement to report the number of units in an aggregated group of units. One commenter suggested that reporting would be simplified if very small sources such as water heaters, space heaters, lab burners, *etc.,* were lumped together and counted as one unit. The other commenter stated that it is burdensome to keep an accurate count of these small domestic units at large, complex industrial facilities. That same commenter also suggested that only units with heat input ratings of 10 mmBtu or greater should be included in the count. A third commenter noted that it is also difficult to report the cumulative maximum heat input rating of a group of units, as required under 40 CFR 98.36(c)(1)(iii), when numerous small domestic units, some of which may not have a heat input rating, are included in an aggregated group.

Response: We believe these comments have merit. After careful consideration, we have concluded that for verification purposes, we do not need to know either the exact number of units in an aggregated group or the combined maximum rated heat input of the group. The only critical data element is the maximum rated heat input capacity of the largest unit in the group. This information is needed to confirm that none of the units exceeds 250 mmBtu/hr, which is the condition that must be met to use the unit aggregation option in 40 CFR 98.36(c)(1). Therefore, in the final rule, we are withdrawing the proposed requirement to report the number of units in an aggregated group of units, and are removing the requirement to report the combined maximum rated heat input of the group. We also are withdrawing the proposed requirement under 40 CFR 98.36(c)(3)(ii) to report the number of units served by a common fuel pipe. The issue is the same for the common pipe configuration as for the aggregated group of units, *i.e.,* hundreds of small, domestic units may be served by the common pipe. To effect these rule changes, 40 CFR 98.36(c)(1)(ii), (c)(1)(iii), and (c)(3)(ii) have been removed and reserved.

Table C–1.

Comment: Two commenters questioned the appropriateness of listing MSW with plastics and petroleum coke. Further, they noted that petroleum coke is listed twice in the table, first under petroleum products and then again under "other fuels (solid)." According to the commenters, petroleum coke is a petroleum derivative, and is more appropriately listed with the other "petroleum products."

Response: The category "other fuels (solid)" in Table C–1 is not intended to make any policy statement about the nature of the fuels included in the category. The fuels included in "other fuels (solid)" are miscellaneous fuels that do not fit into any other existing category for the purposes of this rule. Petroleum coke was included as a petroleum product in the 2009 final rule (74 FR 56409). However, the HHV units of measure for petroleum products listed in Table C–1 are in mmBtu per gallon and some reporters were confused about how to appropriately calculate CO_2 emissions from petroleum coke, since it is actually a solid fuel, and is nominally measured in units of short tons. By listing petroleum coke as a solid fuel with a heating value in units of mmBtu/short ton, EPA intends to alleviate confusion about how emissions are to be calculated for petroleum coke. However, we also understand that some facilities report petroleum coke usage to the Energy Information Administration (EIA) in units of equivalent barrels of petroleum, and may prefer to report petroleum coke consumption in units of gallons under this rule. As such, EPA is not proposing to remove petroleum coke from the list of petroleum products in Table C–1. The two HHVs for petroleum coke differ only in units of measure. They will give equivalent results when CO_2 mass emissions are calculated.

Comment: Two commenters asserted that plastics are a small component of MSW and there is no reason why plastics should be listed as a separate fuel in Table C–1. These commenters stated that to the best of their knowledge, plastics are not combusted as a separate fuel stream, and they recommended that EPA delete plastics from Table C–1.

Two other commenters, however, stated that plastics are, in fact, sometimes separated out from MSW as a separate stream. These commenters provided a suggested definition of "plastics" and requested that we add it to 40 CFR 98.6. The commenters also asked us to modify the definition of MSW, to specifically exclude plastics that are recovered from MSW, processed separately, and disposed.

Response: As mentioned in the preamble to the August 11, 2010 proposed rule (75 FR 48764), facilities have questioned EPA as to why plastics and waste oil, two fuels that appeared in Table C–2 of the April 10, 2009 proposed rule, were left out of the October 30, 2009 final rule. Responding to these concerns, on August 11, 2010 we proposed to add both fuels to Table C–1. Today's rule retains these entries, except that waste oil has been redesignated as "used oil." In view of the input received from the commenters who brought to our attention that plastics (including such things as "* * * bottles, containers, bags, CD cases, sheeting, packaging, broken consumer goods, etc. * * *") are sometimes recovered from MSW and processed separately, we decided not to incorporate the recommendation of the other commenters who asked us to delete plastics from the table.

We see no need to add a definition of plastics to 40 CFR 98.6, since plastic materials are readily identifiable. However, to address the commenters' chief concern, we have modified the definition of MSW to clearly state that insofar as plastics (along with certain other materials) are separated out from MSW, processed and disposed of, they are not considered to be "municipal solid waste."

Comment: Two commenters argued against the inclusion of default factors for "fuel gas" in Table C–1. They argued that this would have a negative impact on chemical plant fuel gas streams that were previously exempt from Tier 3 requirements when the streams provide less than 10 percent of the annual heat input to a unit rated greater than 250 mmBtu/hr) because Table C–1 previously had no factors for fuel gas. According to the commenters, the proposed inclusion of default factors for "fuel gas" in Table C–1 requires monitoring and reporting of GHG emissions from these gas streams. Both commenters suggested that Table C–1 should include default factors for "refinery fuel gas" rather than "fuel gas." One commenter also suggested revising the definition of "fuel" and Footnote 2 associated with the default values for fuel gas in Table C–1 to clarify that fuel gas is specific to refineries and petrochemical plants, but excludes process off-gases from chemical production plants.

Response: Default values for fuel gas in Table C–1 are necessary to allow refineries and petrochemical plants to use Tier 1 or Tier 2 methods for certain small fuel gas streams that were proposed to be excluded from the requirement to use Tier 3 for fuel gas in subparts X and Y. In providing these factors, we did not intend to require chemical plants to monitor and report GHG emissions generated by the combustion of "fuel gas" that were excluded from reporting requirements in the October 30, 2009, final Part 98. Therefore, we agree that some additional clarification of terms is needed to prevent the fuel gas factor from requiring measurement and reporting of GHG from the chemical plant vent gases.

While changing the term used in Table C–1 to "refinery fuel gas" may have helped to clarify the intent, we do not believe, given the definition of "fuel gas" in the final rule, that this would adequately address the issue. "Fuel gas" as defined in the October 30, 2009, final Part 98 means "gas generated at a petroleum refinery, petrochemical plant, or similar industrial process unit, and that is combusted separately or in any combination with any type of gas." The inclusion of the phrase "or similar industrial process unit" within the definition of fuel gas expanded the meaning of fuel gas beyond refineries and petrochemical plants. Without specifically defining the term "refinery fuel gas" we expect that the rule language would have remained ambiguous, especially since refinery

fuel gas was still intended to apply to some petrochemical processes.

To clarify our original intent of the proposed inclusion of default factors for fuel gas in Table C–1, we are revising the definition of "fuel gas" to delete reference to other similar industrial process units. In Part 98, the term "fuel gas" is intended to apply to petroleum refineries and petrochemical plants, so this revision does not affect other Part 98 requirements; it simply clarifies that "fuel gas" and the fuel gas factors are specific to petroleum refineries and petrochemical plants.

The commenter suggested revising the definition of fuel to mean "solid, liquid or gaseous combustible material, but excludes process waste off gases from chemical production plants that are not petroleum refineries or petrochemical plants." We have determined that this change is not necessary because we have addressed the commenter's concerns through the change in the definition of fuel gas. We are amending Footnote 2 of Table C–1, as requested, to clarify further that only reporters subject to 40 CFR 98.243(d) of subpart X or subpart Y are required to use Tier 3 or Tier 4 methodologies when the specific conditions outlined in the footnote do not exist.

H. Subpart D—Electricity Generation

1. Summary of Final Amendments and Major Changes Since Proposal

We are amending 40 CFR 98.40(a) by adding the word "mass" between the words "CO_2" and "emissions" to make it clear that subpart D applies only to units in two categories: ARP units and non-ARP electricity generating units (EGUs) that are required to report CO_2 mass emissions data to EPA year-round.

Optional reporting of biogenic CO_2. For consistency with the amendments to subpart C, we have revised 40 CFR 98.43 to clarify that for subpart D units, reporting of biogenic CO_2 emissions is optional only for the 2010 reporting year, and mandatory thereafter. We are also adding a new paragraph 40 CFR 98.43(b) indicating that biogenic CO_2 emissions must be calculated and reported by following the applicable methods specified in 40 CFR 98.33(e). Fossil CO_2 emissions are calculated by subtracting the biogenic CO_2 mass emissions calculated according to 40 CFR 98.33(e) from the cumulative annual CO_2 mass emissions from paragraph (a)(1) of this section.

Data reporting requirements. Section 98.46 of subpart D specified that the owner or operator of a subpart D unit must comply with the data reporting requirements of 40 CFR 98.36(b) and, if applicable, 40 CFR 98.36(c)(2) or (c)(3). These section citations were incorrect. Subpart D units all use the CO_2 mass emissions calculation methodologies in 40 CFR part 75. Therefore, the applicable data reporting section for these units is 40 CFR 98.36(d), not 40 CFR 98.36(b), 40 CFR 98.36(c)(2), or 40 CFR 98.36(c)(3). We are amending 40 CFR 98.46 to correct this error.

Recordkeeping. We are amending 40 CFR 98.47 to state that the records kept under 40 CFR 75.57(h) for missing data events satisfy the recordkeeping requirements of 40 CFR 98.3(g)(4) for those same events. We have concluded that, as a practical matter, the missing data records required to be kept under 40 CFR 75.57(h) are substantially equivalent to the records required under 40 CFR 98.3(g)(4).

Major changes since proposal are identified in the following list. The rationale for these and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

- Making separate reporting of biogenic emissions optional for part 75 units in the 2010 reporting year and mandatory every year thereafter. See sections II.C and II.G of this preamble.
- Adding a provision to subpart D to clarify how to calculate and report biogenic CO_2 emissions, referencing the applicable methods in 40 CFR 98.33(e) and the reporting requirements in 40 CFR 98.3(c)(4) and (c)(12).

2. Summary of Comments and Responses

No significant comments were received on the specific technical amendments to subpart D. Comments related to the proposed separate reporting of biogenic emissions for units subject to 40 CFR part 75 can be found in Sections II.C and II.G of this preamble.

I. Subpart F—Aluminum Production

1. Summary of Final Amendments and Major Changes Since Proposal

Throughout subpart F we are making corrections as needed for typographical errors and alphanumeric sequencing. We are amending 40 CFR 98.63 to clarify that each perfluorocarbon (PFC) compound (perfluoromethane, CF_4, also called tetrafluoromethane, and perfluoroethane, C_2F_6, also called hexafluoroethane) must be quantified and reported and to clarify in 40 CFR 98.63(c) that reporters must use CEMS if the process CO_2 emissions from anode consumption during electrolysis or anode baking of prebake cells are vented through the same stack as a combustion unit required to use CEMS. This requirement existed in the final rule, however, the cross-reference was omitted from the introductory language of 40 CFR 98.63(c).

We are amending 40 CFR 98.64 to clarify the type of parameters that must be measured in accordance with the recommendations of the EPA/IAI Protocol for Measurement of Tetrafluoromethane (CF_4) and Hexafluoroethane (C_2F_6) Emissions from Primary Aluminum Production (2008), and the frequency of monitoring for those parameters that are not measured annually, but are instead measured on a more or less frequent basis. We are also inserting dates into this paragraph. In inserting these dates, we have decided to use dates in reference to the effective date of the 2009 final rule, as opposed to the publication date as was written in the final rule. It was determined to be more appropriate to use the effective date of the rule as the basis for the timing of the requirements. Therefore, we are amending the paragraph to read "December 31, 2010" in place of "one year after publication of the rule" and are inserting "December 31, 2012" in place of "three years after publication of the rule."

We are amending Table F–2 to clarify that default CO_2 emissions from pitch volatiles combustion are relevant only for center work pre-bake (CWPB) and side work pre-bake (SWPB) technologies.

We are also amending Table F–1 to spell out the acronyms for the technologies covered by that table; *i.e.,* CWPB, SWPB, vertical stud Søderberg (VSS), and horizontal stud Søderberg (HSS).

The comments received supported the proposed amendments, so the amendments to subpart F are finalized as proposed.

2. Summary of Comments and Responses

One comment letter was received on this subpart, and it supported the proposed amendments. The summary and response to this comment letter can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

J. Subpart G—Ammonia Manufacturing

1. Summary of Final Amendments and Major Changes Since Proposal

We are amending subpart G to remove reporting of the waste recycle stream or

purge, and to make subpart G conform to the amendments to the calibration requirements in subpart A. With respect to the waste recycle stream, we are eliminating the calculation, monitoring and reporting of the emissions associated with the waste recycle stream or purge currently required by Equation G–6 from 40 CFR 98.73, 98.74, 98.75, and 98.76. Carbon dioxide emissions from waste recycle stream or purge gas used as fuel will still be accounted for accurately using Equation G–5 in subpart G. Because total process emissions, calculated using Equation G–5, will also account for emissions associated with use of the purge gas as a fuel, we are amending 40 CFR 98.72(b) so that subpart C does not apply to CO_2 emissions resulting from the use of purge gas as a fuel.

We are clarifying in 40 CFR 98.72(a) and in the definition of CO_2 in Equation G–5 that CO_2 process emissions reported under this subpart may include CO_2 that is later consumed on site for urea production and therefore is not released to the ambient air from the ammonia manufacturing process unit. We have included this clarification because although the equations accurately reflect total CO_2 that is generated from the ammonia manufacturing process, not all of that CO_2 is released on site. Rather, some of the CO_2 may be used for urea production and not be actually released to the atmosphere until use of the urea at an off-site location.

We are amending 40 CFR 98.74(d) to limit the flow meter calibration accuracy requirements of 40 CFR 98.3(i)(2) and (i)(3) to only meters that are used to measure liquid and gaseous feedstock volumes. In accordance with 40 CFR 98.3(i)(1), each measurement device that is not used to measure liquid and gaseous feedstock volumes, but is used to provide data for the GHG emissions calculations, will have to be calibrated to an accuracy within the appropriate error range for the specific measurement technology, based on an applicable operating standard, such as the manufacturer's specifications.

We are amending the definition of CO_2 emissions in Equation G–5 to indicate that the CO_2 emissions estimates under subpart G may include CO_2 that is later consumed on site for urea production and therefore not released to the atmosphere from the ammonia manufacturing process unit. This change does not affect the total CO_2 emissions that are quantified and reported to EPA under the calculation equations in 40 CFR 98.73. Likewise, we are amending 40 CFR 98.76(b) to require reporting of the CO_2 from the ammonia manufacturing process unit that is then used to produce urea and the method used to determine that quantity of CO_2 consumed.

In addition, we are amending subpart G to correct several typographical errors and an incorrect cross-reference to another subpart in 40 CFR part 98. We are correcting the terms and definitions for annual CO_2 emissions arising from gaseous, liquid, and solid fuel feedstock consumption in Equations G–1, G–2, and G–3, respectively, in 40 CFR 98.73. We are correcting 40 CFR 98.76(a) by changing the cross-reference from "§ 98.37(e)(2)(vi)" to "§ 98.37."

We are amending the data reporting requirements in 40 CFR 98.76(b)(6) and (15) for consistency with the calculation procedures in 40 CFR 98.73(b)(6). We are amending 40 CFR 98.76(b)(6) to change "petroleum coke" to "feedstock" because petroleum coke is the incorrect term, and amending 40 CFR 98.76(b)(15) to specify that the carbon content analysis method being reported is for each month. We are also removing 40 CFR 98.76(b)(17) for the reporting of urea produced, if known, as well as reporting requirements in 40 CFR 98.76(c) for total pounds of synthetic fertilizer produced and total nitrogen contained in that fertilizer.

No major changes have been made to the amendatory language since proposal.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: One commenter was supportive of all proposed amendments to subpart G. However, we received adverse comments on the proposed amendment to remove requirements to report the total quantity of synthetic fertilizer produced and the nitrogen content of fertilizer. The commenter asserted that EPA does not offer a reason for the deletion of fertilizer reporting requirements, and noted that synthetic fertilizer application drives a large fraction of N_2O emissions from agricultural soils. They asserted that the reporting requirements should be retained for several reasons, including that collecting information for N_2O emissions, even if it is from less than one-half of the total fertilizer produced, is valuable. Further, the commenter contended that justifying removal of the reporting requirement because of the availability of other data through the Association of American Plant Food Control Officials is not appropriate because those other data may not be available reliably into the future and do not map emissions back to specific facilities. They argued that reporting of synthetic fertilizer production is a good first step in estimating N_2O emissions from agricultural soils.

Another commenter countered many of the points raised above, asserting that data on domestic synthetic fertilizer production is not a good indicator of N_2O emissions from farming because the rule did not capture all fertilizer production and not all fertilizer is applied to fields.

Response: EPA has finalized, as proposed, the amendment to remove reporting requirements of the total amount of synthetic fertilizer produced and nitrogen contained in that fertilizer. EPA has concluded that the burden placed on fertilizer production facilities to report on total pounds of synthetic fertilizer and total nitrogen contained in that fertilizer would not be commensurate with the value of the data we would receive in terms of improving our ability to estimate N_2O emissions from soils. Specifically, facility specific data from producers on the nitrogen content of synthetic fertilizer is of minimal value in estimating soil N_2O emissions by itself. As explained in the proposal preamble (75 FR 48767), there are a variety of inputs that would be valuable to consider to estimate N_2O emissions from agricultural soils, including fertilizer application rates, timing of application, and the use of slow release fertilizers and nitrification/release inhibitors, none of which would be provided through the provision removed from the rule. Given that the information required from the final rule would not provide sufficient information to estimate N_2O emissions from fertilizer application to soils, we are removing the reporting requirement at this time. While there is concern over the potential future loss of the Association of American Plant Food Control Officials data, EPA has determined that it is preferable to remove the incomplete reporting requirement at this time and, if appropriate in the future, reconsider in a comprehensive manner reporting of information on fertilizer production, import and use practices.

K. Subpart P—Hydrogen Production

1. Summary of Final Amendments and Major Changes Since Proposal

We are amending the definition of the terms for the average carbon content (CC_n) and molecular weight (MW_n) in Equation P–1 of 40 CFR 98.163 to clarify that, where measurements are taken more frequently than monthly, CC_n and MW_n should be calculated using the arithmetic average of measurement values within the month.

We are amending 40 CFR 98.164(b)(1) so it is consistent with today's amendments to 40 CFR 98.3(i). First, we are limiting the flow meter calibration accuracy requirements of 40 CFR 98.3(i)(2) and (i)(3) to meters that are used to measure liquid and gaseous feedstock volumes. In accordance with 40 CFR 98.3(i)(1), all other measurement devices that are used to provide data for the GHG emissions calculations have to be calibrated only to an accuracy within the appropriate error range for the specific measurement technology, based on an applicable operating standard, such as the manufacturer's specifications. Second, we are removing the requirements for solids weighing equipment and oil tank drop measurements to be calibrated according to 40 CFR 98.3(i), because the provisions of 40 CFR 98.3(i) apply only to gas and liquid flow meters. For oil tank drop measurements, the QA requirements of 40 CFR 98.34(b)(2) apply.

As a harmonizing amendment with the amendment allowing the use of a gas chromatograph (described in 40 CFR 98.164(b)(5)), we are adding the phrase "no less frequent" to 40 CFR 98.164(b)(2). This change indicates that when determining the carbon content and the molecular weight of "other gaseous fuels and feedstocks" (*e.g.,* biogas, refinery gas, or process gas), you must undertake sampling and analysis no less frequently than weekly. Replacing a "weekly" requirement with "no less frequent than weekly" allows for the use of continuous, on-line equipment gas chromatographs.

We are amending 40 CFR 98.164(b)(5) to allow the use of chromatographic analysis of the fuel, provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions.

Major changes since proposal are identified in the following list. The rationale for these and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

- Modification of Equation P–1 to account for measurements taken more frequently than monthly to determine the molecular weight of the gaseous fuel and feedstock.
- Inclusion of the option to use a gas chromatograph (both continuous and non-continuous) for determining the carbon content and molecular weight of gaseous fuels.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: One commenter noted that the fuels and feedstocks to a hydrogen plant subject to subpart P requirements are often the same fuels that are burned in combustion units subject to subpart C requirements. The commenter further noted that both subparts had different monitoring and QA/QC requirements which would pose a problem for a facility trying to determine which method to use.

Response: No change has been made as a result of this comment. We did not receive sufficient information from the commenter as to why they would not be able to comply using the methods already prescribed in subpart P for determining carbon content and molecular weight. As noted by the commenter, facilities only subject to subpart C must use a method published by a consensus standards organization if such a method exists, or an industry consensus standard practice. Therefore, the methods in the 2009 final rule for subpart P could be used to meet the requirements in subpart C. We determined that it was appropriate to open the methods to industry consensus standards or industry standard practices for facilities subject to subpart C only, because the industries covered by subpart C could be wide ranging and the specific methods listed may not be appropriate for certain industry types. Because the commenter does not provide specific concerns as to why the methods listed in subpart P are not appropriate, we have decided not to remove the applicable methods listed in subpart P and replace them with the option to use consensus based standards or industry consensus standards.

Comment: One commenter requested that EPA allow the use of gas chromatographs as an alternative method for determining the carbon content in gaseous fuels and feedstocks.

Response: EPA acknowledges the commenter's recommendation to include the option to use gas chromatographs for measuring the carbon content and molecular weight of fuels and feedstocks in subpart P. As a result, EPA has revised the monitoring and QA/QC requirements to allow the use of gas chromatographs, both continuous and non-continuous, to determine the carbon content and molecular weight of fuels and feedstocks provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions.

L. Subpart V—Nitric Acid Production

1. Summary of Final Amendments and Major Changes Since Proposal

We are amending 40 CFR 98.226 to remove the synthetic fertilizer and total nitrogen reporting requirement in 40 CFR 98.226(o). The detailed rationale for this amendment is provided in Section II.J of this preamble.

2. Summary of Comments and Responses

Several comments were received on the proposal to remove the synthetic fertilizer and total nitrogen reporting requirement in 40 CFR 98.226(o). Please see section II.J (Ammonia Production) of this preamble for the comments and responses related to reporting of fertilizer production data.

M. Subpart X—Petrochemical Production

1. Summary of Final Amendments and Major Changes Since Proposal

Numerous issues have been raised by owners and operators in relation to the requirements in subpart X for petrochemical production facilities. The issues being addressed by the amendments include the following:

- Distillation and recycling of waste solvent.
- Process vent emissions monitored by CEMS.
- Process off-gas combustion in flares.
- CH_4 and N_2O emissions from combustion of process off-gas.
- Molar volume conversion (MVC) factors.
- Methodology for small ethylene off-gas streams.
- Monitoring and QA/QC requirements.
- Reporting requirements under the CEMS compliance option.

• Reporting requirements for the ethylene-specific option.

• Reporting measurement device calibrations.

• For the mass balance option, sampling frequency when receiving multiple deliveries from same supply source.

Distillation and recycling of waste solvent. We are adding a new paragraph, as proposed, to 40 CFR 98.240(g) to specify that a process that distills or recycles waste solvent that contains a petrochemical is not part of the petrochemical production source category.

Process vent emissions monitored by CEMS. We are adding a sentence, as proposed, to 40 CFR 98.242(a)(1) that specifies CO_2 emissions from process vents routed to stacks that are not associated with stationary combustion units must be reported under subpart X when you comply with the CEMS option in 40 CFR 98.243(b).

Process off-gas combustion in flares. We are amending 40 CFR 98.242(b), as proposed, by removing the reference to flares.

CH_4 and N_2O emissions from combustion of process off-gas. We are amending 40 CFR 98.243(b), as proposed, to clarify that either the default HHV for fuel gas or a site-specific calculated HHV may be used when using Tier 3 procedures to calculate CH_4 and N_2O emissions from combustion units that burn petrochemical process off-gas and are monitored with a CO_2 CEMS.

Sampling frequency for mass balance method. We are amending 40 CFR 98.243(c)(3) to clarify that when multiple deliveries of a particular liquid or solid feedstock are received from the same supply source in a month, one representative sample is sufficient for the month. The amendment is being made in response to a comment received. As explained in section II.M.2 of this preamble, we are amending 40 CFR 98.243(c)(3) to make the language in subpart X consistent with a similar amendment for fuel sampling in 40 CFR 98.34(b)(3)(ii)(B). The new language does not change the requirements in 40 CFR 98.243(c).

Molar volume conversion (MVC) factors. We are amending Equation X–1, as proposed, to provide two alternative values of MVC that correspond to the two most common standard conditions output by the flow monitors. Additionally, the reporting requirements related to this equation are being amended, as proposed, to include reporting of the standard temperature at which the gaseous feedstock and product volumes were determined (either 60 °F or 68 °F) and to afford verification of the reported emissions.

Methodology for small ethylene off-gas streams. We are finalizing amendments to 40 CFR 98.243(d), as proposed, to allow the use of Tier 1 or Tier 2 methods for small flows (in cases where a flow meter is not already installed). Specifically, Tier 1 or Tier 2 methods may be used for ethylene process off-gas streams that meet either of the following conditions:

• The annual average flow rate of fuel gas (that contains ethylene process off-gas) in the fuel gas line to the combustion unit, prior to any split to individual burners or ports, does not exceed 345 standard cubic feet per minute (scfm) at 60 °F and 14.7 pounds per square inch absolute (psia) and a flow meter is not installed at any point in the line supplying fuel gas or at an upstream common pipe.

• The combustion unit has a maximum rated heat input capacity of less than 30 mm Btu/hr, and a flow meter is not installed at any point in the line supplying fuel gas (that contains ethylene process off-gas) or an upstream common pipe.

As in the proposal, this amendment also specifies how to calculate the annual average flow rate under the first condition. Specifically, the total flow obtained from company records is to be evenly distributed over 525,600 minutes per year. In response to comments we are making an editorial change to the introductory paragraph of 40 CFR 98.243(d) to clarify that the common pipe reporting alternative may be used when applicable; the intent of the requirements in this section are not changed by this editorial change. We are also making a number of other editorial changes to 40 CFR 98.243(d), as proposed, to integrate the amended option with the existing requirements. Finally, we are amending 40 CFR 98.246(d)(2) and 98.247(c), as proposed, to add reporting and recordkeeping requirements that are related to the amendments in 40 CFR 98.243(d)(2).

Monitoring methods for determining carbon content and composition. We are finalizing the proposed addition of ASTM D2593–93 (Reapproved 2009), Standard Test Method for Butadiene Purity and Hydrocarbon Impurities by Gas Chromatography, to 40 CFR 98.244(b)(4). We are further amending 40 CFR 98.244(b)(4), as proposed, by adding a new paragraph that will allow the use of industry standard practice to determine the carbon content or composition of carbon black feedstock oils and carbon black products.

We also added two more published methods to the list in 40 CFR 98.244(b)(4) of the final rule: ASTM D7633, Standard Test Method for Carbon Black—Carbon Content, and EPA Method 9060A in EPA publication SW–846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods. We also added an option, already proposed in subparts C and Y, to use results of chromatographic analysis of feedstocks and products, provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions. Finally, we added an option to use results of a mass spectrometer analysis of a feedstock or product, provided that the mass spectrometer is operated, maintained, and calibrated according to the manufacturer's instructions.

We are also amending 40 CFR 98.244(b)(4), as proposed, to provide facilities the option to determine carbon content or composition of feedstocks or products using modified versions of the analytical methods listed in 40 CFR 98.244(b)(4) if the listed methods are not appropriate for reasons noted below. The proposed amendments in this section would have allowed the use of "other analytical methods" if methods listed in 40 CFR 98.244(b)(4) are not appropriate for any of the same reasons. However, in response to comments, we revised this provision to allow the use of "other methods" rather than "other analytical methods" so that non-analytical methods also can be used. The conditions under which the listed methods may be considered inappropriate are the same as at proposal. Specifically, a listed method may be considered inappropriate if the relevant compounds cannot be detected, the quality control requirements are not technically feasible, or use of the method will be unsafe.

We are amending the reporting requirements in 40 CFR 98.246(a)(11), as proposed, so that if an alternative method is used, facilities must include in the annual report the name or title of the method used and, the first time it is used, a copy of the method and an explanation of why the use of the alternative method is necessary. Also as proposed, the amendments to 40 CFR 98.244(b)(4) may be used for the 2010 reporting year.

QA/QC requirements. To maintain consistency with the amendments to 40 CFR 98.3(i), we are amending, as proposed, the QA/QC provisions for weighing devices, flow meters, and tank level measurement devices in 40 CFR 98.244 (b)(1), (b)(2), and (b)(3).

Reporting requirements under the CEMS compliance option. As proposed, we are making a number of changes in

40 CFR 98.246(b)(1) through (b)(5) to clarify the reporting requirements under the CEMS compliance option.

First, we are moving the requirement for reporting of the petrochemical process ID from 40 CFR 98.246(b)(3) to 40 CFR 98.246(b)(1) to be consistent with the structure in other reporting sections, and we are renumbering the existing paragraphs (b)(1) and (b)(2).

Second, we are adding a statement in the renumbered paragraph 40 CFR 98.246(b)(2) to specify that the reporting requirements in 40 CFR 98.36(b)(9)(iii) (as numbered in today's action) for CH_4 and N_2O do not apply under subpart X because applicable reporting requirements are specified in 40 CFR 98.246(b)(5).

Third, in the renumbered 40 CFR 98.246(b)(3), we are deleting the requirement to report information required under 40 CFR 98.36(e)(2)(vii) because the referenced section specifies recordkeeping requirements, not reporting requirements. Note that one must still keep the applicable records because 40 CFR 98.247(a) references 40 CFR 98.37, which in turn requires you to keep all of the applicable records in 40 CFR 98.36(e). We are also amending the reference to 40 CFR 98.36(e)(2)(vii) to a more general reference of 40 CFR 98.36. This makes the reporting requirements consistent with the methodology for calculating emissions in 40 CFR 98.243(b).

Fourth, we are amending 40 CFR 98.246(b)(4) to clarify our intent. The first sentence in 40 CFR 98.246(b)(4) requires reporting of the total CO_2 emissions from each stack that is monitored with CO_2 CEMS; this requirement will be unchanged. We are amending the second sentence in 40 CFR 98.246(b)(4) to clarify that for each CEMS that monitors a combustion unit stack, you must estimate the fraction of the total CO_2 emissions that is from combustion of the petrochemical process off-gas in the fuel gas. This estimate will give an indication of the total petrochemical process emissions, whereas the CEMS data alone will also include emissions from combustion of supplemental fuel (if any).

Finally, as proposed, we are finalizing several amendments to 40 CFR 98.246(b)(5). In general, as noted above, the requirements in this paragraph are consistent with the requirements in 40 CFR 98.36(b)(9)(iii) (as numbered in this action). Most of the amendments to 40 CFR 98.246(b)(5) restate requirements from 40 CFR 98.36(b)(9)(iii); for example, the amendments clarify that emissions are to be reported in metric tons of each gas and in metric tons of CO_2e. However, because 40 CFR 98.36(b)(9)(iii) allows you to consider petrochemical process off-gas as a part of "fuel gas" rather than as a separate fuel, under 40 CFR 98.246(b)(5) you must also estimate the fraction of total CH_4 and N_2O emissions in the exhaust from each stack that is from combustion of the petrochemical process off-gas. In addition, because 40 CFR 98.243(b) requires you to determine CH_4 and N_20 emissions using Equation C–8 in subpart C (rather than Equation C–10), the amendments to 40 CFR 98.246(b)(5) require reporting of the HHV that you use in Equation C–8. We are also deleting the erroneous reference to Equation C–10 that was included in 40 CFR 98.246(b)(5).

Reporting requirements for the ethylene-specific option. As proposed, we are finalizing several amendments to clarify the reporting requirements in 40 CFR 98.246(c) for the combustion-based methodology that is available to the ethylene-specific option. First, we are adding a requirement to report each ethylene process ID to allow identification of the applicable process units at facilities with more than one ethylene process unit. Second, we are making editorial changes to clarify that you must estimate the fraction of total combustion emissions that is due to combustion of ethylene process off-gas, consistent with the requirements described above for combustion units that are monitored with CEMS. Third, we are replacing the requirement to report the "annual quantity of each type of petrochemical produced from each process unit" with a requirement to report the "annual quantity of ethylene produced from each process unit."

Reporting measurement device calibrations. As proposed in 40 CFR 98.246(a)(7) we are deleting the requirement for reporting of the dates and summarized results of calibrations of each measurement device under the mass balance option, and we are also adding 40 CFR 98.247(b)(4) to require retention of these records.

Major changes since proposal are identified in the following list. The rationale for these and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

- Additional methods for determining carbon content or composition of feedstocks and products were added to 40 CFR 98.244(b)(4).
- For the optional combustion method for ethylene processes, the introductory paragraph in 40 CFR 98.243(d) was edited to require calculation of GHG emissions from "combustion units" rather than from "each combustion unit." This change makes it clear that the common pipe reporting alternative specified in 40 CFR 98.36(c)(3) of subpart C may be used when applicable, and it makes 40 CFR 98.243(d) consistent with the reporting requirements for the ethylene process option as specified in 40 CFR 98.246(c).
- For the mass balance option, 40 CFR 98.243(c)(3) was revised to specify that multiple deliveries of a particular liquid or solid feedstock in a month from the same supply source may be considered a single feedstock lot, requiring only one representative sample for carbon content analysis. This change makes the analysis requirements for feedstocks consistent with the amended requirements for fuels in 40 CFR 98.34(b)(3)(ii)(B).

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: Several commenters requested either the addition of specific carbon content or composition measurement methods in 40 CFR 98.244(b)(4) or other changes that would increase measurement flexibility. One commenter requested that EPA Method 9060 of SW–846 be added to the list of methods, and that the list of methods be modified to allow for the use of a company-specific method for measuring acetonitrile as an alternative to using EPA Method 8015 in SW–846. One commenter requested that ASTM D7633, Standard Test Method for Carbon Black—Carbon Content, be added to the list of methods because it has recently been accepted and approved by ASTM. This commenter also noted that ASTM is currently reviewing a method for carbon content in carbon black feedstock oils and requested addition of a statement indicating that once this method is approved and assigned an official number by ASTM that it is effective as of January 1, 2010. One commenter requested that EPA remove the reference to "analytical" in the phrase "other analytical methods" in proposed 40 CFR 98.244(b)(4)(xiii) (renumbered as paragraph (xv)(A) in the final amendments) so that the carbon content of ethylene oxide and water solutions

could be measured using a densitometer. One commenter stated that 40 CFR 98.244(b)(4) should be expanded to allow the use of an on-line mass spectrometer to determine the carbon content and molecular weights. One commenter stated that requirements for gas chromatography should be consistent across all subparts and that EPA should extend the requirements for the use of gas chromatographs under subpart C to subpart X. Specifically, the commenter requested that the use of gas chromatographs be allowed, "provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions." One commenter noted that the proposed amendments to subpart C added flexibility to the carbon content analysis requirements for fuels by eliminating the list of specific methods and instead allowing a broader array of methods (*i.e.,* industry consensus standard practice, method published by a consensus-based standards organization, or results of gas chromatographic analysis). This commenter stated that the same flexibility should be allowed for feedstock and product analysis under subpart X.

Response: In the preamble to the proposed amendments we indicated that we would consider adding carbon content methods for carbon black and carbon black feedstock oil if they were approved by ASTM before publication of the final amendments. Because it has been approved by ASTM, we have added Method D7633, Standard Test Method for Carbon Black—Carbon Content, to 40 CFR 98.244(b)(4). We have not added the requested statement regarding the method for determining carbon content in carbon black feedstock oil because we cannot cite a specific method without being able to incorporate it by reference, and incorporation by reference is possible only if a copy of the method is available. However, if this method is a current industry standard practice, its use since January 1, 2010, is allowed by 40 CFR 98.244(b)(4)(xv) of the final amendments.

We have also decided to make four of the other changes suggested by commenters. First, we have added EPA Method 9060A in SW–846 because a commenter indicated that it is much more effective at detecting organic compounds in a liquid waste stream than any of the listed methods. Because none of the currently listed methods effectively detect these compounds in the waste stream, an alternative method such as EPA Method 9060A in SW–846 would already be allowed under 40 CFR 98.244(b)(4)(xv)(A) of the final amendments. However, specifically listing the method will make demonstrating compliance more straightforward.

Second, we have deleted the word "analytical" from the phrase "other analytical methods" in 40 CFR 98.244(b)(4)(xv)(A) of the final amendments so that non-analytical methods can be used. We agree with the commenter that this change is needed so that a densitometer can be used to determine the carbon content in an ethylene oxide and water solution. We also agree that a non-analytical alternative must be available in cases where the carbon content of the solution cannot safely be determined using any of the listed analytical methods or modifications of them.

Third, we have added the option from subpart C to use results from a gas chromatograph, provided the instrument is operated, maintained, and calibrated according to the manufacturer's instructions. This change means there is a common option in both subparts C and X, which we have determined is important because some materials may be a fuel in some applications and a petrochemical feedstock in others (*e.g.,* ethylene feedstocks). With this change, a facility would not have to use two methods to determine the carbon content of the same material.

Fourth, we have added an option to use a mass spectrometer to determine the carbon content of a feedstock or product. Although a mass spectrometer would more commonly be used as one type of detector to determine the concentration of individual compounds separated in a gas chromatograph, using a mass spectrometer alone to determine the overall carbon content is also acceptable.

Finally, we have decided not to delete the list of specified methods and replace them with a general statement allowing the use of any industry consensus standard practice or method published by a consensus-based standards organization. We have received considerable input from the industry on methods that are actually being used. We conclude that the existing flexibility in the final amendments is sufficient, and that there is no need to allow the use of other unspecified methods. We recognize that this is not consistent with the methodologies allowed for determining carbon content in subpart C; however, we have concluded that this is justified given the wide variety of industries subject to subpart C versus the more narrowly-focused sources subject to subpart X.

We are not specifically allowing the use of a company-specific method for the determination of carbon content in acetonitrile because we are not convinced that it is necessary. The commenter indicated that they can use EPA Method 8015 of SW–846, and they have not indicated any problems with using this method. It is also possible that their company-specific method would qualify as a modification to a listed method that would be allowed if any of the criteria in 40 CFR 98.244(b)(4)(xv)(A) of the final amendments are met. Therefore, we have not made the requested change.

Comment: One commenter requested a modification to 40 CFR 98.243(c)(3) for carbon black production processes that specifies all deliveries of a fuel or feedstock oil in a month from the same supply source are considered to be a fuel lot, and carbon content must be determined for only one representative sample from the lot.

Response: Although we did not propose amendments to the sampling and analysis requirements in 40 CFR 98.243(c)(3), we did propose a change similar to that suggested by the commenter in 40 CFR 98.34(b)(3)(ii)(B) of subpart C for fuels. Subpart X currently requires you to determine the carbon content for at least one sample of each feedstock and product per month. In addition, if you make more than one valid carbon content measurement during the month (from separate samples), then you must average the results arithmetically. (Note that this language does not require sampling and analysis for each delivery of a feedstock. Furthermore, each delivery of the same material, even from different suppliers, is not considered to be a separate feedstock.) However, we agree with the commenter that if multiple deliveries of the same feedstock are received from the same supply source, one representative sample is sufficient for the month. Therefore, we have amended 40 CFR 98.243(c)(3) in the interest of improving the operating flexibility of the rule. We have also broadened the statement so that it applies for any liquid or solid feedstock. Please see the amended rule language to 40 CFR 98.243(c)(3).

Comment: One commenter stated that the proposed term "each combustion unit" in the introductory paragraph of 40 CFR 98.243(d) appears to preclude the use of the common pipe reporting alternative in 40 CFR 98.36(c)(3). According to the commenter, the common pipe option is appropriate for ethylene processes, and precluding it will not improve the quality of GHG emission estimates. Therefore, the

commenter requests that "each combustion unit" be changed to "combustion units."

Response: We have made the suggested change in the final amendments because we agree with the commenter's assessment of the proposed language. We did not intend to preclude the use of the common pipe option, as evidenced by the fact that 40 CFR 98.243(d)(2)(i) and (ii) both specify that the determination of when Tier 1 and Tier 2 procedures may be used is to be based on whether there is an existing flow meter either in the line to the combustion device or an upstream common pipe. Moreover, the reporting requirements in 40 CFR 98.246(c)(2) require reporting for each stationary combustion unit, or group of stationary sources with a common pipe.

N. Subpart Y—Petroleum Refineries

1. Summary of Final Amendments and Major Changes Since Proposal

Numerous issues have been raised by owners and operators in relation to the requirements in subpart Y for petroleum refineries. The issues being addressed by the amendments include the following:

- GHG emissions from flares.
- GHG emissions to report from combustion of fuel gas.
- GHG emissions to report from non-merchant hydrogen production process units.
- Calculating GHG emissions from fuel gas combustion.
- Calculating combustion GHG emissions from flares and asphalt blowing operations controlled by thermal oxidizer or flare.
- Molar volume conversion factors.
- Combined stacks monitored by CEMS.
- Nitrogen concentration monitoring to determine exhaust gas flow rate.
- Calculating CO_2 emissions from catalytic reforming units.
- Calculating GHG emissions from sulfur recovery plants.
- Calculating CO_2 emissions from coke calcining units.
- Calculating CO_2 emissions from process vents.
- Monitoring and QA/QC requirements.
- Reporting requirements.

GHG emissions from flares. We are finalizing corrections to 40 CFR 98.252(a) (GHGs to report) as proposed to clarify the required emissions methods for flares. We are proposing to amend the second sentence in 40 CFR 98.252(a) to correctly require reporters to "Calculate and report the emissions from stationary combustion units under subpart C * * *" and we are proposing to add an additional sentence at the end of this section to clarify that reporters must "Calculate and report the emissions from flares under this subpart."

GHG emissions to report from combustion of fuel gas. We are finalizing amendments to 40 CFR 98.252(a) as proposed to clarify that reporting of CH_4 and N_2O emissions is required for the stationary combustion units fired with fuel gas. As described in Section II.G of this preamble, we are also amending the definition of fuel gas.

GHG emissions to report from non-merchant hydrogen production process units. As proposed, we are amending 40 CFR 98.252(i) to clarify that reporting of only CO_2 emissions is required for non-merchant hydrogen production process units.

Calculating GHG emissions from fuel gas combustion. We are finalizing amendments to 40 CFR 98.252(a), as proposed, so that petroleum refineries subject to subpart Y can use the Tier 1 or 2 methodologies in subpart C for combustion of fuel gas when either of the following conditions exists:

- The annual average fuel gas flow rate in the fuel gas line to the combustion unit, prior to any split to individual burners or ports, does not exceed 345 scfm at 60 °F and 14.7 psia, and either of the following conditions exists:
  - —A flow meter is not installed at any point in the line supplying fuel gas or an upstream common pipe; or
  - —The fuel gas line contains only vapors from loading or unloading, waste or wastewater handling, and remediation activities that are combusted in a thermal oxidizer or thermal incinerator.
- The combustion unit has a maximum rated heat input capacity of less than 30 mmBtu/hr, and either of the following conditions exists:
  - —A flow meter is not installed at any point in the line supplying fuel gas or an upstream common pipe; or
  - —The fuel gas line contains only vapors from loading or unloading, waste or wastewater handling, and remediation activities that are combusted in a thermal oxidizer or thermal incinerator.

Calculating combustion GHG emissions from flares and asphalt blowing operations controlled by thermal oxidizer or flare. As proposed, we are finalizing amendments to 40 CFR 98.253 to renumber existing Equations Y–1 and Y–16 as Equations Y–1a and Y–16a, and adding the more detailed Equations Y–1b and Y–16b that provide more detailed alternative methods for calculating emissions. We are also finalizing corresponding amendments in 40 CFR 98.256 as proposed to require reporting of which equation was used and, if the new equations are used, reporting of the additional equation parameters.

Molar volume conversion factors. We are finalizing amendments to Equations Y–1, Y–3, Y–6, Y–12, Y–18, Y–19, Y–20, and Y–23 in subpart Y as proposed to provide two alternative values of MVC depending on the standard conditions output by the flow monitors. For reasons outlined in the "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508), we are also finalizing a similar amendment to Equation Y–2, as a logical outgrowth of the proposal and comments received to provide two alternative values of MVC in this equation (if mass flow monitors are used) depending on the standard conditions at which the higher heating value is determined. Additionally, the reporting requirements related to each of these equations are being amended to include reporting of the value of MVC used to support the calculations and to allow verification of the reported emissions.

Combined stacks monitored by CEMS. As proposed, we are amending the language in 40 CFR 98.253(c)(1)(ii) and also the reporting requirements in 40 CFR 98.256(f)(6) to generalize the language to include other CO_2 emission sources, not just a CO boiler.

Nitrogen concentration monitoring to determine exhaust gas flow rate. As proposed, we are amending 40 CFR 98.253(c)(2)(ii) to renumber Equation Y–7 as Equation Y–7a and to add an Equation Y–7b to provide an alternative N_2 concentration monitoring approach for determining the exhaust gas flow rate. We are also finalizing reporting requirements in 40 CFR 98.256(f)(9) to report the input parameters for Equation Y–7b if it is used.

Calculating CO_2 emissions from catalytic reforming units. We are finalizing amendments to the definition of the coke burn-off quantity, CB_Q, and the term "n" in Equation Y–11 in 40 CFR 98.253(e)(3) as proposed to clarify the application of Equation Y–11 to continuously regenerated catalytic reforming units.

Calculating GHG emissions from sulfur recovery plants. We are amending 40 CFR 98.253(f) as proposed to add "and for sour gas sent off site for sulfur recovery" to clarify that this calculation methodology applies "For on-site sulfur recovery plants and for sour gas sent off site for sulfur recovery, * * *" and to

allow non-Claus sulfur recovery plants to alternatively follow the requirements in 40 CFR 98.253(j) for process vents. We also are finalizing amendments to the reporting requirements in 40 CFR 98.256(h) as proposed to include the type of sulfur recovery plant, an indication of the method used to calculate CO_2 emissions, and reporting requirements for non-Claus sulfur recovery plants that elect to follow the requirements in 40 CFR 98.253(j) for process vents.

Calculating CO_2 emissions from coke calcining units. We are amending the definition of M_{dust} (the mass of dust collected in the dust collection system) in Equation Y–13 in 40 CFR 98.253(g) as proposed to clarify that dust recycled back to the coke calciner is not included in the mass of dust collected in the dust collection system (M_{dust}). We also are finalizing amendments to 40 CFR 98.256(i)(5), as proposed, to require facilities that use Equation Y–13 to indicate whether or not the collected dust is recycled to the coke calciner.

Calculating CO_2 emissions from process vents. We are finalizing amendments to the process vent requirements in 40 CFR 98.253(j) as proposed to account for the additional sources that may elect to use Equation Y–19, specifically non-Claus sulfur recovery units (as previously described) and uncontrolled blowdown vents (inadvertently not referenced). We are also amending the reporting requirements for process vents in 40 CFR 98.256(l) as proposed to clarify that the requirements apply to each process vent, and 40 CFR 98.256(l)(5) to require an indication of the measurement or estimation method for the volumetric flow rate and the mole fraction of the GHG in the vent.

Finally, we are finalizing amendments to 40 CFR 98.253(n) as proposed to delete the words "equilibrium" and "product-specific" to clarify that the true vapor phase of the loading operation system should be used when determining whether the vapor-phase concentration of methane is 0.5 volume percent or more.

Monitoring and QA/QC requirements. We are finalizing amendments to the monitoring and QA/QC requirements in subpart Y, 40 CFR 98.254 as proposed, except as provided below. We proposed amendments to require all gas flow meters on process vents subject to reporting under 40 CFR 98.253(j) to comply with the monitoring requirements in 40 CFR 98.254(f). However, for the reasons set forth in the Response to Comments (Section N.2. of this preamble), we are finalizing amendments for gas flow meters on process vents subject to reporting under 40 CFR 98.253(j) to comply with the monitoring requirements in 40 CFR 98.254(c).

A summary of the amendments to the monitoring and QA/QC requirements that we are finalizing as proposed is below. Paragraph (a) of 40 CFR 98.254 is amended to include also the phrase "sources that use a CEMS to measure CO_2 emissions according to subpart C of this part * * *" to separate further these sources from those that are covered by 40 CFR 98.254(b). We also are re-wording the phrase "follow the monitoring and QA/QC requirements in § 98.34" with "meet the applicable monitoring and QA/QC requirements in § 98.34" to clarify that the monitors must meet the requirements for the specific tier for which monitoring was required (Tier 3 sources will comply with the Tier 3 requirements; Tier 4 sources will comply with the Tier 4 requirements; *etc.*).

Because the QA/QC requirements for CO_2 CEMS that were formerly included in 40 CFR 98.254(l) will be included in the amended paragraph 40 CFR 98.254(a), we are removing 40 CFR 98.254(l).

Paragraph (b) of 40 CFR 98.254 is amended to clarify that these requirements apply to gas flow meters, gas composition monitors, and heating value monitors other than those subject to 40 CFR 98.254(a). We are correcting the reference to "paragraphs (c) through (e)" to correctly reference "paragraphs (c) through (g)" as gas monitoring system requirements are specified in 40 CFR 98.254(c) through (g). We are also clarifying that the calibration requirements in 40 CFR 98.3(i) only apply to gas flow meters and allowing recalibration of gas flow meters biennially (every two years), at the minimum frequency specified by the manufacturer, or at the interval specified by the industry consensus standard practice used. Paragraph (b) of 40 CFR 98.254 is also amended to clarify that gas composition and heating value monitors must be recalibrated either annually, at the minimum frequency specified by the manufacturer, or at the interval specified by the industry consensus standard practice used.

Paragraph (c) of 40 CFR 98.254 is amended to clarify that the flare or sour gas flow meters must be calibrated (in addition to operated and maintained) using either a method published by a consensus-based standards organization (*e.g.,* ASTM, API, *etc.*) or the procedures specified by the flow meter manufacturer. The ±5 percent accuracy specification is being removed from 40 CFR 98.254(c). We are also amending 40 CFR 98.254(c) by removing the list of methods as this is redundant to the existing phrase, "a method published by a consensus-based standards organization."

Paragraphs (d) and (e) of 40 CFR 98.254 are amended to allow the use of any chromatographic analysis to determine flare gas composition and high heat value, as an alternative to the methods listed in 40 CFR 98.254(d) and (e), provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions. The methods used for operation, maintenance, and calibration of the gas chromatograph must be documented in the written monitoring plan for the unit under 40 CFR 98.3(g)(5). Paragraph (d) in 40 CFR 98.254 is also amended to apply to all gas composition monitors, other than those included in 40 CFR 98.254(g), and not just flare gas composition monitors.

We are also amending 40 CFR 98.254(d) to specify that the methods in this paragraph are also to be used for determining average molecular weight of the gas, which is needed in Equations Y–1a and Y–3. We are also adding an additional method (ASTM D2503–92) to this section for determining average molecular weight.

We are making a number of amendments to 40 CFR 98.254(f). The term "exhaust gas flow meter" is replaced with the term "gas flow meter," as proposed.

We are retaining 40 CFR 98.254(f)(3) and portions of 40 CFR 98.254(f)(1) but only as general, supplementary guidelines for flow monitor installation and operation. Thus, we are amending 40 CFR 98.254 to require that reporters must do all of the following:

- Install, operate, calibrate, and maintain each stack gas flow meter according to the requirements in 40 CFR 63.1572(c);
- Locate the flow monitor at a site that provides representative flow rates (avoiding locations where there is swirling flow or abnormal velocity distributions); and
- Use a monitoring system capable of correcting for the temperature, pressure, and moisture content to output flow in dry standard cubic feet (standard conditions as defined in 40 CFR 98.6).

We are making a technical correction to 40 CFR 98.254(g) to correct the cross-reference from 40 CFR 63.1572(a) to 40 CFR 63.1572(c).

We are amending 40 CFR 98.254(h) to require calibration of mass measurement equipment according to the procedures specified by National Institute of Standards and Technology (NIST)

Handbook 44 or the procedures specified by the manufacturer, and removing reference to the calibration requirements in 40 CFR 98.3(i).

Reporting requirements. This section covers reporting requirements that have not been described in previous sections of this preamble.

We are amending the reporting requirements in 40 CFR 98.256(e)(6) and (8) for Equations Y–1 (renumbered to Y–1a) and Y–2, respectively, to require reporting of whether daily or weekly measurement periods are used, for verification purposes.

In 40 CFR 98.256(f)(6), 40 CFR 98.256(h)(6), and 40 CFR 98.256(i)(6), we are amending the references to 40 CFR 98.36(e)(2)(vi) to reference 40 CFR 98.36 more generally. This will make the references consistent with the associated requirements in 40 CFR 98.253.

We are amending 40 CFR 98.256(f) to require reporting of the unit-specific emission factor for CH_4 and N_2O, if used, in the newly designated 40 CFR 98.256(f)(11) and (12), respectively.

We are amending 40 CFR 98.256(i)(8) to make it consistent with the information collected in 40 CFR 98.245(i)(7).

We are also amending 40 CFR 98.256(j)(2) to clarify that the reporting requirements for asphalt blowing apply at the unit level.

We are also amending 40 CFR 98.256(o) to re-organize the reporting requirements to separate and clarify the reporting requirement for storage tanks used for processing unstabilized crude oil from those reporting requirements for other types of storage tanks.

Major changes since proposal are identified in the following list. The rationale for these and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

- Amending Equation Y–2 in subpart Y to provide two alternative values of MVC in this equation (if mass flow monitors are used) depending on the standard conditions at which the higher heating value is determined.
- Amending requirements for gas flow meters on process vents subject to reporting under 40 CFR 98.253(j) to comply with the monitoring requirements in 40 CFR 98.254(c) rather than 40 CFR 98.254(f).

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: One commenter stated that they have identified gas streams that would otherwise fit the requirements for the use of the Tier 1 or Tier 2 methodologies, as proposed in 40 CFR 98.252(a)(1) and (2), if it were not for the fact that they are equipped with flow meters. According to the commenter, these streams are not what industry would define as "refinery fuel gas" but would fall under the realm of "fuel gas" as originally defined in 40 CFR 98.6 in the October 30, 2009, final Part 98, and in the amended definition. These can include streams that are process off-gas or vent gases with properties much different from traditional "refinery fuel gas" streams and are not part of the refinery's fuel gas system. According to the commenter, these off-gas streams may not be sampled currently. The commenter asserted that many of these streams are difficult to sample (for example, because of low pressure) or may present hazardous sampling conditions. According to the commenter, the added rigor associated with Tier 3 requirements is not justified for the increased safety risk, considering the very small contribution of emissions (on the order of 0.1 percent of a refinery's total greenhouse gas emissions as estimated by the commenter).

Response: The proposed amendments provided limited exclusions to the Tier 3 requirement for very small fuel gas lines or combustion units that are not equipped with a flow meter. As noted in the preamble of the August 11, 2010, proposed amendments, the exclusion was specifically targeted to prevent the need to install flow meters for these small fuel gas lines. EPA noted that "[i]f flow meters are in place at the process heater or at a common pipe location, we consider that the Tier 3 monitoring requirements are reasonable and justified." (*See* 75 FR 48772.) The commenter indicated that these gas streams could have a significantly different composition than typical refinery fuel gas, which suggests the default fuel gas factor would have considerable uncertainty for these gas streams, further indicating that Tier 3 sampling is necessary. While we recognize that there are inherent safety issues with sampling any fuel gas streams, the commenter has not provided any supporting information for the assertion that sampling these "process off-gas or vent gases" is more hazardous than other fuel gas streams at the refinery. Therefore, we are not expanding the proposed exclusion to the Tier 3 methodology for fuel gas lines that have a flow meter already installed in the line or upstream common pipe. We also note that today's final amendments are not imposing new requirements to sample these fuel gas streams; the October 30, 2009, final Part 98 already required these fuel gas streams to be sampled for carbon content no less than once per calendar week.

Comment: One commenter objected to the proposed revision of 40 CFR 98.254(f) to also require exhaust gas flow meters associated with process vents (*i.e.,* subject to 40 CFR 98.253(j) requirements) to be installed, operated, calibrated and maintained according the Petroleum Refineries NESHAP (40 CFR part 63, subpart UUU) requirements in 40 CFR 63.1572(c). According to the commenter, the Petroleum Refineries NESHAP requirements in 40 CFR 63.1572(c) contain provisions that are more stringent than the monitoring and QA/QC requirements throughout Part 98. For example, 40 CFR 63.1572(c) requires each monitoring system to have valid hourly average data from at least 75 percent of the hours during which the process operated and to complete a minimum of one cycle of operation for each successive 15-minute period with a minimum of four successive cycles of operation to have a valid hour of data (or at least two if a calibration check is performed during that hour or if the continuous parameter monitoring system is out-of-control). The commenter stated that, since the flow monitoring requirements for the Petroleum Refineries NESHAP in 40 CFR 63.1572(c) were established to demonstrate compliance with emission limits, they should not be used as a template for requirements of flow metering for GHG reporting. The commenter recommended that the process vent exhaust flow meter requirements should be consistent with the requirements in 40 CFR 98.254(c) for flare and sour gas flow meters.

Response: We proposed to include the requirements for flow meters used to comply with the 40 CFR 98.253(j) for process vents within the monitoring provisions of 40 CFR 98.254(f) because these meters are exhaust gas flow meters rather than fuel gas flow meters. However, we agree with the commenter that the inclusion of flow meters used to comply with the 40 CFR 98.253(j) within the monitoring provisions of 40 CFR 98.254(f) added new requirements

to these flow meters. While we believe that the flow meter requirements in 40 CFR 63.1572(c) of the Petroleum Refineries NESHAP are reasonable requirements for exhaust gas flow meters in general (40 CFR 63.1572(c) are requirements for parameter monitoring systems, not continuous emission monitoring systems), we agree with the commenter that it is inappropriate to add these requirements to process vent flow meters at this juncture. Furthermore, the provisions in 40 CFR 98.253(j) allow use of process knowledge or engineering calculations as an alternative to direct flow measurement. As such, it is incongruous to subject facilities that have flow meters on these process vents to additional requirements when facilities that do not have flow meters on these process vents may use process knowledge or engineering calculations. Therefore, we are finalizing requirements for flow meters used to comply with 40 CFR 98.253(j) for process vents to meet the monitoring provisions of 40 CFR 98.254(c) rather than 40 CFR 98.254(f) as was required per the October 30, 2009 final Part 98.

O. Subpart AA—Pulp and Paper Manufacturing

1. Summary of Final Amendments and Major Changes Since Proposal

We are amending 40 CFR 98.273(a)(1), (b)(1) and (c)(1) to clarify that owners and operators may choose to use a tier other than Tier 1 from 40 CFR 98.33 to calculate fossil-fuel based CO_2 emissions.

We have removed the CO_2 emission factors from Table AA–2 and revised 40 CFR 98.273(c)(1) to direct owners and operators to use the CO_2 emission factors from Table C–1 of subpart C to calculate CO_2 emissions from lime kilns.

With respect to calculating CH_4 and N_2O emissions from fossil fuel combustion at lime kilns, and consistent with the amendments to allow use of higher tiers than Tier 1 for units subject to subpart AA, we are amending 40 CFR 98.273(a)(2), (b)(2), and (c)(2) to allow reporters to also use site-specific high heating values, as opposed to default values, when calculating CH_4 and N_2O emissions. We are making harmonizing amendments to the definition of EF under Equation AA–1 to clarify that default or site-specific emission factors may be used. Similarly, we are amending 40 CFR 98.276(e) to reflect the option to use default or site-specific values.

We are clarifying through this final rule that emissions from the combustion of wastewater treatment sludge are calculated using the emission factors included in Table C–1. We have determined that this sludge falls within the definition of "Wood and Wood Residuals" included in Table C–1. Therefore, per 40 CFR 98.33(b)(1)(iii), emissions from the combustion of this type of sludge may be determined using Tier 1 in subpart C. In order to further clarify this, we are adding the definition of "Wood and Wood Residuals" to 40 CFR 98.6 and including wastewater process sludge from paper mills in this definition, as further described in Section II.F of this preamble.

We are adding solid petroleum coke to both Table C–1 and Table AA–2. We have concluded that it is not necessary to have emission factors for petroleum coke specific to kraft calciners in Table AA–2 because we do not believe that any kraft calciners are combusting this fuel, nor were any comments received suggesting this was not the case.

There were no comments received specifically on subpart AA, therefore the amendments are being finalized as proposed.

P. Subpart NN—Suppliers of Natural Gas and Natural Gas Liquids

1. Summary of Final Amendments and Major Changes Since Proposal

Threshold for natural gas local distribution companies. We are amending 40 CFR Table A–5 of subpart A of 40 CFR part 98 to establish an applicability threshold so that only local distribution companies (LDCs) that deliver 460,000 thousand standard cubic feet (mscf) or more of natural gas per year are subject to the reporting rule. No major changes have been made since proposal.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: Two commenters requested that EPA apply the 460,000 thousand standard cubic feet (mscf) applicability threshold throughout 40 CFR part 98 wherever a threshold is expressed in $mtCO_2e$. Specifically, they contended that 40 CFR 98.2(i)(1) and (2) should be changed to allow LDCs to stop reporting if they deliver less than 460 million cubic feet (mmcf) for 5 consecutive years or less than 276 mmcf for 3 consecutive years (25,000 $mtCO_2e$ is approximately equivalent to the CO_2 emissions from the combustion of 460 mmcf of natural gas and 15,000 $mtCO_2e$ is approximately equivalent to 276 mmcf of natural gas). The commenters urged EPA to clarify that the threshold for natural gas distributors (460,000 mscf) is equivalent to the threshold of 25,000 $mtCO_2e$ wherever that metric ton threshold appears in the rule.

Response: EPA has finalized an applicability threshold for LDCs of 460,000 mscf or more of natural gas delivered per year. As noted by the commenters, we decided that it would be easier for LDCs to determine whether or not they were above a reporting threshold expressed in mscf than if that threshold were expressed in metric tons of carbon dioxide equivalent for the first year of this reporting program.

However, we have not changed the conditions for ceasing reporting. In the 2009 final rule, 40 CFR 98.2(i) states, "Except as provided in this paragraph, once a facility or supplier is subject to the requirements of this part, the owner or operator must continue for each year thereafter to comply with all requirements of this part, including the requirement to submit annual GHG reports, even if the facility or supplier does not meet the applicability requirements in paragraph (a) of this section in a future year." As noted by the commenter, facilities and suppliers can cease reporting when reported emissions are below 25,000 $mtCO_2e$ for five consecutive years or below 15,000 $mtCO_2e$ for three consecutive years, as specified in 40 CFR 98.2(i)(1) and (i)(2), respectively. It is clear in the final rule that other than these two exceptions, a facility or supplier must continue to report even if the facility or supplier no longer meets the threshold for reporting

EPA has concluded that applying a consistent threshold, expressed in $mtCO_2e$, in 98.2(i)(1) and 98.2(i)(2) for all reporters levels the playing field for all reporters and is most logical. EPA does not intend to provide equivalent thresholds under 40 CFR 98.2(i) for various categories because it becomes too cumbersome. LDCs are required to report, under 40 CFR 98.406(b)(8), the total annual CO_2 mass emissions that would result from complete combustion of the natural gas delivered to end-users. By performing this required calculation, LDCs have the necessary data to determine whether they may cease reporting.

Q. Subpart OO—Suppliers of Industrial Greenhouse Gases

1. Summary of Final Amendments and Major Changes Since Proposal

We are making several changes to subpart OO to respond to concerns raised by producers of fluorinated GHGs regarding the scope of the monitoring and reporting requirements, and clarify the scope and due dates for certain reporting and recordkeeping requirements.

Producers of fluorinated GHGs requested that EPA clarify that subpart OO does not apply to fluorinated GHGs that are either emitted or destroyed at the facility before the fluorinated GHG product is packaged for sale or for shipment to another facility for destruction; are produced and transformed at the same facility; or occur as low-concentration constituents (*e.g.,* impurities) in fluorinated GHG products. The producers also requested that EPA amend the rule to account for the fact that some fluorinated GHGs do not have global warming potential values (GWPs) listed in Table A–1 of subpart A. For fluorinated GHGs without GWPs in Table A–1, facilities cannot calculate CO_2-equivalent production as required by subpart A, and importers and exporters cannot take advantage of the reporting exemptions for small shipments under 40 CFR 98.416(c) and (d), which are expressed in CO_2-equivalents.

In response to the concern regarding fluorinated GHGs that are emitted or destroyed before the product is packaged for sale, we are amending the definition of "produce a fluorinated GHG" at 40 CFR 98.410(b) to explicitly exclude the "creation of fluorinated GHGs that are released or destroyed at the production facility before the production measurement at § 98.414(a)." We are also removing the requirements at 40 CFR 98.414(j) and 98.416(a)(4) to monitor and report the destruction of fluorinated GHGs "that are not included in the calculation of the mass produced in § 98.413(a) because they are removed from the production process as by-products or wastes." Finally, we are modifying the requirements at 40 CFR 98.414(h), 98.416(a)(3), and 98.416(a)(11) to limit them to the mass of each fluorinated GHG that is fed into the destruction device (or "destroyed" in the case of 40 CFR 98.416(a)(3)) and that was previously produced as defined at 40 CFR 98.410(b).

These amendments will clarify that the scope of subpart OO is that which EPA has always intended, and they will modify the destruction monitoring and reporting requirements to be fully consistent with that scope. As noted in the preamble to the final Part 98 (74 FR 56259), and in the response to comments document, the intent of subpart OO is to track the quantities of fluorinated GHGs entering and leaving the U.S. supply of fluorinated GHGs. Specifically, subpart OO is intended to address production of fluorinated GHGs, not emissions or destruction of fluorinated GHGs that occur during the production process.

As noted in the proposed Part 98 (74 FR 16580), the production measurement at 40 CFR 98.414(a) could occur wherever it traditionally occurs, *e.g.,* at the inlet to the day tank or at the shipping dock, as long as the subpart OO monitoring requirements were met (*e.g.,* one-percent precision and accuracy for the mass produced and for container heels, if applicable). Emissions upstream of the production measurement will be subject to the recently promulgated subpart L, which was signed by EPA Administrator Lisa Jackson on November 8, 2010 and are not part of the subpart OO source category.

We are also amending 40 CFR 98.416(a)(3) and (a)(11) to limit the monitoring and reporting of destroyed fluorinated GHGs to those destroyed fluorinated GHGs that were previously "produced" under today's revised definition.[6] Such fluorinated GHGs include but are not limited to quantities that are shipped to the facility by another facility for destruction, and quantities that are returned to the facility for reclamation but are found to be irretrievably contaminated. While monitoring of some destroyed streams appears to pose significant technical challenges,[7] monitoring of quantities of fluorinated GHGs that were previously produced does not. These quantities can be weighed and analyzed by the facility upon receipt or upon the facility's conclusion that they cannot be brought back to the specifications for new or reusable product.

In response to the concern regarding fluorinated GHGs that are produced and transformed at the same facility, we are amending the definition of "produce a fluorinated GHG" to exclude "the creation of intermediates that are created and transformed in a single process with no storage of the intermediates." We are also amending the definition of "produce a fluorinated GHG" in 40 CFR 98.410(b) to explicitly include "the manufacture of a fluorinated GHG as an isolated intermediate for use in a process that will result in its transformation either at or outside of the production facility." We are also adding a definition of "isolated intermediate" to 40 CFR 98.418. Finally, we are adding provisions to 40 CFR 98.414, 98.416, and 98.417 to clarify that isolated intermediates that are produced and transformed at the same facility are exempt from subpart OO monitoring, reporting, and recordkeeping requirements respectively.

As noted by the producers, fluorinated GHGs that are produced and transformed at the same facility never enter the U.S. supply of industrial greenhouse gases; thus, they do not need to be reported under subpart OO. This is true both of isolated intermediates and of intermediates that are created and transformed in a single process with no storage of the intermediate. However, while we are excluding the latter from the definition of "produce a fluorinated GHG," we are including the former in that definition. This is because the manufacture of isolated intermediates, which can lead to emissions of those intermediates, will be of interest under the recently promulgated subpart L and it is desirable to use the same definition of "produce a fluorinated GHG" for subpart L as for subpart OO for consistency and clarity. Thus, instead of excluding the manufacture of isolated intermediates that are transformed at the same facility from the definition of "produce a fluorinated GHG," we are adding provisions to exclude it from the subpart OO monitoring, reporting, and recordkeeping requirements. We are also adding a definition of "isolated

[6] In Part 98, EPA required the monitoring of all streams being destroyed because it was our understanding, based on conversations with fluorinated GHG producers, that the mass flow of destroyed fluorinated GHG streams was routinely monitored. To arrive at the quantities being removed from the supply, EPA required facilities to estimate the share of the total quantity of fluorinated GHGs destroyed that consisted of fluorinated GHGs that were not included in the calculation of the mass produced. This share could then be subtracted from the total to arrive at the amounts destroyed that were removed from the supply. In other words, monitoring and reporting of the destruction of fluorinated GHGs that were not included in the mass produced was required in order to estimate the destruction of fluorinated GHGs that had been produced.

[7] These include (1) low-pressure conditions that make it challenging to achieve good accuracies and precisions and under which the installation of a flowmeter may lead to low- or no-flow conditions, interfering with operations upstream of the meter, (2) corrosive conditions that require the use of Tefzel-lined flow meters, which are currently available in a limited range of sizes and precisions, and (3) variations in stream flow rates and compositions that are associated with purging of vessels and columns and that make it difficult to select a meter that will measure the full range of flows to the required accuracy and precision.

intermediate" that is the same as that for the recently promulgated subpart L.

In response to the concern regarding fluorinated GHGs that occur as low-concentration constituents of fluorinated GHG products, we are defining and excluding low-concentration constituents from the monitoring, reporting, and recordkeeping requirements for fluorinated GHG production, exports, and imports. For purposes of production and export, we are defining a low-concentration constituent in 40 CFR 98.418 as a fluorinated GHG constituent of a fluorinated GHG product that occurs in the product in concentrations below 0.1 percent by mass. This concentration is the same as that used in the definition of "trace concentration" used elsewhere in subpart OO. It is also consistent with industry purity standards for HFC refrigerants (Air-Conditioning, Heating, and Refrigeration Institute (AHRI) 700), for SF_6 used as an insulator in electrical equipment (International Electrotechnical Commission (IEC) 60376), and for perfluorocarbons and other fluorinated GHGs used in electronics manufacturing (Semiconductor Equipment and Materials International (SEMI) C3 series). To meet these standards, which set limits that range from less than 0.1 percent to 0.5 percent for all fluorinated GHG impurities combined, fluorinated GHG producers are likely to have identified and quantified the concentrations of impurities at concentrations at or above 0.1 percent for the products subject to the standards. Finally, below concentrations of 0.1 percent, fluorinated GHG impurities are not likely to have a significant impact on the GWP of the product. For example, if a low-concentration constituent occurs in concentrations of just less than 0.1 percent and has a GWP that is ten times as large as the GWP of the main constituent of the product, it will increase the weighted GWP of the product by just less than one percent.

To ensure that fluorinated GHG production facilities rely on data of known and acceptable quality when determining whether or not to report a minor fluorinated GHG constituent of a product, we are adding product sampling and analytical requirements at 40 CFR 98.414(n), corresponding calibration requirements at 40 CFR 98.414(o), and a corresponding reporting requirement at 40 CFR 98.416(f). We are also clarifying in 40 CFR 98.414(a) how to calculate production of each fluorinated GHG constituent of a product.

For purposes of fluorinated GHG imports, we are defining a "low-concentration constituent" in 40 CFR 98.418 as a fluorinated GHG constituent of a fluorinated GHG product that occurs in the product in concentrations below 0.5 percent by mass. We are defining a higher concentration for fluorinated GHG imports than for fluorinated GHG production and exports because importers are less likely than producers to have detailed information on the identities and concentrations of minor fluorinated GHG constituents in their products.

In response to the concerns regarding fluorinated GHGs that do not have GWPs listed in Table A–1, we are amending subpart A to exempt such compounds from the general subpart A requirement to report supply flows in terms of CO_2 equivalents and revising the reporting exemptions for import and export of small shipments to be in terms of kilograms of fluorinated GHGs or N_2O, rather than tons of CO_2-equivalents. The amendment to subpart A is discussed in more detail in Section II.F of this preamble. The exemptions for import and export will be applied to shipments of less than 25 kilograms of fluorinated GHGs or N_2O rather than to shipments of less than 250 metric tons of CO_2e. This will enable small shipments of fluorinated GHGs to be exempt from reporting regardless of whether or not the fluorinated GHG has a GWP listed in Table A–1.

Other corrections. We are also amending the reporting and recordkeeping provisions in subpart OO to clarify those requirements and to correct internal inconsistencies in the subpart.

We are amending the reporting requirements in 40 CFR 98.416(a)(15) and (c)(10) to remove N_2O from the list of GHGs that must be reported when they are transferred off site for destruction, because N_2O transferred off site for destruction is not required to be monitored.

We are amending 40 CFR 98.416(b) and (e) to clarify the due dates of the one-time reports required by those paragraphs. The due date for the one-time reports is March 31, 2011, or within 60 days of commencing fluorinated GHG destruction or production (as applicable). The due date in 40 CFR 98.416(e) in subpart OO was originally April 1, 2011, and there was no provision for fluorinated GHG destruction or production commenced after that date.

We are amending the recordkeeping requirements in 40 CFR 98.417(a)(2) to correct and update an internal reference. The correct reference is to "§ 98.414(m) and (o)," instead of "§ 98.417(j) and (k)." We are amending 40 CFR 98.417(b) to remove the reference to the "annual destruction device outlet reports" in 40 CFR 98.416(e) since no such reporting requirement exists.

Finally, we are amending 40 CFR 98.417(d)(2) to correct a typographical error; that paragraph should refer to "the invoice for the export," rather than for the "import."

EPA is making one clarifying editorial change in the final rule amendments that was not in the proposed amendments. As discussed above and in the preamble to the proposed amendments, 40 CFR 98.414(h) requires facilities to measure the mass of each fluorinated GHG that is fed into the destruction device and that was previously produced. If the mass being fed into the destruction device includes more than trace concentrations of materials other than the fluorinated GHG being destroyed, facilities must estimate the concentrations of the fluorinated GHGs being destroyed. They must then multiply these concentrations by the mass measurement to obtain the mass of the fluorinated GHGs fed into the destruction device. In the proposed paragraph (h), the final sentence read, "You must multiply this concentration (mass fraction) by the mass measurement to obtain the mass of the fluorinated GHG destroyed." To be consistent with the beginning of the paragraph and to be mathematically correct, this sentence has been corrected in the final rule to read, "You must multiply this concentration (mass fraction) by the mass measurement to obtain the mass of the fluorinated GHG fed into the destruction device." As specified in Equation OO–4 of 40 CFR 98.413(d), the mass of the fluorinated GHG destroyed is obtained by multiplying the mass of the fluorinated GHG fed into the destruction device by the destruction efficiency of the destruction device.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: Two commenters expressed concerns that exempting low-concentration constituents of products from monitoring and reporting would exempt a significant amount of

emissions from reporting. These commenters requested additional information on the GWPs of these low-concentration constituents and on the emissions affected by the exemption.

Response: We analyzed the potential impact of low-concentration constituents on the total calculated flows of fluorinated GHGs into the U.S. economy, considering both the possible masses of the low-concentration constituents and their CO_2-equivalents. We concluded that at a level of 0.1 percent of production and 0.5 percent of imports, identification of such constituents would have a negligible impact on the total calculated flows of fluorinated GHGs into the U.S. supply. It is important to note that, under the exemption for low-concentration constituents, the masses and CO_2e of low-concentration constituents are not equated to zero. Instead, the mass of the low-concentration constituent is assigned to the main constituent of the product, and the GWP is assumed to be that of the main constituent of the product. Only if the GWP or atmospheric lifetime of the low-concentration constituent is significantly higher than that of the main constituent is there a potential concern associated with these assumptions.

As noted in the preamble to the proposed rule, low-concentration constituents are generally by-products of the reaction used to produce the fluorinated GHG product. Although we do not have information on every product and by-product combination, we believe, based on the examples of which we are aware, that by-products rarely have GWPs that are more than ten times as large as that of the product. We analyzed the potential impact of a by-product that had ten times the GWP of the product on the weighted GWP of the combination of the two. At a concentration of 0.1 percent, the by-product would raise the weighted GWP (and CO_2e) above that of the product by just under one percent. Given that the impacts of most low-concentration constituents are likely to fall below this level, we do not consider them significant.

We also performed an analysis in which we conservatively assumed that every HFC, PFC, and SF_6 product had a PFC by-product that was shipped along with it at a concentration of 0.1 percent. This was intended to address the possibility that low-concentration constituents had very long atmospheric lifetimes. Based on this worst-case assumption, the quantity of PFCs flowing into the U.S. fluorinated GHG supply was increased by less than 10 percent. It is extremely unlikely that every HFC, PFC, and SF_6 product has a PFC by-product; in fact, the highest-volume products, the HFCs, are unlikely to have PFC by-products. Therefore, in consideration of this analysis and the GWP analysis, we have concluded that the exemption for low-concentration constituents is very unlikely to lead to significant errors in our understanding of potential emissions of fluorinated GHGs from the U.S. supply.

Comment: Two commenters expressed concerns regarding the proposal to exclude from subpart OO fluorinated GHGs that are emitted or destroyed before the fluorinated product is packaged for sale. They requested that EPA ensure that these emissions were fully captured under the reporting rule (*e.g.,* subpart L) and requested that EPA document the magnitude of these emissions and the identities and GWPs of the compounds emitted.

Response: As proposed, we are excluding from the definition of "produce a fluorinated GHG" the creation of fluorinated GHGs that are released or destroyed at the production facility before the production measurement. As discussed in the preamble to the proposed amendments, such fluorinated GHGs never enter the U.S. supply of fluorinated GHGs, and the goal of subpart OO is to monitor fluorinated GHG flows into and out of this supply. However, the recently promulgated subpart L requires monitoring and reporting of emissions that occur before the production measurement. We have worked to ensure that no fluorinated GHG emissions from fluorinated GHG production are "missed" under the combined oversight of these two subparts. The magnitudes, identities, and GWPs of the emissions that will be reported under subpart L of 40 CFR part 98 are discussed in the preamble to the proposed rule including subpart L (75 FR 18652, April 12, 2010) and in the Technical Support Document for subpart L.

R. Subpart PP—Suppliers of Carbon Dioxide

1. Summary of Final Amendments and Major Changes Since Proposal

We are removing the words "each" from 40 CFR 98.422(a) and (b). This change will align this section with the requirements of the rest of subpart PP, which allow for monitoring of an aggregated flow of CO_2, versus monitoring at each production well or process unit, if the monitoring is done at a gathering point downstream of individual production wells or production process units.

We are allowing suppliers to calculate the annual mass of CO_2 supplied in containers by using weigh bills, scales, load cells, or loaded container volume readings as an alternative to flow meters. We are making multiple amendments to the regulatory text to accommodate this provision. First, we are redesignating 40 CFR 98.423(b) as 40 CFR 98.423(c) and adding a new 40 CFR 98.423(b) with calculation procedures for CO_2 supplied in containers. Second, we are amending the first sentence of 40 CFR 98.423(a) to allow use of the alternative procedures in 40 CFR 98.423(b). Third, we are adding new QA/QC procedures for suppliers of CO_2 in containers to 40 CFR 98.424(a)(2). Fourth, we are adding missing data procedures for suppliers of CO_2 in containers to 40 CFR 98.425(d) and specifying that the missing data procedures in 40 CFR 98.425(a) are for suppliers using flow meters. Finally, we are making multiple amendments to regulatory text in 40 CFR 98.426 so that all data collected with weigh bills, scales, load cells, or loaded container volume readings must be reported just as for all data collected with flow meters.

We are removing the requirement that CO_2 measurement must be made prior to subsequent purification, processing, or compression at 40 CFR 98.423(a)(1), (a)(2), and (b) (which we are redesignating as 40 CFR 98.423(c)). Because the purpose of subpart PP is to collect accurate data on CO_2 supplied to the economy, we have concluded that measurements made after purification, compression, or processing will continue to meet the level of data quality and accuracy needed with respect to subpart PP, while minimizing the burden on industry and providing greater flexibility in measuring CO_2 streams.

To ensure that all reporters account for the appropriate quantity of CO_2 in situations where a CO_2 stream is segregated such that only a portion is captured for commercial application or for injection and where a flow meter is used, we are making a number of amendments. First, we are adding language at 40 CFR 98.424(a) regarding flow meter location. Reporters who have a flow meter(s) on the main, captured CO_2 stream(s) only must locate the flow meter(s) after the point(s) of segregation. Reporters who have a flow meter(s) on the main, captured CO_2 stream and a subsequent flow meter(s) on the CO_2 stream(s) diverted for on-site use and who choose to use the subsequent flow meter(s) to calculate CO_2 supply (*i.e.* the

two meter method) must locate the main flow meter(s) prior to the point(s) of segregation and the subsequent flow meter(s) on the CO_2 stream(s) for on-site use after the point(s) of segregation. We are also amending existing language in 40 CFR 98.424(a) to reference this new requirement. Second, we are amending 40 CFR 98.423(a)(3) to provide reporters using the two meter approach a new equation (Equation PP–3b) to calculate total CO_2 supplied. As a harmonizing change, we are redesignating Equation PP–3 as Equation PP–3a. Third, we are amending 40 CFR 98.426(c) so that reporters using the new Equation PP–3b are required to report the equation inputs and output and the location of flow meters with respect to the point of segregation.

Because the amendments will allow flow meters to be located after purification, compression, or processing, we are adding data reporting requirements in 40 CFR 98.426 to collect additional information on flow meter location. Specifically, we are adding that facilities will report information on the placement of each flow meter used in relation to the points of CO_2 stream capture, dehydration, compression, and other processing. Knowing where in the production process the flow meter is located will enable EPA to effectively compare data across reporters and learn about the efficacy of various CO_2 stream capture processes.

We are specifying standard conditions under subpart PP as a temperature and an absolute pressure of 60 °F and 1 atmosphere. It is our understanding that 60° F and 1 atmosphere (which is equivalent to 14.7 psia) are more commonly used by the industries covered by subpart PP.

We are making several amendments to allow the reporter to determine the mass of a CO_2 stream by converting the volumetric flow of the CO_2 stream from operating conditions to standard conditions and then applying the density value for CO_2 at standard conditions and the measured concentration of CO_2 in the flow as a volume percent. First, we are specifying that, at the revised standard conditions, the density of CO_2 is 0.001868 metric tons per standard cubic meter. This is slightly different than the density value proposed (0.018704) as the result of additional research we have conducted. We are specifying that a reporter who applies the density value for CO_2 at standard conditions must use this specified value.

Second, we are revising the definitions of two of the input variables to Equation PP–2 in paragraph (a)(2). Since it was finalized (74 FR 56260, October 30, 2009), Equation PP–2 allows a reporter to calculate annual mass of CO_2 with an input for CO_2 concentration in weight percent and an input for density of the CO_2 stream. So that reporters can avail themselves of the density value for CO_2 being finalized in this action, however, Equation PP–2 can now also be used to calculate annual mass of CO_2 with an input for CO_2 concentration in volume percent and an input for density of CO_2. We note that when we proposed this action, we did not propose to revise the definitions of the input variables because we erroneously overlooked the mismatch between the density value we were providing (CO_2) and the density value required by Equation PP–2 (the CO_2 stream). In order to provide all reporters with lower burden calculation procedures, as intended by proposing a density value for CO_2, we are correcting this omission and harmonizing Equation PP–2 with the finalized density value. We note that the revision to the two input variables is being applied for both reporters using flow meters and reporters using containers.

Third, we are amending 40 CFR 98.426(b)(3) and (b)(4) to require that for volumetric flow meters, the reporter must report quarterly concentration either in volume or weight percent and a density value for either CO_2 or the CO_2 stream, depending on which of the two equation input descriptions provided the reporter uses.

Fourth, we are amending language in 40 CFR 98.424(a)(5), (a)(5)(i) and (a)(5)(ii) to allow reporters to choose either a method published by a consensus-based standards organization or an industry standard practice to determine the density of the CO_2 stream. We are also replacing the word "measure" with the word "determine." Previously, subpart PP required a reporter to use an appropriate method published by a consensus-based standards organization to measure density for CO_2 at standard conditions, if such a method existed. Only where no such method existed could an industry standard practice be used. However, we have been unable to identify any method published by a consensus-based standards organization for measuring the density of the CO_2 stream. Therefore, we are providing reporters with more flexibility on this requirement so that they can use an industry standard practice to calculate the density of the CO_2 stream rather than directly measure density with an instrument, if preferred.

Finally, we are amending the reference to the U.S. Food and Drug Administration food-grade specifications for CO_2 in 40 CFR 98.424(b)(2) to correct a typographical error. The correct reference is 21 CFR 184.1240, not 21 CFR 184.1250.

Major changes since proposal are identified in the following list. The rationale for these and any other significant changes can be found in this preamble or the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

- We are adding a second aggregation equation (Equation PP–3b) with appropriate flow meter location requirements so that a reporter can select either the one-meter or two-meter approach for calculating total annual mass of CO_2.
- We are revising the definitions of two of the input variables to Equation PP–2 in paragraphs 40 CFR 98.423(a)(2) and (b)(2) so that the equation can be used to calculate annual mass of CO_2 with an input for CO_2 concentration in either volume percent and an input for density of CO_2, or weight percent CO_2 and the density of the whole stream.

2. Summary of Comments and Responses

This section contains a brief summary of major comments and responses. Several comments were received on this subpart. Responses to additional significant comments received can be found in the document, "Response to Comments: Revision to Certain Provisions of the Mandatory Reporting of Greenhouse Gases Rule" (*see* EPA–HQ–OAR–2008–0508).

Comment: One commenter asserted that one of their facilities has already installed a CO_2 meter prior to purification, processing, or compression—as was required by 40 CFR 98.424 when Part 98 was finalized (74 FR 56260, October 30, 2009)—and because this facility has segregation, this results in a flow meter location prior to segregation. The commenter suggested that this facility and others like it should be allowed to keep their flow meters in place rather than be required to move them to a location after segregation, as was proposed in the amendments of August 11, 2010. The commenter suggested a two-meter approach, whereby a facility locates a main flow meter prior to segregation on the main, captured CO_2 stream and a subsequent flow meter after segregation on the diverted CO_2 stream and then calculates the CO_2 for off-site commercial use as the difference between the two. The commenter stated that this two-meter approach should be

equally acceptable to the approach proposed.

Response: EPA agrees that a reporter can calculate CO_2 supplied for commercial transaction or injection with sufficient accuracy with the two-meter approach suggested by the commenter, as long as the CO_2 stream diverted for on site use is the only CO_2 stream diversion after the location of the main flow meter. If any of the main CO_2 stream remaining after on-site diversion is further diverted (to a vent for emission, for example) then the difference between the captured CO_2 stream and the CO_2 stream diverted for on-site use will not be an accurate reflection of the CO_2 supplied for commercial transaction or injection. Therefore, EPA is finalizing two approaches for calculating CO_2 supplied, including aggregation equations with flow meter location requirements, so that a reporter can select either the one-meter or two-meter approach. However, we are specifying in the monitoring and QA/QC requirements (40 CFR 98.424) that a reporter may only follow the two-meter approach if the CO_2 stream(s) for on-site use is/are the only diversion(s) from the main, captured CO_2 stream after the main flow meter(s) location.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the executive order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. These amendments do not make substantive changes to the reporting requirements in any of the amended subparts. In many cases, the amendments to the reporting requirements reduce the reporting burden by making the reporting requirements conform more closely to current industry practices. While the final rule results in a net decrease in collection burden, there is a new reporting requirement for facilities with part 75 units. Previously, facilities with these units had the option of reporting biogenic CO_2 emissions separately. This final rule requires separate reporting of biogenic CO_2 emissions beginning in 2011; however facilities may use simplified methods based on available information. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the regulations promulgated on October 30, 2009, under 40 CFR part 98 under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0629. Burden is defined at 5 CFR 1320.3(b). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Further information on EPA's assessment on the impact on burden can be found in the Revisions Cost Memo (EPA–HQ–OAR–2008–0508).

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of these amendments on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of these rule amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

The rule amendments will not impose any new significant requirements on small entities that are not currently required by the rules promulgated on October 30, 2009 (*i.e.,* calculating and reporting annual GHG emissions).

Broadly, in developing the 2009 final rule EPA took several steps to reduce the impact on small entities. For example, EPA determined appropriate thresholds that reduced the number of small businesses reporting. In addition, EPA did not require facilities to install CEMS if they did not already have them. Facilities without CEMS can calculate emissions using readily available data or data that are less expensive to collect such as process data or material consumption data. For some source categories, EPA developed tiered methods that are simpler and less burdensome. Also, EPA required annual instead of more frequent reporting. Finally, EPA continues to conduct significant outreach on the mandatory GHG reporting rule and maintains an "open door" policy for stakeholders to help inform EPA's understanding of key issues for the industries.

D. Unfunded Mandates Reform Act (UMRA)

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. In addition, EPA determined that the rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because the amendments will not impose any new requirements that are not currently required by the rule promulgated on October 30, 2009 (*i.e.,* calculating and reporting annual GHG emissions), and the rule amendments will not unfairly apply to small governments. Therefore, this action is not subject to the requirements of section 203 of the UMRA.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. However, for a more detailed discussion about how these rule amendments will relate to existing State programs, please see Section II of the preamble for the proposed GHG reporting rule (74 FR 16457 to 16461, April 10, 2009).

These amendments apply directly to facilities that supply fuel that when used emit greenhouse gases or facilities that directly emit greenhouses gases. They do not apply to governmental entities unless the government entity owns a facility that directly emits greenhouse gases above threshold levels (such as a landfill or stationary combustion source), so relatively few government facilities will be affected. This regulation also does not limit the

power of States or localities to collect GHG data and/or regulate GHG emissions. Thus, Executive Order 13132 does not apply to this action.

Although section 6 of Executive Order 13132 does not apply to this action, EPA did consult with State and local officials or representatives of State and local governments in developing the 2009 final rule. A summary of EPA's consultations with State and local governments is provided in Section VIII.E of the preamble to the 2009 final rule (74 FR 56260, October 30, 2009).

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). The rule amendments will not result in any changes to the requirements of Part 98. Thus, Executive Order 13175 does not apply to this action.

Although Executive Order 13175 does not apply to this action, EPA sought opportunities to provide information to Tribal governments and representatives during the development of the rules promulgated on October 30, 2009. A summary of the EPA's consultations with Tribal officials is provided Sections VIII.E and VIII.F of the preamble to the final GHG Reporting Rule (74 FR 56260, October 30, 2009).

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113 (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves the use of two new voluntary consensus standards from ASTM International. Specifically, EPA will allow facilities in the petroleum refining and petrochemical production industries to use ASTM D2593–93(2009) Standard Test Method for Butadiene Purity and Hydrocarbon Impurities by Gas Chromatography, and ASTM D7633–10 Standard Test Method for Carbon Black—Carbon Content, in addition to the methods incorporated by reference in Part 98. These additional voluntary consensus standards will provide alternative method that owners or operators in these industries can use to monitor GHG emissions.

This rulemaking also involves the use of several standard methods that are in EPA publications. These include the following:

- Protocol for Measurement of Tetrafluoromethane (CF_4) and Hexafluoroethane (C_2F_6) Emissions from Primary Aluminum Production (April 2008); IBR approved for 40 CFR 98.64(a).
- AP 42, Section 5.2, Transportation and Marketing of Petroleum Liquids, July 2008 (AP 42, Section 5.2); *http://www.epa.gov/ttn/chief/ap42/ch05/final/c05s02.pdf*; in Chapter 5, Petroleum Industry, of AP 42, Compilation of Air Pollutant Emission Factors, 5th Edition, Volume I; IBR approved for 40 CFR 98.253(n).
- AP 42, Section 7.1, Organic Liquid Storage Tanks, November 2006 (AP 42, Section 7.1), *http://www.epa.gov/ttn/chief/ap42/ch07/final/c07s01.pdf*; in Chapter 7, Liquid Storage Tanks, of AP 42, Compilation of Air Pollutant Emission Factors, 5th Edition, Volume 1; IBR approved for 40 CFR 98.243(m)(1) and 40 CFR 98.256(o)(2)(i).
- Method 8015C, Nonhalogenated Organics By Gas Chromatography, Revision 3, February 2007 (Method 8015C), *http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/8015c.pdf;* in EPA Publication No. SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Third Edition; IBR approved for 40 CFR 98.244(b)(4)(viii).
- Method 8021B, Aromatic And Halogenated Volatiles By Gas Chromatography Using Photoionization And/Or Electrolytic Conductivity Detectors, Revision 2, December 1996 (Method 8021B). *http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/8021b.pdf;* in EPA Publication No. SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Third Edition; IBR approved for 40 CFR 98.244(b)(4)(viii).
- Method 8031, Acrylonitrile By Gas Chromatography, Revision 0, September 1994 (Method 8031), *http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/8031.pdf;* in EPA Publication No. SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Third Edition; IBR approved for 40 CFR 98.244(b)(4)(viii).
- Method 9060A, Total Organic Carbon, Revision 1, November 2004 (Method 9060A), *http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/9060a.pdf;* in EPA Publication No. SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Third Edition; IBR approved for 40 CFR 98.244(b)(4)(viii).

These methods are being added by the final rule amendments as a result of working with affected industries to identify existing methods that can be used to provide the data needed to calculate GHG emissions, proposing the addition of the methods, and considering the public comments on the addition of the methods in the final rule making.

No new test methods were developed for this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that Part 98 does not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment because it is a rule addressing

information collection and reporting procedures.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 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 U.S. 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). This rule will be effective on December 31, 2010.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Incorporation by reference, Suppliers, Reporting and recordkeeping requirements.

Dated: November 24, 2010.

Lisa P. Jackson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 98—[AMENDED]

■ 1. The authority citation for part 98 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart A—[Amended]

■ 2. Section 98.3 is amended by:
■ a. Revising paragraphs (c)(1), (c)(4) introductory text, (c)(4)(i), (c)(4)(ii), and (c)(4)(iii) introductory text.
■ b. Adding paragraph (c)(4)(vi).
■ c. Adding a new sentence to the end of paragraph (c)(5)(i).
■ d. Adding paragraph (c)(12).
■ e. Revising the third sentence of paragraph (d)(3) introductory text.
■ f. Revising the first sentence of paragraph (f).
■ g. Revising paragraphs (g)(4) and (g)(5)(iii).
■ h. Revising paragraph (h).
■ i. Revising paragraph (i).
■ j. Adding paragraph (j).

§ 98.3 What are the general monitoring, reporting, recordkeeping and verification requirements of this part?

* * * * *

(c) * * *

(1) Facility name or supplier name (as appropriate), and physical street address of the facility or supplier, including the city, State, and zip code.

* * * * *

(4) For facilities, except as otherwise provided in paragraph (c)(12) of this section, report annual emissions of CO_2, CH_4, N_2O, and each fluorinated GHG (as defined in § 98.6) as follows.

(i) Annual emissions (excluding biogenic CO_2) aggregated for all GHG from all applicable source categories, expressed in metric tons of CO_2e calculated using Equation A–1 of this subpart.

(ii) Annual emissions of biogenic CO_2 aggregated for all applicable source categories, expressed in metric tons.

(iii) Annual emissions from each applicable source category, expressed in metric tons of each applicable GHG listed in paragraphs (c)(4)(iii)(A) through (c)(4)(iii)(E) of this section.

* * * * *

(vi) Applicable source categories means stationary fuel combustion sources (subpart C of this part), miscellaneous use of carbonates (subpart U of this part), and all of the source categories listed in Table A–3 and Table A–4 of this subpart present at the facility.

(5) * * *

(i) * * * For fluorinated GHGs, calculate and report CO_2e for only those fluorinated GHGs listed in Table A–1 of this subpart.

* * * * *

(12) For the 2010 reporting year only, facilities that have "part 75 units" (*i.e.* units that are subject to subpart D of this part or units that use the methods in part 75 of this chapter to quantify CO_2 mass emissions in accordance with § 98.33(a)(5)) must report annual GHG emissions either in full accordance with paragraphs (c)(4)(i) through (c)(4)(iii) of this section or in full accordance with paragraphs (c)(12)(i) through (c)(12)(iii) of this section. If the latter reporting option is chosen, you must report:

(i) Annual emissions aggregated for all GHG from all applicable source categories, expressed in metric tons of CO_2e calculated using Equation A–1 of this subpart. You must include biogenic CO_2 emissions from part 75 units in these annual emissions, but exclude biogenic CO_2 emissions from any non-part 75 units and other source categories.

(ii) Annual emissions of biogenic CO_2, expressed in metric tons (excluding biogenic CO_2 emissions from part 75 units), aggregated for all applicable source categories.

(iii) Annual emissions from each applicable source category, expressed in metric tons of each applicable GHG listed in paragraphs (c)(12)(iii)(A) through (c)(12)(iii)(E) of this section.

(A) Biogenic CO_2 (excluding biogenic CO_2 emissions from part 75 units).

(B) CO_2. You must include biogenic CO_2 emissions from part 75 units in these totals and exclude biogenic CO_2 emissions from other non-part 75 units and other source categories.

(C) CH_4.

(D) N_2O.

(E) Each fluorinated GHG (including those not listed in Table A–1 of this subpart).

(d) * * *

(3) * * * An owner or operator that submits an abbreviated report must submit a full GHG report according to the requirements of paragraph (c) of this section beginning in calendar year 2012. * * *

* * * * *

(f) *Verification.* To verify the completeness and accuracy of reported GHG emissions, the Administrator may review the certification statements described in paragraphs (c)(9) and (d)(3)(vi) of this section and any other credible evidence, in conjunction with a comprehensive review of the GHG reports and periodic audits of selected reporting facilities. * * *

(g) * * *

(4) Missing data computations. For each missing data event, also retain a record of the cause of the event and the corrective actions taken to restore malfunctioning monitoring equipment.

(5) * * *

(iii) The owner or operator shall revise the GHG Monitoring Plan as needed to reflect changes in production processes, monitoring instrumentation, and quality assurance procedures; or to improve procedures for the maintenance and repair of monitoring systems to reduce the frequency of monitoring equipment downtime.

* * * * *

(h) *Annual GHG report revisions.* (1) The owner or operator shall submit a revised annual GHG report within 45 days of discovering that an annual GHG report that the owner or operator previously submitted contains one or more substantive errors. The revised report must correct all substantive errors.

(2) The Administrator may notify the owner or operator in writing that an annual GHG report previously submitted by the owner or operator contains one or more substantive errors. Such notification will identify each such substantive error. The owner or

operator shall, within 45 days of receipt of the notification, either resubmit the report that, for each identified substantive error, corrects the identified substantive error (in accordance with the applicable requirements of this part) or provide information demonstrating that the previously submitted report does not contain the identified substantive error or that the identified error is not a substantive error.

(3) A substantive error is an error that impacts the quantity of GHG emissions reported or otherwise prevents the reported data from being validated or verified.

(4) Notwithstanding paragraphs (h)(1) and (h)(2) of this section, upon request by the owner or operator, the Administrator may provide reasonable extensions of the 45-day period for submission of the revised report or information under paragraphs (h)(1) and (h)(2) of this section. If the Administrator receives a request for extension of the 45-day period, by e-mail to an address prescribed by the Administrator, at least two business days prior to the expiration of the 45-day period, and the Administrator does not respond to the request by the end of such period, the extension request is deemed to be automatically granted for 30 more days. During the automatic 30-day extension, the Administrator will determine what extension, if any, beyond the automatic extension is reasonable and will provide any such additional extension.

(5) The owner or operator shall retain documentation for 3 years to support any revision made to an annual GHG report.

(i) *Calibration accuracy requirements.* The owner or operator of a facility or supplier that is subject to the requirements of this part must meet the applicable flow meter calibration and accuracy requirements of this paragraph (i). The accuracy specifications in this paragraph (i) do not apply where either the use of company records (as defined in § 98.6) or the use of "best available information" is specified in an applicable subpart of this part to quantify fuel usage and/or other parameters. Further, the provisions of this paragraph (i) do not apply to stationary fuel combustion units that use the methodologies in part 75 of this chapter to calculate CO_2 mass emissions.

(1) Except as otherwise provided in paragraphs (i)(4) through (i)(6) of this section, flow meters that measure liquid and gaseous fuel feed rates, process stream flow rates, or feedstock flow rates and provide data for the GHG emissions calculations shall be calibrated prior to April 1, 2010 using the procedures specified in this paragraph (i) when such calibration is specified in a relevant subpart of this part. Each of these flow meters shall meet the applicable accuracy specification in paragraph (i)(2) or (i)(3) of this section. All other measurement devices (*e.g.,* weighing devices) that are required by a relevant subpart of this part, and that are used to provide data for the GHG emissions calculations, shall also be calibrated prior to April 1, 2010; however, the accuracy specifications in paragraphs (i)(2) and (i)(3) of this section do not apply to these devices. Rather, each of these measurement devices shall be calibrated to meet the accuracy requirement specified for the device in the applicable subpart of this part, or, in the absence of such accuracy requirement, the device must be calibrated to an accuracy within the appropriate error range for the specific measurement technology, based on an applicable operating standard, including but not limited to manufacturer's specifications and industry standards. The procedures and methods used to quality-assure the data from each measurement device shall be documented in the written monitoring plan, pursuant to paragraph (g)(5)(i)(C) of this section.

(i) All flow meters and other measurement devices that are subject to the provisions of this paragraph (i) must be calibrated according to one of the following: You may use the manufacturer's recommended procedures; an appropriate industry consensus standard method; or a method specified in a relevant subpart of this part. The calibration method(s) used shall be documented in the monitoring plan required under paragraph (g) of this section.

(ii) For facilities and suppliers that become subject to this part after April 1, 2010, all flow meters and other measurement devices (if any) that are required by the relevant subpart(s) of this part to provide data for the GHG emissions calculations shall be installed no later than the date on which data collection is required to begin using the measurement device, and the initial calibration(s) required by this paragraph (i) (if any) shall be performed no later than that date.

(iii) Except as otherwise provided in paragraphs (i)(4) through (i)(6) of this section, subsequent recalibrations of the flow meters and other measurement devices subject to the requirements of this paragraph (i) shall be performed at one of the following frequencies:

(A) You may use the frequency specified in each applicable subpart of this part.

(B) You may use the frequency recommended by the manufacturer or by an industry consensus standard practice, if no recalibration frequency is specified in an applicable subpart.

(2) Perform all flow meter calibration at measurement points that are representative of the normal operating range of the meter. Except for the orifice, nozzle, and venturi flow meters described in paragraph (i)(3) of this section, calculate the calibration error at each measurement point using Equation A–2 of this section. The terms "R" and "A" in Equation A–2 must be expressed in consistent units of measure (*e.g.,* gallons/minute, ft^3/min). The calibration error at each measurement point shall not exceed 5.0 percent of the reference value.

$$CE = \frac{|R - A|}{R} \; x \; 100 \qquad \text{(Eq. A-2)}$$

Where:

CE = Calibration error (%).

R = Reference value.

A = Flow meter response to the reference value.

(3) For orifice, nozzle, and venturi flow meters, the initial quality assurance consists of in-situ calibration of the differential pressure (delta-P), total pressure, and temperature transmitters.

(i) Calibrate each transmitter at a zero point and at least one upscale point. Fixed reference points, such as the freezing point of water, may be used for temperature transmitter calibrations. Calculate the calibration error of each transmitter at each measurement point, using Equation A–3 of this subpart. The terms "R," "A," and "FS" in Equation A–3 of this subpart must be in consistent units of measure (*e.g.,* milliamperes, inches of water, psi, degrees). For each transmitter, the CE value at each

measurement point shall not exceed 2.0 percent of full-scale. Alternatively, the results are acceptable if the sum of the calculated CE values for the three transmitters at each calibration level (*i.e.,* at the zero level and at each upscale level) does not exceed 6.0 percent.

$$CE = \frac{|R - A|}{FS} \; x \; 100 \qquad \text{(Eq. A-3)}$$

Where:
CE = Calibration error (%).
R = Reference value.
A = Transmitter response to the reference value.
FS = Full-scale value of the transmitter.

(ii) In cases where there are only two transmitters (*i.e.,* differential pressure and either temperature or total pressure) in the immediate vicinity of the flow meter's primary element (*e.g.,* the orifice plate), or when there is only a differential pressure transmitter in close proximity to the primary element, calibration of these existing transmitters to a CE of 2.0 percent or less at each measurement point is still required, in accordance with paragraph (i)(3)(i) of this section; alternatively, when two transmitters are calibrated, the results are acceptable if the sum of the CE values for the two transmitters at each calibration level does not exceed 4.0 percent. However, note that installation and calibration of an additional transmitter (or transmitters) at the flow monitor location to measure temperature or total pressure or both is not required in these cases. Instead, you may use assumed values for temperature and/or total pressure, based on measurements of these parameters at a remote location (or locations), provided that the following conditions are met:

(A) You must demonstrate that measurements at the remote location(s) can, when appropriate correction factors are applied, reliably and accurately represent the actual temperature or total pressure at the flow meter under all expected ambient conditions.

(B) You must make all temperature and/or total pressure measurements in the demonstration described in paragraph (i)(3)(ii)(A) of this section with calibrated gauges, sensors, transmitters, or other appropriate measurement devices. At a minimum, calibrate each of these devices to an accuracy within the appropriate error range for the specific measurement technology, according to one of the following. You may calibrate using a manufacturer's specification or an industry consensus standard.

(C) You must document the methods used for the demonstration described in paragraph (i)(3)(ii)(A) of this section in the written GHG Monitoring Plan under paragraph (g)(5)(i)(C) of this section. You must also include the data from the demonstration, the mathematical correlation(s) between the remote readings and actual flow meter conditions derived from the data, and any supporting engineering calculations in the GHG Monitoring Plan. You must maintain all of this information in a format suitable for auditing and inspection.

(D) You must use the mathematical correlation(s) derived from the demonstration described in paragraph (i)(3)(ii)(A) of this section to convert the remote temperature or the total pressure readings, or both, to the actual temperature or total pressure at the flow meter, or both, on a daily basis. You shall then use the actual temperature and total pressure values to correct the measured flow rates to standard conditions.

(E) You shall periodically check the correlation(s) between the remote and actual readings (at least once a year), and make any necessary adjustments to the mathematical relationship(s).

(4) Fuel billing meters are exempted from the calibration requirements of this section and from the GHG Monitoring Plan and recordkeeping provisions of paragraphs (g)(5)(i)(C), (g)(6), and (g)(7) of this section, provided that the fuel supplier and any unit combusting the fuel do not have any common owners and are not owned by subsidiaries or affiliates of the same company. Meters used exclusively to measure the flow rates of fuels that are used for unit startup are also exempted from the calibration requirements of this section.

(5) For a flow meter that has been previously calibrated in accordance with paragraph (i)(1) of this section, an additional calibration is not required by the date specified in paragraph (i)(1) of this section if, as of that date, the previous calibration is still active (*i.e.,* the device is not yet due for recalibration because the time interval between successive calibrations has not elapsed). In this case, the deadline for the successive calibrations of the flow meter shall be set according to one of the following. You may use either the manufacturer's recommended calibration schedule or you may use the industry consensus calibration schedule.

(6) For units and processes that operate continuously with infrequent outages, it may not be possible to meet the April 1, 2010 deadline for the initial calibration of a flow meter or other measurement device without disrupting normal process operation. In such cases, the owner or operator may postpone the initial calibration until the next scheduled maintenance outage. The best available information from company records may be used in the interim. The subsequent required recalibrations of the flow meters may be similarly postponed. Such postponements shall be documented in the monitoring plan that is required under paragraph (g)(5) of this section.

(7) If the results of an initial calibration or a recalibration fail to meet the required accuracy specification, data from the flow meter shall be considered invalid, beginning with the hour of the failed calibration and continuing until a successful calibration is completed. You shall follow the missing data provisions provided in the relevant missing data sections during the period of data invalidation.

(j) *Measurement device installation*—(1) *General.* If an owner or operator required to report under subpart P, subpart X or subpart Y of this part has process equipment or units that operate continuously and it is not possible to install a required flow meter or other measurement device by April 1, 2010, (or by any later date in 2010 approved by the Administrator as part of an extension of best available monitoring methods per paragraph (d) of this section) without process equipment or unit shutdown, or through a hot tap, the owner or operator may request an extension from the Administrator to delay installing the measurement device until the next scheduled process equipment or unit shutdown. If approval for such an extension is granted by the Administrator, the owner or operator must use best available monitoring methods during the extension period.

(2) *Requests for extension of the use of best available monitoring methods for measurement device installation.* The owner or operator must first provide the

Administrator an initial notification of the intent to submit an extension request for use of best available monitoring methods beyond December 31, 2010 (or an earlier date approved by EPA) in cases where measurement device installation would require a process equipment or unit shutdown, or could only be done through a hot tap. The owner or operator must follow-up this initial notification with the complete extension request containing the information specified in paragraph (j)(4) of this section.

(3) *Timing of request.* (i) The initial notice of intent must be submitted no later than January 1, 2011, or by the end of the approved use of best available monitoring methods extension in 2010, whichever is earlier. The completed extension request must be submitted to the Administrator no later than February 15, 2011.

(ii) Any subsequent extensions to the original request must be submitted to the Administrator within 4 weeks of the owner or operator identifying the need to extend the request, but in any event no later than 4 weeks before the date for the planned process equipment or unit shutdown that was provided in the original request.

(4) *Content of the request.* Requests must contain the following information:

(i) Specific measurement device for which the request is being made and the location where each measurement device will be installed.

(ii) Identification of the specific rule requirements (by rule subpart, section, and paragraph numbers) requiring the measurement device.

(iii) A description of the reasons why the needed equipment could not be installed before April 1, 2010, or by the expiration date for the use of best available monitoring methods, in cases where an extension has been granted under § 98.3(d).

(iv) Supporting documentation showing that it is not practicable to isolate the process equipment or unit and install the measurement device without a full shutdown or a hot tap, and that there was no opportunity during 2010 to install the device. Include the date of the three most recent shutdowns for each relevant process equipment or unit, the frequency of shutdowns for each relevant process equipment or unit, and the date of the next planned process equipment or unit shutdown.

(v) Include a description of the proposed best available monitoring method for estimating GHG emissions during the time prior to installation of the meter.

(5) *Approval criteria.* The owner or operator must demonstrate to the Administrator's satisfaction that it is not reasonably feasible to install the measurement device before April 1, 2010 (or by the expiration date for the use of best available monitoring methods, in cases where an extension has been granted under paragraph (d) of this section) without a process equipment or unit shutdown, or through a hot tap, and that the proposed method for estimating GHG emissions during the time before which the measurement device will be installed is appropriate. The Administrator will not initially approve the use of the proposed best available monitoring method past December 31, 2013.

(6) *Measurement device installation deadline.* Any owner or operator that submits both a timely initial notice of intent and a timely completed extension request under paragraph (j)(3) of this section to extend use of best available monitoring methods for measurement device installation must install all such devices by July 1, 2011 unless the extension request under this paragraph (j) is approved by the Administrator before July 1, 2011.

(7) *One time extension past December 31, 2013.* If an owner or operator determines that a scheduled process equipment or unit shutdown will not occur by December 31, 2013, the owner or operator may re-apply to use best available monitoring methods for one additional time period, not to extend beyond December 31, 2015. To extend use of best available monitoring methods past December 31, 2013, the owner or operator must submit a new extension request by June 1, 2013 that contains the information required in paragraph (j)(4) of this section. The owner or operator must demonstrate to the Administrator's satisfaction that it continues to not be reasonably feasible to install the measurement device before December 31, 2013 without a process equipment or unit shutdown, or that installation of the measurement device could only be done through a hot tap, and that the proposed method for estimating GHG emissions during the time before which the measurement device will be installed is appropriate. An owner or operator that submits a request under this paragraph to extend use of best available monitoring methods for measurement device installation must install all such devices by December 31, 2013, unless the extension request under this paragraph is approved by the Administrator.

■ 3. Section 98.4 is amended by revising paragraphs (i)(2) and (m)(2)(i) to read as follows:

§ 98.4 Authorization and responsibilities of the designated representative.

* * * * *

(i) * * *

(2) The name, organization name (company affiliation-employer), address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the designated representative and any alternate designated representative.

* * * * *

(m) * * *

(2) * * *

(i) The name, organization name (company affiliation-employer) address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of such designated representative or alternate designated representative.

* * * * *

■ 4. Section 98.6 is amended by:

■ a. Adding in alphabetical order definitions for "Agricultural by-products," "Primary fuel," "Solid by-products," "Used oil," and "Wood residuals."

■ b. Revising the definitions for "Bulk natural gas liquid or NGL," "Distillate Fuel Oil," "Fossil fuel," "Fuel gas," "Municipal solid waste or MSW," "Natural gas," "Natural gas liquids (NGLs) and "Standard conditions or standard temperature and pressure (STP)."

■ c. Removing the definition for "Fossil fuel-fired."

§ 98.6 Definitions.

* * * * *

Agricultural by-products means those parts of arable crops that are not used for the primary purpose of producing food. Agricultural by-products include, but are not limited to, oat, corn and wheat straws, bagasse, peanut shells, rice and coconut husks, soybean hulls, palm kernel cake, cottonseed and sunflower seed cake, and pomace.

* * * * *

Bulk natural gas liquid or NGL refers to mixtures of hydrocarbons that have been separated from natural gas as liquids through the process of absorption, condensation, adsorption, or other methods. Generally, such liquids consist of ethane, propane, butanes, and pentanes plus. Bulk NGL is sold to fractionators or to refineries and petrochemical plants where the fractionation takes place.

* * * * *

Distillate fuel oil means a classification for one of the petroleum

fractions produced in conventional distillation operations and from crackers and hydrotreating process units. The generic term distillate fuel oil includes kerosene, kerosene-type jet fuel, diesel fuels (Diesel Fuels No. 1, No. 2, and No. 4), and fuel oils (Fuel Oils No. 1, No. 2, and No. 4).

* * * * *

Fossil fuel means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material, for purpose of creating useful heat.

* * * * *

Fuel gas means gas generated at a petroleum refinery or petrochemical plant and that is combusted separately or in any combination with any type of gas.

* * * * *

Municipal solid waste or MSW means solid phase household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, non-manufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by non-manufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional wastes include yard waste, refuse-derived fuel, and motor vehicle maintenance materials. Insofar as there is separate collection, processing and disposal of industrial source waste streams consisting of used oil, wood pallets, construction, renovation, and demolition wastes (which includes, but is not limited to, railroad ties and telephone poles), paper, clean wood, plastics, industrial process or manufacturing wastes, medical waste, motor vehicle parts or vehicle fluff, or used tires that do not contain hazardous waste identified or listed under 42 U.S.C. § 6921, such wastes are not municipal solid waste. However, such wastes qualify as municipal solid waste where they are collected with other municipal solid waste or are otherwise combined with other municipal solid waste for processing and/or disposal.

* * * * *

Natural gas means a naturally occurring mixture of hydrocarbon and non-hydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal constituent is methane. Natural gas may be field quality or pipeline quality.

Natural gas liquids (NGLs) means those hydrocarbons in natural gas that are separated from the gas as liquids through the process of absorption, condensation, adsorption, or other methods. Generally, such liquids consist of ethane, propane, butanes, and pentanes plus. Bulk NGLs refers to mixtures of NGLs that are sold or delivered as undifferentiated product from natural gas processing plants.

* * * * *

Primary fuel means the fuel that provides the greatest percentage of the annual heat input to a stationary fuel combustion unit.

* * * * *

Solid by-products means plant matter such as vegetable waste, animal materials/wastes, and other solid biomass, except for wood, wood waste, and sulphite lyes (black liquor).

* * * * *

Standard conditions or standard temperature and pressure (STP), for the purposes of this part, means either 60 or 68 degrees Fahrenheit and 14.7 pounds per square inch absolute.

* * * * *

Used oil means a petroleum-derived or synthetically-derived oil whose physical properties have changed as a result of handling or use, such that the oil cannot be used for its original purpose. Used oil consists primarily of automotive oils (*e.g.,* used motor oil, transmission oil, hydraulic fluids, brake fluid, *etc.*) and industrial oils (*e.g.,* industrial engine oils, metalworking oils, process oils, industrial grease, *etc*).

* * * * *

Wood residuals means materials recovered from three principal sources: Municipal solid waste (MSW); construction and demolition debris; and primary timber processing. Wood residuals recovered from MSW include wooden furniture, cabinets, pallets and containers, scrap lumber (from sources other than construction and demolition activities), and urban tree and landscape residues. Wood residuals from construction and demolition debris originate from the construction, repair, remodeling and demolition of houses and non-residential structures. Wood residuals from primary timber processing include bark, sawmill slabs and edgings, sawdust, and peeler log cores. Other sources of wood residuals include, but are not limited to, railroad ties, telephone and utility poles, pier and dock timbers, wastewater process sludge from paper mills, trim, sander dust, and sawdust from wood products manufacturing (including resinated wood product residuals), and logging residues.

* * * * *

■ 5. Section 98.7 is amended by:
■ a. Removing and reserving paragraph (b).
■ b. Revising paragraphs (d)(1) through (d)(10).
■ c. Removing paragraph (d)(11).
■ d. Revising paragraph (e)(4).
■ e. Removing and reserving paragraph (e)(7).
■ f. Revising paragraphs (e)(8), (e)(10), (e)(11), (e)(14) and (e)(15).
■ g. Revising paragraphs (e)(19) and (e)(20).
■ h. Revising paragraphs (e)(24) through (e)(27).
■ i. Removing and reserving paragraph (e)(28).
■ j. Revising paragraph (e)(30).
■ k. Revising paragraph (e)(33).
■ l. Revising paragraph (e)(36).
■ m. Removing and reserving paragraph (e)(39).
■ n. Adding paragraphs (e)(48) and (e)(49).
■ o. Removing and reserving paragraph (f)(1).
■ p. Revising paragraph (f)(2).
■ q. Removing and reserving paragraph (g)(3).
■ r. Revising paragraph (m)(3).
■ s. Adding paragraphs (m)(8) through (m)(14).

§ 98.7 What standardized methods are incorporated by reference into this part?

* * * * *

(d) * * *

(1) ASME MFC–3M–2004 Measurement of Fluid Flow in Pipes Using Orifice, Nozzle, and Venturi, incorporation by reference (IBR) approved for § 98.124(m)(1), § 98.324(e), § 98.354(d), § 98.354(h), § 98.344(c) and § 98.364(e).

(2) ASME MFC–4M–1986 (Reaffirmed 1997) Measurement of Gas Flow by Turbine Meters, IBR approved for § 98.124(m)(2), § 98.324(e), § 98.344(c), § 98.354(h), and § 98.364(e).

(3) ASME MFC–5M–1985 (Reaffirmed 1994) Measurement of Liquid Flow in Closed Conduits Using Transit-Time Ultrasonic Flow Meters, IBR approved for § 98.124(m)(3) and § 98.354(d).

(4) ASME MFC–6M–1998 Measurement of Fluid Flow in Pipes Using Vortex Flowmeters, IBR approved for § 98.124(m)(4), § 98.324(e), § 98.344(c), § 98.354(h), and § 98.364(e).

(5) ASME MFC–7M–1987 (Reaffirmed 1992) Measurement of Gas Flow by Means of Critical Flow Venturi Nozzles, IBR approved for § 98.124(m)(5),

§ 98.324(e), § 98.344(c), § 98.354(h), and § 98.364(e).

(6) ASME MFC–9M–1988 (Reaffirmed 2001) Measurement of Liquid Flow in Closed Conduits by Weighing Method, IBR approved for § 98.124(m)(6).

(7) ASME MFC–11M–2006 Measurement of Fluid Flow by Means of Coriolis Mass Flowmeters, IBR approved for § 98.124(m)(7), § 98.324(e), § 98.344(c), and § 98.354(h).

(8) ASME MFC–14M–2003 Measurement of Fluid Flow Using Small Bore Precision Orifice Meters, IBR approved for § 98.124(m)(8), § 98.324(e), § 98.344(c), § 98.354(h), and § 98.364(e).

(9) ASME MFC–16–2007 Measurement of Liquid Flow in Closed Conduits with Electromagnetic Flow Meters, IBR approved for § 98.354(d).

(10) ASME MFC–18M–2001 Measurement of Fluid Flow Using Variable Area Meters, IBR approved for § 98.324(e), § 98.344(c), § 98.354(h), and § 98.364(e).

(e) * * *

(4) ASTM D240–02 (Reapproved 2007) Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter, IBR approved for § 98.254(e).

* * * * *

(8) ASTM D1826–94 (Reapproved 2003) Standard Test Method for Calorific (Heating) Value of Gases in Natural Gas Range by Continuous Recording Calorimeter, IBR approved for § 98.254(e).

* * * * *

(10) ASTM D1945–03 Standard Test Method for Analysis of Natural Gas by Gas Chromatography, IBR approved for § 98.74(c), § 98.164(b), § 98.244(b), § 98.254(d), § 98.324(d), § 98.354(g), and § 98.344(b).

(11) ASTM D1946–90 (Reapproved 2006) Standard Practice for Analysis of Reformed Gas by Gas Chromatography, IBR approved for § 98.74(c), § 98.164(b), § 98.254(d), § 98.324(d), § 98.344(b), § 98.354(g), and § 98.364(c).

* * * * *

(14) ASTM D2502–04 Standard Test Method for Estimation of Mean Relative Molecular Mass of Petroleum Oils From Viscosity Measurements, IBR approved for § 98.74(c).

(15) ASTM D2503–92 (Reapproved 2007) Standard Test Method for Relative Molecular Mass (Molecular Weight) of Hydrocarbons by Thermoelectric Measurement of Vapor Pressure, IBR approved for § 98.74(c) and § 98.254(d)(6).

* * * * *

(19) ASTM D3238–95 (Reapproved 2005) Standard Test Method for Calculation of Carbon Distribution and Structural Group Analysis of Petroleum Oils by the n-d-M Method, IBR approved for § 98.74(c) and § 98.164(b).

(20) ASTM D3588–98 (Reapproved 2003) Standard Practice for Calculating Heat Value, Compressibility Factor, and Relative Density of Gaseous Fuels, IBR approved for § 98.254(e).

* * * * *

(24) ASTM D4809–06 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method), IBR approved for § 98.254(e).

(25) ASTM D4891–89 (Reapproved 2006) Standard Test Method for Heating Value of Gases in Natural Gas Range by Stoichiometric Combustion, IBR approved for § 98.254(e) and § 98.324(d).

(26) ASTM D5291–02 (Reapproved 2007) Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants, IBR approved for § 98.74(c), § 98.164(b), § 98.244(b), and § 98.254(i).

(27) ASTM D5373–08 Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Laboratory Samples of Coal, IBR approved for § 98.74(c), § 98.114(b), § 98.164(b), § 98.174(b), § 98.184(b), § 98.244(b), § 98.254(i), § 98.274(b), § 98.284(c), § 98.284(d), § 98.314(c), § 98.314(d), § 98.314(f), and § 98.334(b).

* * * * *

(30) ASTM D6348–03 Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, IBR approved for § 98.54(b), § 98.124(e)(2), § 98.224(b), and § 98.414(n).

* * * * *

(33) ASTM D6866–08 Standard Test Methods for Determining the Biobased Content of Solid, Liquid, and Gaseous Samples Using Radiocarbon Analysis, IBR approved for § 98.34(d), § 98.34(e), and § 98.36(e).

* * * * *

(36) ASTM D7459–08 Standard Practice for Collection of Integrated Samples for the Speciation of Biomass (Biogenic) and Fossil-Derived Carbon Dioxide Emitted from Stationary Emissions Sources, IBR approved for § 98.34(d), § 98.34(e), and § 98.36(e).

* * * * *

(48) ASTM D2593–93 (Reapproved 2009) Standard Test Method for Butadiene Purity and Hydrocarbon Impurities by Gas Chromatography, approved July 1, 2009, IBR approved for § 98.244(b)(4)(xi).

(49) ASTM D7633–10 Standard Test Method for Carbon Black—Carbon Content, approved May 15, 2010, IBR approved for § 98.244(b)(4)(xii).

* * * * *

(f) * * *

(1) [Reserved]

(2) GPA 2261–00 Analysis for Natural Gas and Similar Gaseous Mixtures by Gas Chromatography, IBR approved for § 98.164(b), § 98.254(d), § 98.344(b), and § 98.354(g).

* * * * *

(m) * * *

(3) Protocol for Measuring Destruction or Removal Efficiency (DRE) of Fluorinated Greenhouse Gas Abatement Equipment in Electronics Manufacturing, Version 1, EPA–430–R–10–003, March 2010 (EPA 430–R–10–003), *http://www.epa.gov/semiconductor-pfc/documents/dre_protocol.pdf,* IBR approved for § 98.94(f)(4)(i), § 98.94(g)(3), § 98.97(d)(4), § 98.98, § 98.124(e)(2), and § 98.414(n)(1).

* * * * *

(8) Protocol for Measurement of Tetrafluoromethane (CF_4) and Hexafluoroethane (C_2F_6) Emissions from Primary Aluminum Production (2008), *http://www.epa.gov/highgwp/aluminum-pfc/documents/measureprotocol.pdf*, IBR approved for § 98.64(a).

(9) AP 42, Section 5.2, Transportation and Marketing of Petroleum Liquids, July 2008, (AP 42, Section 5.2); *http://www.epa.gov/ttn/chief/ap42/ch05/final/c05s02.pdf*; in Chapter 5, Petroleum Industry, of AP 42, Compilation of Air Pollutant Emission Factors, 5th Edition, Volume I, IBR approved for § 98.253(n).

(10) Method 9060A, Total Organic Carbon, Revision 1, November 2004 (Method 9060A), *http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/9060a.pdf*; in EPA Publication No. SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Third Edition, IBR approved for § 98.244(b)(4)(viii).

(11) Method 8031, Acrylonitrile By Gas Chromatography, Revision 0, September 1994 (Method 8031), *http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/8031.pdf;* in EPA Publication No. SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Third Edition, IBR approved for § 98.244(b)(4)(viii).

(12) Method 8021B, Aromatic and Halogenated Volatiles By Gas Chromatography Using Photoionization and/or Electrolytic Conductivity Detectors, Revision 2, December 1996 (Method 8021B). *http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/8021b.pdf*; in EPA Publication No. SW–846, "Test Methods for Evaluating Solid

Waste, Physical/Chemical Methods," Third Edition, IBR approved for § 98.244(b)(4)(viii).

(13) Method 8015C, Nonhalogenated Organics By Gas Chromatography, Revision 3, February 2007 (Method 8015C). *http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/8015c.pdf*; in EPA Publication No. SW–846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," Third Edition, IBR approved for § 98.244(b)(4)(viii).

(14) AP 42, Section 7.1, Organic Liquid Storage Tanks, November 2006 (AP 42, Section 7.1), *http://www.epa.gov/ttn/chief/ap42/ch07/final/c07s01.pdf*; in Chapter 7, Liquid Storage Tanks, of AP 42, Compilation of Air Pollutant Emission Factors, 5th Edition, Volume I, IBR approved for § 98.253(m)(1) and § 98.256(o)(2)(i).

■ 6. Table A–5 to subpart A of part 98 is amended by revising the entry for paragraph (B) under the heading "Natural gas and natural gas liquids suppliers (subpart NN)" to read as follows:

TABLE A–5 TO SUBPART A OF PART 98—SUPPLIER CATEGORY LIST FOR § 98.2(A)(4)

Supplier Categories [a] Applicable in 2010 and Future Years
* * * * *
Natural gas and natural gas liquids suppliers (subpart NN)
* * * * *
(B) Local natural gas distribution companies that deliver 460,000 thousand standard cubic feet or more of natural gas per year.
* * * * *

[a] Suppliers are defined in each applicable subpart.

Subpart C—[Amended]

■ 7. Section 98.30 is amended by:

■ a. Revising paragraph (b)(4).

■ b. Revising paragraph (c) introductory text.

■ c. Adding paragraph (d).

§ 98.30 Definition of the source category.

* * * * *

(b) * * *

(4) Flares, unless otherwise required by provisions of another subpart of this part to use methodologies in this subpart.

* * * * *

(c) For a unit that combusts hazardous waste (as defined in § 261.3 of this chapter), reporting of GHG emissions is not required unless either of the following conditions apply:

* * * * *

(d) You are not required to report GHG emissions from pilot lights. A pilot light is a small auxiliary flame that ignites the burner of a combustion device when the control valve opens.

■ 8. Section 98.32 is revised to read as follows:

§ 98.32 GHGs to report.

You must report CO_2, CH_4, and N_2O mass emissions from each stationary fuel combustion unit, except as otherwise indicated in this subpart.

■ 9. Section 98.33 is amended by:

■ a. Revising paragraph (a) introductory text and paragraph (a)(1).

■ b. Revising the definition of "HHV" in Equation C–2a of paragraph (a)(2)(i).

■ c. Revising the first two sentences of paragraph (a)(2)(ii) introductory text.

■ d. In paragraph (a)(2)(ii)(A), revising the first sentence and the definitions of "$(HHV)_i$," "$(Fuel)_i$," and "n" in Equation C–2b.

■ e. Revising paragraph (a)(2)(ii)(B).

■ f. Revising the definitions of "CC", "MW", and "MVC" in Equation C–5 of paragraph (a)(3)(iii).

■ g. Revising paragraphs (a)(3)(iv), (a)(3)(v), (a)(4)(iii), and (a)(4)(iv).

■ h. Adding paragraph (a)(4)(viii).

■ i. Revising paragraphs (a)(5) introductory text, (a)(5)(i) introductory text, (a)(5)(i)(A), (a)(5)(i)(B), (a)(5)(ii) introductory text, (a)(5)(ii)(A), (a)(5)(iii) introductory text, (a)(5)(iii)(A), and (a)(5)(iii)(B).

■ j. Redesignating paragraph (a)(5)(iii)(D) as paragraph (a)(5)(iv), and revising newly designated paragraph (a)(5)(iv).

■ k. Revising paragraph (b)(1)(iv).

■ l. Adding paragraphs (b)(1)(v), (b)(1)(vi) and (b)(1)(vii).

■ m. Revising paragraphs (b)(2)(ii), (b)(3)(ii)(A), (b)(3)(iii) introductory text, and (b)(3)(iii)(B).

■ n. Adding paragraph (b)(3)(iv).

■ o. Adding a second sentence to paragraph (b)(4)(i).

■ p. Revising paragraphs (b)(4)(ii)(A), (b)(4)(ii)(B), (b)(4)(ii)(E), (b)(4)(ii)(F), and (b)(4)(iii) introductory text.

■ q. Adding paragraph (b)(4)(iv).

■ r. Revising paragraph (b)(5) and the third sentence of paragraph (b)(6).

■ s. Revising paragraph (c)(1) introductory text and the definition of "HHV" in Equation C–8.

■ t. Adding paragraphs (c)(1)(i) and (c)(1)(ii).

■ u. Revising the second sentence of paragraph (c)(2).

■ v. In paragraph (c)(4) introductory text, revising the only sentence and revising the definition of "$(HI)_A$" in Equation C–10.

■ w. Revising paragraphs (c)(4)(i) and (c)(4)(ii).

■ x. Revising paragraph (c)(5).

■ y. Adding paragraph (c)(6).

■ z. In paragraph (d)(1), revising the first sentence, adding a second sentence, and revising the definition of "R" in Equation C–11.

■ aa. Revising paragraphs (d)(2), paragraph (e) introductory text, paragraph (e)(1), and paragraph (e)(2) introductory text.

■ bb. Revising the definition of "F_c" in Equation C–13 of paragraph (e)(2)(iii).

■ cc. Revising paragraphs (e)(2)(iv), (e)(2)(vi)(C), and (e)(3).

■ dd. Removing paragraph (e)(4).

■ ee. Redesignating paragraph (e)(5) as (e)(4).

■ ff. Revising the first sentence of newly designated paragraph (e)(4).

■ gg. Adding paragraph (e)(5).

§ 98.33 Calculating GHG emissions.

* * * * *

(a) *CO_2 emissions from fuel combustion.* Calculate CO_2 mass emissions by using one of the four calculation methodologies in paragraphs (a)(1) through (a)(4) of this section, subject to the applicable conditions, requirements, and restrictions set forth in paragraph (b) of this section. Alternatively, for units that meet the conditions of paragraph (a)(5) of this section, you may use CO_2 mass emissions calculation methods from part 75 of this chapter, as described in paragraph (a)(5) of this section. For units that combust both biomass and fossil fuels, you must calculate and report CO_2 emissions from the combustion of biomass separately using the methods in paragraph (e) of this section, except as otherwise provided in paragraphs (a)(5)(iv) and (e) of this section and in § 98.36(d).

(1) *Tier 1 Calculation Methodology.* Calculate the annual CO_2 mass emissions for each type of fuel by using Equation C–1, C–1a, or C–1b of this section (as applicable).

(i) Use Equation C–1 except when natural gas billing records are used to quantify fuel usage and gas consumption is expressed in units of therms or million Btu. In that case, use Equation C–1a or C–1b, as applicable.

$$CO_2 = 1x10^{-3} * Fuel * HHV * EF \quad \text{(Eq. C-1)}$$

Where:

CO_2 = Annual CO_2 mass emissions for the specific fuel type (metric tons).

Fuel = Mass or volume of fuel combusted per year, from company records as defined in § 98.6 (express mass in short tons for solid fuel, volume in standard cubic feet for gaseous fuel, and volume in gallons for liquid fuel).

HHV = Default high heat value of the fuel, from Table C–1 of this subpart (mmBtu per mass or mmBtu per volume, as applicable).

EF = Fuel-specific default CO_2 emission factor, from Table C–1 of this subpart (kg CO_2/mmBtu).

1×10^{-3} = Conversion factor from kilograms to metric tons.

(ii) If natural gas consumption is obtained from billing records and fuel usage is expressed in therms, use Equation C–1a.

$$CO_2 = 1x10^{-3} \left[0.1 * Gas * EF\right] \quad \text{(Eq. C-1a)}$$

Where:

CO_2 = Annual CO_2 mass emissions from natural gas combustion (metric tons).

Gas = Annual natural gas usage, from billing records (therms).

EF = Fuel-specific default CO_2 emission factor for natural gas, from Table C–1 of this subpart (kg CO_2/mmBtu).

0.1 = Conversion factor from therms to mmBtu

1×10^{-3} = Conversion factor from kilograms to metric tons.

(iii) If natural gas consumption is obtained from billing records and fuel usage is expressed in mmBtu, use Equation C–1b.

$$CO_2 = 1x10^{-3} * Gas * EF \quad \text{(Eq. C-1b)}$$

Where:

CO_2 = Annual CO_2 mass emissions from natural gas combustion (metric tons).

Gas = Annual natural gas usage, from billing records (mmBtu).

EF = Fuel-specific default CO_2 emission factor for natural gas, from Table C–1 of this subpart (kg CO_2/mmBtu).

1×10^{-3} = Conversion factor from kilograms to metric tons.

(2) * * *

(i) * * *

HHV = Annual average high heat value of the fuel (mmBtu per mass or volume). The average HHV shall be calculated according to the requirements of paragraph (a)(2)(ii) of this section.

* * * * *

(ii) The minimum required sampling frequency for determining the annual average HHV (*e.g.,* monthly, quarterly, semi-annually, or by lot) is specified in § 98.34. The method for computing the annual average HHV is a function of unit size and how frequently you perform or receive from the fuel supplier the results of fuel sampling for HHV. * * *

(A) If the results of fuel sampling are received monthly or more frequently, then for each unit with a maximum rated heat input capacity greater than or equal to 100 mmBtu/hr (or for a group of units that includes at least one unit of that size), the annual average HHV shall be calculated using Equation C–2b of this section. * * *

* * * * *

$(HHV)_I$ = Measured high heat value of the fuel, for month "i" (which may be the arithmetic average of multiple determinations), or, if applicable, an appropriate substitute data value (mmBtu per mass or volume).

$(Fuel)_I$ = Mass or volume of the fuel combusted during month "i," from company records (express mass in short tons for solid fuel, volume in standard cubic feet for gaseous fuel, and volume in gallons for liquid fuel).

n = Number of months in the year that the fuel is burned in the unit.

(B) If the results of fuel sampling are received less frequently than monthly, or, for a unit with a maximum rated heat input capacity less than 100 mmBtu/hr (or a group of such units) regardless of the HHV sampling frequency, the annual average HHV shall either be computed according to paragraph (a)(2)(ii)(A) of this section or as the arithmetic average HHV for all values for the year (including valid samples and substitute data values under § 98.35).

* * * * *

(3) * * *

(iii) * * *

CC = Annual average carbon content of the gaseous fuel (kg C per kg of fuel). The annual average carbon content shall be determined using the same procedures as specified for HHV in paragraph (a)(2)(ii) of this section.

MW = Annual average molecular weight of the gaseous fuel (kg/kg-mole). The annual average molecular weight shall be determined using the same procedures as specified for HHV in paragraph (a)(2)(ii) of this section.

MVC = Molar volume conversion factor at standard conditions, as defined in § 98.6. Use 849.5 scf per kg mole if you select 68 °F as standard temperature and 836.6 scf per kg mole if you select 60 °F as standard temperature.

* * * * *

(iv) Fuel flow meters that measure mass flow rates may be used for liquid or gaseous fuels, provided that the fuel density is used to convert the readings to volumetric flow rates. The density shall be measured at the same frequency as the carbon content. You must measure the density using one of the following appropriate methods. You may use a method published by a consensus-based standards organization, if such a method exists, or you may use industry standard practice. Consensus-based standards organizations include, but are not limited to, the following: ASTM International (100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–B2959, (800) 262–1373, *http://www.astm.org*), the American National Standards Institute (ANSI, 1819 L Street, NW., 6th floor, Washington, DC 20036, (202) 293–8020, *http://www.ansi.org*), the American Gas Association (AGA), 400 North Capitol Street, NW., 4th Floor, Washington, DC 20001, (202) 824–7000, *http://www.aga.org*), the American Society of Mechanical Engineers (ASME, Three Park Avenue, New York, NY 10016–5990, (800) 843–2763, *http://www.asme.org*), the American Petroleum Institute (API, 1220 L Street, NW., Washington, DC 20005–4070, (202) 682–8000, *http://www.api.org*), and the North American Energy Standards Board (NAESB, 801 Travis Street, Suite 1675, Houston, TX 77002,

(713) 356–0060, *http://www.api.org*). The method(s) used shall be documented in the GHG Monitoring Plan required under § 98.3(g)(5).

(v) The following default density values may be used for fuel oil, in lieu of using the methods in paragraph (a)(3)(iv) of this section: 6.8 lb/gal for No. 1 oil; 7.2 lb/gal for No. 2 oil; 8.1 lb/gal for No. 6 oil.

* * * * *

(4) * * *

(iii) If the CO_2 concentration is measured on a dry basis, a correction for the stack gas moisture content is required. You shall either continuously monitor the stack gas moisture content using a method described in § 75.11(b)(2) of this chapter or use an appropriate default moisture percentage. For coal, wood, and natural gas combustion, you may use the default moisture values specified in § 75.11(b)(1) of this chapter. Alternatively, for any type of fuel, you may determine an appropriate site-specific default moisture value (or values), using measurements made with EPA Method 4—Determination Of Moisture Content In Stack Gases, in appendix A–3 to part 60 of this chapter. Moisture data from the relative accuracy test audit (RATA) of a CEMS may be used for this purpose. If this option is selected, the site-specific moisture default value(s) must represent the fuel(s) or fuel blends that are combusted in the unit during normal, stable operation, and must account for any distinct difference(s) in the stack gas moisture content associated with different process operating conditions. For each site-specific default moisture percentage, at least nine Method 4 runs are required, except where the option to use moisture data from a RATA is selected, and the applicable regulation allows a single moisture determination to represent two or more RATA runs. In that case, you may base the site-specific moisture percentage on the number of moisture runs allowed by the RATA regulation. Calculate each site-specific default moisture value by taking the arithmetic average of the Method 4 runs. Each site-specific moisture default value shall be updated whenever the owner or operator believes the current value is non-representative, due to changes in unit or process operation, but in any event no less frequently than annually. Use the updated moisture value in the subsequent CO_2 emissions calculations. For each unit operating hour, a moisture correction must be applied to Equation C–6 of this section as follows:

$$CO_2^* = CO_2\left(\frac{100 - \%H_2O}{100}\right) \qquad \text{(Eq. C-7)}$$

Where:

CO_2* = Hourly CO_2 mass emission rate, corrected for moisture (metric tons/hr).

CO_2 = Hourly CO_2 mass emission rate from Equation C–6 of this section, uncorrected (metric tons/hr).

$\%H_2O$ = Hourly moisture percentage in the stack gas (measured or default value, as appropriate).

(iv) An oxygen (O_2) concentration monitor may be used in lieu of a CO_2 concentration monitor to determine the hourly CO_2 concentrations, in accordance with Equation F–14a or F–14b (as applicable) in appendix F to part 75 of this chapter, if the effluent gas stream monitored by the CEMS consists solely of combustion products (*i.e.,* no process CO_2 emissions or CO_2 emissions from sorbent are mixed with the combustion products) and if only fuels that are listed in Table 1 in section 3.3.5 of appendix F to part 75 of this chapter are combusted in the unit. If the O_2 monitoring option is selected, the F-factors used in Equations F–14a and F–14b shall be determined according to section 3.3.5 or section 3.3.6 of appendix F to part 75 of this chapter, as applicable. If Equation F–14b is used, the hourly moisture percentage in the stack gas shall be determined in accordance with paragraph (a)(4)(iii) of this section.

* * * * *

(viii) If a portion of the flue gases generated by a unit subject to Tier 4 (*e.g.,* a slip stream) is continuously diverted from the main flue gas exhaust system for the purpose of heat recovery or some other similar process, and then exhausts through a stack that is not equipped with the continuous emission monitors to measure CO_2 mass emissions, CO_2 emissions shall be determined as follows:

(A) At least once a year, use EPA Methods 2 and 3A, and (if necessary) Method 4 in appendices A–2 and A–3 to part 60 of this chapter to perform emissions testing at a set point that best represents normal, stable process operating conditions. A minimum of three one-hour Method 3A tests are required, to determine the CO_2 concentration. A Method 2 test shall be performed during each Method 3A run, to determine the stack gas volumetric flow rate. If moisture correction is necessary, a Method 4 run shall also be performed during each Method 3A run. Important parametric information related to the stack gas flow rate (*e.g.,* damper positions, fan settings, *etc.*) shall also be recorded during the test.

(B) Calculate a CO_2 mass emission rate (in metric tons/hr) from the stack test data, using a version of Equation C–6 in paragraph (a)(4)(ii) of this section, modified as follows. In the Equation C–6 nomenclature, replace the words "Hourly average" in the definitions of "C_{CO2}" and "Q" with the words "3-run average". Substitute the arithmetic average values of CO_2 concentration and stack gas flow rate from the emission testing into modified Equation C–6. If CO_2 is measured on a dry basis, a moisture correction of the calculated CO_2 mass emission rate is required. Use Equation C–7 in paragraph (a)(4)(ii) of this section to make this correction; replace the word "Hourly" with the words "3-run average" in the equation nomenclature.

(C) The results of each annual stack test shall be used in the GHG emissions calculations for the year of the test.

(D) If, for the majority of the operating hours during the year, the diverted stream is withdrawn at a steady rate at or near the tested set point (as evidenced by fan and damper settings and/or other parameters), you may use the calculated CO_2 mass emission rate from paragraph (a)(4)(viii)(B) of this section to estimate the CO_2 mass emissions for all operating hours in which flue gas is diverted from the main exhaust system. Otherwise, you must account for the variation in the flow rate of the diverted stream, as described in paragraph (c)(4)(viii)(E) of this section.

(E) If the flow rate of the diverted stream varies significantly throughout the year, except as provided below, repeat the stack test and emission rate calculation procedures described in paragraphs (c)(4)(viii)(A) and (c)(4)(viii)(B) of this section at a minimum of two more set points across the range of typical operating conditions to develop a correlation between CO_2 mass emission rate and the parametric data. If additional testing is not feasible, use the following approach to develop the necessary correlation. Assume that the average CO_2 concentration obtained in the annual stack test is the same at all operating set points. Then, beginning

with the measured flow rate from the stack test and the associated parametric data, perform an engineering analysis to estimate the stack gas flow rate at two or more additional set points. Calculate the CO_2 mass emission rate at each set point.

(F) Calculate the annual CO_2 mass emissions for the diverted stream as follows. For a steady-state process, multiply the number of hours in which flue gas was diverted from the main exhaust system by the CO_2 mass emission rate from the stack test. Otherwise, using the best available information and engineering judgment, apply the most representative CO_2 mass emission rate from the correlation in paragraph (c)(4)(viii)(E) of this section to determine the CO_2 mass emissions for each hour in which flue gas was diverted, and sum the results. To simplify the calculations, you may count partial operating hours as full hours.

(G) Finally, add the CO_2 mass emissions from paragraph(c)(4)(viii)(F) of this section to the annual CO_2 mass emissions measured by the CEMS at the main stack. Report this sum as the total annual CO_2 mass emissions for the unit.

(H) The exact method and procedures used to estimate the CO_2 mass emissions for the diverted portion of the flue gas exhaust stream shall be documented in the Monitoring Plan required under § 98.3(g)(5).

(5) *Alternative methods for certain units subject to Part 75 of this chapter.* Certain units that are not subject to subpart D of this part and that report data to EPA according to part 75 of this chapter may qualify to use the alternative methods in this paragraph (a)(5), in lieu of using any of the four calculation methodology tiers.

(i) For a unit that combusts only natural gas and/or fuel oil, is not subject to subpart D of this part, monitors and reports heat input data year-round according to appendix D to part 75 of this chapter, but is not required by the applicable part 75 program to report CO_2 mass emissions data, calculate the annual CO_2 mass emissions for the purposes of this part as follows:

(A) Use the hourly heat input data from appendix D to part 75 of this chapter, together with Equation G–4 in appendix G to part 75 of this chapter to determine the hourly CO_2 mass emission rates, in units of tons/hr;

(B) Use Equations F–12 and F–13 in appendix F to part 75 of this chapter to calculate the quarterly and cumulative annual CO_2 mass emissions, respectively, in units of short tons; and

* * * * *

(ii) For a unit that combusts only natural gas and/or fuel oil, is not subject to subpart D of this part, monitors and reports heat input data year-round according to § 75.19 of this chapter but is not required by the applicable part 75 program to report CO_2 mass emissions data, calculate the annual CO_2 mass emissions for the purposes of this part as follows:

(A) Calculate the hourly CO_2 mass emissions, in units of short tons, using Equation LM–11 in § 75.19(c)(4)(iii) of this chapter.

* * * * *

(iii) For a unit that is not subject to subpart D of this part, uses flow rate and CO_2 (or O_2) CEMS to report heat input data year-round according to part 75 of this chapter, but is not required by the applicable part 75 program to report CO_2 mass emissions data, calculate the annual CO_2 mass emissions as follows:

(A) Use Equation F–11 or F–2 (as applicable) in appendix F to part 75 of this chapter to calculate the hourly CO_2 mass emission rates from the CEMS data. If an O_2 monitor is used, convert the hourly average O_2 readings to CO_2 using Equation F–14a or F–14b in appendix F to part 75 of this chapter (as applicable), before applying Equation F–11 or F–2.

(B) Use Equations F–12 and F–13 in appendix F to part 75 of this chapter to calculate the quarterly and cumulative annual CO_2 mass emissions, respectively, in units of short tons.

* * * * *

(iv) For units that qualify to use the alternative CO_2 emissions calculation methods in paragraphs (a)(5)(i) through (a)(5)(iii) of this section, if both biomass and fossil fuel are combusted during the year, separate calculation and reporting of the biogenic CO_2 mass emissions (as described in paragraph (e) of this section) is optional, only for the 2010 reporting year, as provided in § 98.3(c)(12).

(b) * * *

(1) * * *

(iv) May not be used if you routinely perform fuel sampling and analysis for the fuel high heat value (HHV) or routinely receive the results of HHV sampling and analysis from the fuel supplier at the minimum frequency specified in § 98.34(a), or at a greater frequency. In such cases, Tier 2 shall be used. This restriction does not apply to paragraphs (b)(1)(ii), (b)(1)(v), (b)(1)(vi), and (b)(1)(vii) of this section.

(v) May be used for natural gas combustion in a unit of any size, in cases where the annual natural gas consumption is obtained from fuel billing records in units of therms or mmBtu.

(vi) May be used for MSW combustion in a small, batch incinerator that burns no more than 1,000 tons per year of MSW.

(vii) May be used for the combustion of MSW and/or tires in a unit, provided that no more than 10 percent of the unit's annual heat input is derived from those fuels, combined. Notwithstanding this requirement, if a unit combusts both MSW and tires and the reporter elects not to separately calculate and report biogenic CO_2 emissions from the combustion of tires, Tier 1 may be used for the MSW combustion, provided that no more than 10 percent of the unit's annual heat input is derived from MSW.

(2) * * *

(ii) May be used in a unit with a maximum rated heat input capacity greater than 250 mmBtu/hr for the combustion of natural gas and/or distillate fuel oil.

* * * * *

(3) * * *

(ii) * * *

(A) The use of Tier 1 or 2 is permitted, as described in paragraphs (b)(1)(iii), (b)(1)(v), and (b)(2)(ii) of this section.

* * * * *

(iii) Shall be used for a fuel not listed in Table C–1 of this subpart if the fuel is combusted in a unit with a maximum rated heat input capacity greater than 250 mmBtu/hr (or, pursuant to § 98.36(c)(3), in a group of units served by a common supply pipe, having at least one unit with a maximum rated heat input capacity greater than 250 mmBtu/hr), provided that both of the following conditions apply:

* * * * *

(B) The fuel provides 10% or more of the annual heat input to the unit or, if § 98.36(c)(3) applies, to the group of units served by a common supply pipe.

(iv) Shall be used when specified in another applicable subpart of this part, regardless of unit size.

(4) * * *

(i) * * * Tier 4 may also be used for any group of stationary fuel combustion units, process units, or manufacturing units that share a common stack or duct.

(ii) * * *

(A) The unit has a maximum rated heat input capacity greater than 250 mmBtu/hr, or if the unit combusts municipal solid waste and has a maximum rated input capacity greater than 600 tons per day of MSW.

(B) The unit combusts solid fossil fuel or MSW as the primary fuel.

* * * * *

(E) The installed CEMS include a gas monitor of any kind or a stack gas volumetric flow rate monitor, or both and the monitors have been certified,

either in accordance with the requirements of part 75 of this chapter, part 60 of this chapter, or an applicable State continuous monitoring program.

(F) The installed gas or stack gas volumetric flow rate monitors are required, either by an applicable Federal or State regulation or by the unit's operating permit, to undergo periodic quality assurance testing in accordance with either appendix B to part 75 of this chapter, appendix F to part 60 of this chapter, or an applicable State continuous monitoring program.

(iii) Shall be used for a unit with a maximum rated heat input capacity of 250 mmBtu/hr or less and for a unit that combusts municipal solid waste with a maximum rated input capacity of 600 tons of MSW per day or less, if the unit meets all of the following three conditions:

* * * * *

(iv) May apply to common stack or duct configurations where:

(A) The combined effluent gas streams from two or more stationary fuel combustion units are vented through a monitored common stack or duct. In this case, Tier 4 shall be used if all of the conditions in paragraph (b)(4)(iv)(A)(1) of this section or if the conditions in paragraph (b)(4)(iv)(A)(2) of this section are met.

(*1*) At least one of the units meets the requirements of paragraphs (b)(4)(ii)(A) through (b)(4)(ii)(C) of this section, and the CEMS installed at the common stack (or duct) meet the requirements of paragraphs (b)(4)(ii)(D) through (b)(4)(ii)(F) of this section.

(*2*) At least one of the units and the monitors installed at the common stack or duct meet the requirements of paragraph (b)(4)(iii) of this section.

(B) The combined effluent gas streams from a process or manufacturing unit and a stationary fuel combustion unit are vented through a monitored common stack or duct. In this case, Tier 4 shall be used if the combustion unit and the monitors installed at the common stack or duct meet the applicability criteria specified in paragraph (b)(4)(iv)(A)(*1*), or (b)(4)(iv)(A)(*2*) of this section.

(C) The combined effluent gas streams from two or more manufacturing or process units are vented through a common stack or duct. In this case, if any of the units is required by an applicable subpart of this part to use Tier 4, the CO_2 mass emissions may be monitored at each individual unit, or the combined CO_2 mass emissions may be monitored at the common stack or duct. However, if it is not feasible to monitor the individual units, the combined CO_2 mass emissions shall be monitored at the common stack or duct.

(5) The Tier 4 Calculation Methodology shall be used:

(i) Starting on January 1, 2010, for a unit that is required to report CO_2 mass emissions beginning on that date, if all of the monitors needed to measure CO_2 mass emissions have been installed and certified by that date.

(ii) No later than January 1, 2011, for a unit that is required to report CO_2 mass emissions beginning on January 1, 2010, if all of the monitors needed to measure CO_2 mass emissions have not been installed and certified by January 1, 2010. In this case, you may use Tier 2 or Tier 3 to report GHG emissions for 2010. However, if the required CEMS are certified some time in 2010, you need not wait until January 1, 2011 to begin using Tier 4. Rather, you may switch from Tier 2 or Tier 3 to Tier 4 as soon as CEMS certification testing is successfully completed. If this reporting option is chosen, you must document the change in CO_2 calculation methodology in the Monitoring Plan required under § 98.3(g)(5) and in the GHG emissions report under § 98.3(c). Data recorded by the CEMS during a certification test period in 2010 may be used for reporting under this part, provided that the following two conditions are met:

(A) The certification tests are passed in sequence, with no test failures.

(B) No unscheduled maintenance or repair of the CEMS is performed during the certification test period.

(iii) No later than 180 days following the date on which a change is made that triggers Tier 4 applicability under paragraph (b)(4)(ii) or (b)(4)(iii) of this section (*e.g.,* a change in the primary fuel, manner of unit operation, or installed continuous monitoring equipment).

(6) * * * However, for units that use either the Tier 4 or the alternative calculation methodology specified in paragraph (a)(5)(iii) of this section, CO_2 emissions from the combustion of all fuels shall be based solely on CEMS measurements.

(c) * * *

(1) Use Equation C–8 of this section to estimate CH_4 and N_2O emissions for any fuels for which you use the Tier 1 or Tier 3 calculation methodologies for CO_2, except when natural gas usage in units of therms or mmBtu is obtained from gas billing records. In that case, use Equation C–8a in paragraph (c)(1)(i) of this section or Equation C–8b in paragraph (c)(1)(ii) of this section (as applicable). For Equation C–8, use the same values for fuel consumption that you use for the Tier 1 or Tier 3 calculation.

* * * * *

HHV = Default high heat value of the fuel from Table C–1 of this subpart; alternatively, for Tier 3, if actual HHV data are available for the reporting year, you may average these data using the procedures specified in paragraph (a)(2)(ii) of this section, and use the average value in Equation C–8 (mmBtu per mass or volume).

* * * * *

(i) Use Equation C–8a to calculate CH_4 and N_2O emissions when natural gas usage is obtained from gas billing records in units of therms.

$$CH_4 \text{ or } N_2O = 1 \times 10^{-3} * Fuel * 0.1 * EF \qquad \text{(Eq. C-8a)}$$

Where:

CH_4 or N_2O = Annual CH_4 or N_2O emissions from the combustion of natural gas (metric tons).

Fuel = Annual natural gas usage, from gas billing records (therms).

EF = Fuel-specific default emission factor for CH_4 or N_2O, from Table C–2 of this subpart (kg CH_4 or N_2O per mmBtu).

0.1 = Conversion factor from therms to mmBtu

1×10^{-3} = Conversion factor from kilograms to metric tons.

(ii) Use Equation C–8b to calculate CH_4 and N_2O emissions when natural gas usage is obtained from gas billing records in units of mmBtu.

$$CH_4 \text{ or } N_2O = 1 \times 10^{-3} * Fuel * EF \qquad \text{(Eq. C–8b)}$$

Where:

CH_4 or N_2O = Annual CH_4 or N_2O emissions from the combustion of natural gas (metric tons).

Fuel = Annual natural gas usage, from gas billing records (mmBtu).

EF = Fuel-specific default emission factor for CH_4 or N_2O, from Table C–2 of this subpart (kg CH_4 or N_2O per mmBtu).

1×10^{-3} = Conversion factor from kilograms to metric tons.

(2) * * * Use the same values for fuel consumption and HHV that you use for the Tier 2 calculation.

* * * * *

(4) Use Equation C–10 of this section for: units subject to subpart D of this part; units that qualify for and elect to use the alternative CO_2 mass emissions calculation methodologies described in paragraph (a)(5) of this section; and units that use the Tier 4 Calculation Methodology.

* * * * *

$(HI)_A$ = Cumulative annual heat input from combustion of the fuel (mmBtu).

* * * * *

(i) If only one type of fuel listed in Table C–2 of this subpart is combusted during the reporting year, substitute the cumulative annual heat input from combustion of the fuel into Equation C–10 of this section to calculate the annual CH_4 or N_2O emissions. For units in the Acid Rain Program and units that report heat input data to EPA year-round according to part 75 of this chapter, obtain the cumulative annual heat input directly from the electronic data reports required under § 75.64 of this chapter. For Tier 4 units, use the best available information, as described in paragraph (c)(4)(ii)(C) of this section, to estimate the cumulative annual heat input $(HI)_A$.

(ii) If more than one type of fuel listed in Table C–2 of this subpart is combusted during the reporting year, use Equation C–10 of this section separately for each type of fuel, except as provided in paragraph (c)(4)(ii)(B) of this section. Determine the appropriate values of $(HI)_A$ as follows:

(A) For units in the Acid Rain Program and other units that report heat input data to EPA year-round according to part 75 of this chapter, obtain $(HI)_A$ for each type of fuel from the electronic data reports required under § 75.64 of this chapter, except as otherwise provided in paragraphs (c)(4)(ii)(B) and (c)(4)(ii)(D) of this section.

(B) For a unit that uses CEMS to monitor hourly heat input according to part 75 of this chapter, the value of $(HI)_A$ obtained from the electronic data reports under § 75.64 of this chapter may be attributed exclusively to the fuel with the highest F-factor, when the reporting option in 3.3.6.5 of appendix F to part 75 of this chapter is selected and implemented.

(C) For Tier 4 units, use the best available information (*e.g.,* fuel feed rate measurements, fuel heating values, engineering analysis) to estimate the value of $(HI)_A$ for each type of fuel. Instrumentation used to make these estimates is not subject to the calibration requirements of § 98.3(i) or to the QA requirements of § 98.34.

(D) Units in the Acid Rain Program and other units that report heat input data to EPA year-round according to part 75 of this chapter may use the best available information described in paragraph (c)(4)(ii)(C) of this section, to estimate $(HI)_A$ for each fuel type, whenever fuel-specific heat input values cannot be directly obtained from the electronic data reports under § 75.64 of this chapter.

(5) When multiple fuels are combusted during the reporting year, sum the fuel-specific results from Equations C–8, C–8a, C–8b, C–9a, C–9b, or C–10 of this section (as applicable) to obtain the total annual CH_4 and N_2O emissions, in metric tons.

(6) Calculate the annual CH_4 and N_2O mass emissions from the combustion of blended fuels as follows:

(i) If the mass or volume of each component fuel in the blend is measured before the fuels are mixed and combusted, calculate and report CH_4 and N_2O emissions separately for each component fuel, using the applicable procedures in this paragraph (c).

(ii) If the mass or volume of each component fuel in the blend is not measured before the fuels are mixed and combusted, a reasonable estimate of the percentage composition of the blend, based on best available information, is required. Perform the following calculations for each component fuel "i" that is listed in Table C–2:

(A) Multiply $(\%\ Fuel)_i$, the estimated mass or volume percentage (decimal fraction) of component fuel "i", by the total annual mass or volume of the blended fuel combusted during the reporting year, to obtain an estimate of the annual consumption of component "i";

(B) Multiply the result from paragraph (c)(6)(ii)(A) of this section by the HHV of the fuel (default value or, if available, the measured annual average value), to obtain an estimate of the annual heat input from component "i";

(C) Calculate the annual CH_4 and N_2O emissions from component "i", using Equation C–8, C–8a, C–8b, C–9a, or C–10 of this section, as applicable;

(D) Sum the annual CH_4 emissions across all component fuels to obtain the annual CH_4 emissions for the blend. Similarly sum the annual N_2O emissions across all component fuels to obtain the annual N_2O emissions for the blend. Report these annual emissions totals.

(d) * * *

(1) When a unit is a fluidized bed boiler, is equipped with a wet flue gas desulfurization system, or uses other acid gas emission controls with sorbent injection to remove acid gases, if the chemical reaction between the acid gas and the sorbent produces CO_2 emissions, use Equation C–11 of this section to calculate the CO_2 emissions from the sorbent, except when those CO_2 emissions are monitored by CEMS. When a sorbent other than $CaCO_3$ is used, determine site-specific values of R and MW_S.

* * * * *

R = The number of moles of CO_2 released upon capture of one mole of the acid gas species being removed (R = 1.00 when the sorbent is $CaCO_3$ and the targeted acid gas species is SO_2).

* * * * *

(2) The total annual CO_2 mass emissions reported for the unit shall include the CO_2 emissions from the combustion process and the CO_2 emissions from the sorbent.

(e) *Biogenic CO_2 emissions from combustion of biomass with other fuels.* Use the applicable procedures of this paragraph (e) to estimate biogenic CO_2 emissions from units that combust a combination of biomass and fossil fuels (*i.e.,* either co-fired or blended fuels). Separate reporting of biogenic CO_2 emissions from the combined combustion of biomass and fossil fuels is required for those biomass fuels listed in Table C–1 of this section and for municipal solid waste. In addition, when a biomass fuel that is not listed in Table C–1 is combusted in a unit that has a maximum rated heat input greater than 250 mmBtu/hr, if the biomass fuel accounts for 10% or more of the annual heat input to the unit, and if the unit does not use CEMS to quantify its annual CO_2 mass emissions, then, pursuant to § 98.33(b)(3)(iii), Tier 3 must be used to determine the carbon content of the biomass fuel and to calculate the biogenic CO_2 emissions from combustion of the fuel. Notwithstanding these requirements, in accordance with § 98.3(c)(12), separate reporting of biogenic CO_2 emissions is optional for the 2010 reporting year for units subject to subpart D of this part and for units that use the CO_2 mass emissions calculation methodologies in part 75 of this chapter, pursuant to paragraph (a)(5) of this section. However, if the owner or operator opts to report biogenic CO_2 emissions separately for these units, the appropriate method(s) in this paragraph (e) shall be used. Separate reporting of biogenic CO_2 emissions from the combustion of tires is also optional, but may be reported by following the provisions of paragraph (e)(3) of this section.

(1) You may use Equation C–1 of this subpart to calculate the annual CO_2 mass emissions from the combustion of the biomass fuels listed in Table C–1 of this subpart (except MSW and tires), in a unit of any size, including units equipped with a CO_2 CEMS, except when the use of Tier 2 is required as specified in paragraph (b)(1)(iv) of this section. Determine the quantity of biomass combusted using one of the following procedures in this paragraph (e)(1), as appropriate, and document the selected procedures in the Monitoring Plan under § 98.3(g):

(i) Company records.

(ii) The procedures in paragraph (e)(5) of this section.

(iii) The best available information for premixed fuels that contain biomass and fossil fuels (*e.g.,* liquid fuel mixtures containing biodiesel).

(2) You may use the procedures of this paragraph if the following three conditions are met: First, a CO_2 CEMS (or a surrogate O_2 monitor) and a stack gas flow rate monitor are used to determine the annual CO_2 mass emissions (either according to part 75 of this chapter, the Tier 4 Calculation Methodology, or the alternative calculation methodology specified in paragraph (a)(5)(iii) of this section); second, neither MSW nor tires is combusted in the unit during the reporting year; and third, the CO_2 emissions consist solely of combustion products (*i.e.,* no process or sorbent emissions included).

* * * * *

(iii) * * *

F_c = Fuel-specific carbon based F-factor, either a default value from Table 1 in section 3.3.5 of appendix F to part 75 of this chapter, or a site-specific value determined under section 3.3.6 of appendix F to part 75 (scf CO_2/mmBtu).

* * * * *

(iv) Subtract V_{ff} from V_{total} to obtain V_{bio}, the annual volume of CO_2 from the combustion of biomass.

* * * * *

(vi) * * *

(C) From the electronic data report required under § 75.64 of this chapter, for units in the Acid Rain Program and other units using CEMS to monitor and report CO_2 mass emissions according to part 75 of this chapter. However, before calculating the annual biogenic CO_2 mass emissions, multiply the cumulative annual CO_2 mass emissions by 0.91 to convert from short tons to metric tons.

(3) You must use the procedures in paragraphs (e)(3)(i) through (e)(3)(iii) of this section to determine the annual biogenic CO_2 emissions from the combustion of MSW, except as otherwise provided in paragraph (e)(3)(iv) of this section. These procedures also may be used for any unit that co-fires biomass and fossil fuels, including units equipped with a CO_2 CEMS, and units for which optional separate reporting of biogenic CO_2 emissions from the combustion of tires is selected.

(i) Use an applicable CO_2 emissions calculation method in this section to quantify the total annual CO_2 mass emissions from the unit.

(ii) Determine the relative proportions of biogenic and non-biogenic CO_2 emissions in the flue gas on a quarterly basis using the method specified in § 98.34(d) (for units that combust MSW as the primary fuel or as the only fuel with a biogenic component) or in § 98.34(e) (for other units, including units that combust tires).

(iii) Determine the annual biogenic CO_2 mass emissions from the unit by multiplying the total annual CO_2 mass emissions by the annual average biogenic decimal fraction obtained from § 98.34(d) or § 98.34(e), as applicable.

(iv) If the combustion of MSW and/or tires provides no more than 10 percent of the annual heat input to a unit, or if a small, batch incinerator combusts no more than 1,000 tons per year of MSW, you may estimate the annual biogenic CO_2 emissions as follows, in lieu of following the procedures in paragraphs (e)(3)(i) through (e)(3)(iii) of this section:

(A) Calculate the total annual CO_2 emissions from combustion of MSW and/or tires in the unit, using the Tier 1 calculation methodology in paragraph (a)(1) of this section.

(B) Multiply the result from paragraph (e)(3)(iv)(A) of this section by the appropriate default factor to determine the annual biogenic CO_2 emissions, in metric tons. For MSW, use a default factor of 0.60 and for tires, use a default factor of 0.20.

(4) If Equation C–1 or Equation C–2a of this section is selected to calculate the annual biogenic mass emissions for wood, wood waste, or other solid biomass-derived fuel, Equation C–15 of this section may be used to quantify biogenic fuel consumption, provided that all of the required input parameters are accurately quantified. * * *

(5) For units subject to subpart D of this part and for units that use the methods in part 75 of this chapter to quantify CO_2 mass emissions in accordance with paragraph (a)(5) of this section, you may calculate biogenic CO_2 emissions from the combustion of biomass fuels listed in Table C–1 of this subpart using Equation C–15a. This equation may not be used to calculate biogenic CO_2 emissions from the combustion of tires or MSW; the methods described in paragraph (e)(3) of this section must be used for those fuels. Whenever $(HI)_A$, the annual heat input from combustion of biomass fuel in Equation C–15a, cannot be determined solely from the information in the electronic emissions reports under § 75.64 of this chapter (*e.g.,* in cases where a unit uses CEMS in combination with multiple F-factors, a worst-case F-factor, or a prorated F-factor to report heat input rather than reporting heat input based on fuel type), use the best available information (as described in §§ 98.33(c)(4)(ii)(C) and (c)(4)(ii)(D)) to determine $(HI)_A$.

$$CO_2 = 0.001 * (HI)_A * EF \quad \text{(Eq. C–15a)}$$

Where:

CO_2 = Annual CO_2 mass emissions from the combustion of a particular type of biomass fuel listed in Table C–1 (metric tons)

$(HI)_A$ = Annual heat input from the biomass fuel, obtained, where feasible, from the electronic emissions reports required under § 75.64 of this chapter. Where this is not feasible use best available information, as described in §§ 98.33(c)(4)(ii)(C) and (c)(4)(ii)(D) (mmBtu)

EF = CO_2 emission factor for the biomass fuel, from Table C–1 (kg CO_2/mmBtu)

0.001 = Conversion factor from kg to metric tons

* * * * *

■ 10. Section 98.34 is amended by:

■ a. Revising paragraphs (a)(2), (a)(3), (a)(6), (b)(1) introductory text, (b)(1)(i), (b)(1)(ii), (b)(1)(iii), (b)(1)(vi), (b)(3)(ii), and (b)(3)(v).

■ b. Removing paragraph (b)(4).

■ c. Redesignating paragraph (b)(5) as (b)(4).

■ d. Revising newly designated paragraph (b)(4).

■ e. Revising paragraphs (c) introductory text, (c)(1)(i), (c)(1)(ii), (c)(2), (c)(3), and (c)(4).

■ f. Adding paragraphs (c)(6) and (c)(7).

■ g. Revising paragraphs (d), (e), (f) introductory text, (f)(1), (f)(3), (f)(5), and (f)(6).

■ h. Adding paragraphs (f)(7) and (f)(8).

■ i. Removing paragraph (g).

§ 98.34 Monitoring and QA/QC requirements.

* * * * *

(a) * * *

(2) The minimum required frequency of the HHV sampling and analysis for each type of fuel or fuel mixture (blend) is specified in this paragraph. When the specified frequency for a particular fuel or blend is based on a specified time period (*e.g.,* week, month, quarter, or half-year), fuel sampling and analysis is

required only for those time periods in which the fuel or blend is combusted. The owner or operator may perform fuel sampling and analysis more often than the minimum required frequency, in order to obtain a more representative annual average HHV.

(i) For natural gas, semiannual sampling and analysis is required (*i.e.,* twice in a calendar year, with consecutive samples taken at least four months apart).

(ii) For coal and fuel oil, and for any other solid or liquid fuel that is delivered in lots, analysis of at least one representative sample from each fuel lot is required. For fuel oil, as an alternative to sampling each fuel lot, a sample may be taken upon each addition of oil to the unit's storage tank. Flow proportional sampling, continuous drip sampling, or daily manual oil sampling may also be used, in lieu of sampling each fuel lot. If the daily manual oil sampling option is selected, sampling from a particular tank is required only on days when oil from the tank is combusted by the unit (or units) served by the tank. If you elect to sample from the storage tank upon each addition of oil to the tank, you must take at least one sample from each tank that is currently in service and whenever oil is added to the tank, for as long as the tank remains in service. You need not take any samples from a storage tank while it is out of service. Rather, take a sample when the tank is brought into service and whenever oil is added to the tank, for as long as the tank remains in service. If multiple additions of oil are made to a particular in-service tank on a given day (*e.g.,* from multiple deliveries), one sample taken after the final addition of oil is sufficient. For the purposes of this section, a fuel lot is defined as a shipment or delivery of a single type of fuel (*e.g.,* ship load, barge load, group of trucks, group of railroad cars, oil delivery via pipeline from a tank farm, *etc.*). However, if multiple deliveries of a particular type of fuel are received from the same supply source in a given calendar month, the deliveries for that month may be considered, collectively, to comprise a fuel lot, requiring only one representative sample, subject to the following conditions:

(A) For coal, the "type" of fuel means the rank of the coal (*i.e.,* anthracite, bituminous, sub-bituminous, or lignite). For fuel oil, the "type" of fuel means the grade number or classification of the oil (*e.g.,* No. 1 oil, No. 2 oil, kerosene, Jet A fuel, *etc.*).

(B) The owner or operator shall document in the monitoring plan under § 98.3(g)(5) how the monthly sampling of each type of fuel is performed.

(iii) For liquid fuels other than fuel oil, and for gaseous fuels other than natural gas (including biogas), sampling and analysis is required at least once per calendar quarter. To the extent practicable, consecutive quarterly samples shall be taken at least 30 days apart.

(iv) For other solid fuels (except MSW), weekly sampling is required to obtain composite samples, which are then analyzed monthly.

(v) For fuel blends that are received already mixed, or that are mixed on-site without measuring the exact amount of each component, as described in paragraph (a)(3)(ii) of this section, determine the HHV of the blend as follows. For blends of solid fuels (except MSW), weekly sampling is required to obtain composite samples, which are analyzed monthly. For blends of liquid or gaseous fuels, sampling and analysis is required at least once per calendar quarter. More frequent sampling is recommended if the composition of the blend varies significantly during the year.

(3) *Special considerations for blending of fuels.* In situations where different types of fuel listed in Table C–1 of this subpart (for example, different ranks of coal or different grades of fuel oil) are in the same state of matter (*i.e.,* solid, liquid, or gas), and are blended prior to combustion, use the following procedures to determine the appropriate CO_2 emission factor and HHV for the blend.

(i) If the fuels to be blended are received separately, and if the quantity (mass or volume) of each fuel is measured before the fuels are mixed and combusted, then, for each component of the blend, calculate the CO_2 mass emissions separately. Substitute into Equation C–2a of this subpart the total measured mass or volume of the component fuel (from company records), together with the appropriate default CO_2 emission factor from Table C–1, and the annual average HHV, calculated according to § 98.33(a)(2)(ii). In this case, the fact that the fuels are blended prior to combustion is of no consequence.

(ii) If the fuel is received as a blend (*i.e.,* already mixed) or if the components are mixed on site without precisely measuring the mass or volume of each one individually, a reasonable estimate of the relative proportions of the components of the blend must be made, using the best available information (*e.g.,* the approximate annual average mass or volume percentage of each fuel, based on the typical or expected range of values). Determine the appropriate CO_2 emission factor and HHV for use in Equation C–2a of this subpart, as follows:

(A) Consider the blend to be the "fuel type," measure its HHV at the frequency prescribed in paragraph (a)(2)(v) of this section, and determine the annual average HHV value for the blend according to § 98.33(a)(2)(ii).

(B) Calculate a heat-weighted CO_2 emission factor, $(EF)_B$, for the blend, using Equation C–16 of this section. The heat-weighting in Equation C–16 is provided by the default HHVs (from Table C–1) and the estimated mass or volume percentages of the components of the blend.

(C) Substitute into Equation C–2a of this subpart, the annual average HHV for the blend (from paragraph (a)(3)(ii)(A) of this section) and the calculated value of $(EF)_B$, along with the total mass or volume of the blend combusted during the reporting year, to determine the annual CO_2 mass emissions from combustion of the blend.

$$(EF)_B = \frac{\sum_{i=1}^{n}\left[(HHV)_i\ (\%Fuel)_i\ (EF)_i\right]}{(HHV)_B} \qquad \text{(Eq. C-16)}$$

Where:

$(EF)_B$ = Heat-weighted CO_2 emission factor for the blend (kg CO_2/mmBtu)

$(HHV)_i$ = Default high heat value for fuel "i" in the blend, from Table C–1 (mmBtu per mass or volume)

$(\%Fuel)_i$ = Estimated mass or volume percentage of fuel "i" (mass % or volume %, as applicable, expressed as a decimal fraction; *e.g.,* 25% = 0.25)

$(EF)_i$ = Default CO_2 emission factor for fuel "i" from Table C–1 (mmBtu per mass or volume)

$(HHV)_B$ = Annual average high heat value for the blend, calculated according to § 98.33(a)(2)(ii) (mmBtu per mass or volume)

(iii) Note that for the case described in paragraph (a)(3)(ii) of this section, if measured HHV values for the individual fuels in the blend or for the blend itself are not routinely received at the minimum frequency prescribed in paragraph (a)(2) of this section (or at a greater frequency), and if the unit qualifies to use Tier 1, calculate $(HHV)_B$*, the heat-weighted default HHV for the blend, using Equation C–17 of this section. Then, use Equation C–16 of this section, replacing the term $(HHV)_B$ with $(HHV)_B$* in the denominator, to determine the heat-weighted CO_2 emission factor for the blend. Finally, substitute into Equation C–1 of this subpart, the calculated values of $(HHV)_B$* and $(EF)_B$, along with the total mass or volume of the blend combusted during the reporting year, to determine the annual CO_2 mass emissions from combustion of the blend.

$$HHV_B^* = \sum_{i=1}^{n} \left[(HHV)_i \, (\%Fuel)_i \right] \qquad \text{(Eq. C-17)}$$

Where:

$(HHV)_B$* = Heat-weighted default high heat value for the blend (mmBtu per mass or Volume)

$(HHV)_i$ = Default high heat value for fuel "i" in the blend, from Table C–1 (mmBtu per mass or volume)

$(\%Fuel)_i$ = Estimated mass or volume percentage of fuel "i" in the blend (mass % or volume %, as applicable, expressed as a decimal fraction)

(iv) If the fuel blend described in paragraph (a)(3)(ii) of this section consists of a mixture of fuel(s) listed in Table C–1 of this subpart and one or more fuels not listed in Table C–1, calculate CO_2 and other GHG emissions only for the Table C–1 fuel(s), using the best available estimate of the mass or volume percentage(s) of the Table C–1 fuel(s) in the blend. In this case, Tier 1 shall be used, with the following modifications to Equations C–17 and C–1, to account for the fact that not all of the fuels in the blend are listed in Table C–1:

(A) In Equation C–17, apply the term $(Fuel)_i$ only to the Table C–1 fuels. For each Table C–1 fuel, $(Fuel)_i$ will be the estimated mass or volume percentage of the fuel in the blend, divided by the sum of the mass or volume percentages of the Table C–1 fuels. For example, suppose that a blend consists of two Table C–1 fuels ("A" and "B") and one fuel type ("C") not listed in the Table, and that the volume percentages of fuels A, B, and C in the blend, expressed as decimal fractions, are, respectively, 0.50, 0.30, and 0.20. The term $(Fuel)_i$ in Equation C–17 for fuel A will be 0.50/(0.50 + 0.30) = 0.625, and for fuel B, $(Fuel)_i$ will be 0.30/(0.50 + 0.30) = 0.375.

(B) In Equation C–1, the term "Fuel" will be equal to the total mass or volume of the blended fuel combusted during the year multiplied by the sum of the mass or volume percentages of the Table C–1 fuels in the blend. For the example in paragraph (a)(3)(iv)(A) of this section, "Fuel" = (Annual volume of the blend combusted)(0.80).

* * * * *

(6) You must use one of the following appropriate fuel sampling and analysis methods. The HHV may be calculated using chromatographic analysis together with standard heating values of the fuel constituents, provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions. Alternatively, you may use a method published by a consensus-based standards organization if such a method exists, or you may use industry standard practice to determine the high heat values. Consensus-based standards organizations include, but are not limited to, the following: ASTM International (100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–B2959, (800) 262–1373, *http://www.astm.org),* the American National Standards Institute (ANSI, 1819 L Street, NW., 6th floor, Washington, DC 20036, (202) 293–8020, *http://www.ansi.org*), the American Gas Association (AGA, 400 North Capitol Street, NW., 4th Floor, Washington, DC 20001, (202) 824–7000, *http://www.aga.org*), the American Society of Mechanical Engineers (ASME, Three Park Avenue, New York, NY 10016–5990, (800) 843–2763, *http://www.asme.org*), the American Petroleum Institute (API, 1220 L Street, NW., Washington, DC 20005–4070, (202) 682–8000, *http://www.api.org*), and the North American Energy Standards Board (NAESB, 801 Travis Street, Suite 1675, Houston, TX 77002, (713) 356–0060, *http://www.api.org*). The method(s) used shall be documented in the Monitoring Plan required under § 98.3(g)(5).

(b) * * *

(1) You must calibrate each oil and gas flow meter according to § 98.3(i) and the provisions of this paragraph (b)(1).

(i) Perform calibrations using any of the test methods and procedures in this paragraph (b)(1)(i). The method(s) used shall be documented in the Monitoring Plan required under § 98.3(g)(5).

(A) You may use the calibration procedures specified by the flow meter manufacturer.

(B) You may use an appropriate flow meter calibration method published by a consensus-based standards organization, if such a method exists. Consensus-based standards organizations include, but are not limited to, the following: ASTM International (100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–B2959, (800) 262–1373, *http://www.astm.org*), the American National Standards Institute (ANSI, 1819 L Street, NW., 6th floor, Washington, DC 20036, (202) 293–8020, *http://www.ansi.org*), the American Gas Association (AGA, 400 North Capitol Street, NW., 4th Floor, Washington, DC 20001, (202) 824–7000, *http://www.aga.org*), the American Society of Mechanical Engineers (ASME, Three Park Avenue, New York, NY 10016–5990, (800) 843–2763, *http://www.asme.org*), the American Petroleum Institute (API, 1220 L Street, NW., Washington, DC 20005–4070, (202) 682–8000, *http://www.api.org*), and the North American Energy Standards Board (NAESB, 801 Travis Street, Suite 1675, Houston, TX 77002, (713) 356–0060, *http://www.api.org*).

(C) You may use an industry-accepted practice.

(ii) In addition to the initial calibration required by § 98.3(i), recalibrate each fuel flow meter (except as otherwise provided in paragraph (b)(1)(iii) of this section) according to one of the following. You may recalibrate annually, at the minimum frequency specified by the manufacturer, or at the interval specified by industry standard practice.

(iii) Fuel billing meters are exempted from the initial and ongoing calibration requirements of this paragraph and from the Monitoring Plan and recordkeeping

requirements of §§ 98.3(g)(5)(i)(C), (g)(6), and (g)(7), provided that the fuel supplier and the unit combusting the fuel do not have any common owners and are not owned by subsidiaries or affiliates of the same company. Meters used exclusively to measure the flow rates of fuels that are only used for unit startup are also exempted from the initial and ongoing calibration requirements of this paragraph.

* * * * *

(vi) If a mixture of liquid or gaseous fuels is transported by a common pipe, you may either separately meter each of the fuels prior to mixing, using flow meters calibrated according to § 98.3(i), or consider the fuel mixture to be the "fuel type" and meter the mixed fuel, using a flow meter calibrated according to § 98.3(i).

* * * * *

(3) * * *

(ii) For each type of fuel, the minimum required frequency for collecting and analyzing samples for carbon content and (if applicable) molecular weight is specified in this paragraph. When the sampling frequency is based on a specified time period (*e.g.,* week, month, quarter, or half-year), fuel sampling and analysis is required for only those time periods in which the fuel is combusted.

(A) For natural gas, semiannual sampling and analysis is required (*i.e.,* twice in a calendar year, with consecutive samples taken at least four months apart).

(B) For coal and fuel oil and for any other solid or liquid fuel that is delivered in lots, analysis of at least one representative sample from each fuel lot is required. For fuel oil, as an alternative to sampling each fuel lot, a sample may be taken upon each addition of oil to the storage tank. Flow proportional sampling, continuous drip sampling, or daily manual oil sampling may also be used, in lieu of sampling each fuel lot. If the daily manual oil sampling option is selected, sampling from a particular tank is required only on days when oil from the tank is combusted by the unit (or units) served by the tank. If you elect to sample from the storage tank upon each addition of oil to the tank, you must take at least one sample from each tank that is currently in service and whenever oil is added to the tank, for as long as the tank remains in service. You need not take any samples from a storage tank while it is out of service. Rather, take a sample when the tank is brought into service and whenever oil is added to the tank, for as long as the tank remains in service. If multiple additions of oil are made to a particular in service tank on a given day (*e.g.,* from multiple deliveries), one sample taken after the final addition of oil is sufficient. For the purposes of this section, a fuel lot is defined as a shipment or delivery of a single type of fuel (*e.g.,* ship load, barge load, group of trucks, group of railroad cars, oil delivery via pipeline from a tank farm, *etc.*). However, if multiple deliveries of a particular type of fuel are received from the same supply source in a given calendar month, the deliveries for that month may be considered, collectively, to comprise a fuel lot, requiring only one representative sample, subject to the following conditions:

(*1*) For coal, the "type" of fuel means the rank of the coal (*i.e.,* anthracite, bituminous, sub-bituminous, or lignite). For fuel oil, the "type" of fuel means the grade number or classification of the oil (*e.g.,* No. 1 oil, No. 2 oil, kerosene, Jet A fuel, *etc.*).

(*2*) The owner or operator shall document in the monitoring plan under § 98.3(g)(5) how the monthly sampling of each type of fuel is performed.

(C) For liquid fuels other than fuel oil and for biogas, sampling and analysis is required at least once per calendar quarter. To the extent practicable, consecutive quarterly samples shall be taken at least 30 days apart.

(D) For other solid fuels (except MSW), weekly sampling is required to obtain composite samples, which are then analyzed monthly.

(E) For gaseous fuels other than natural gas and biogas (*e.g.,* process gas), daily sampling and analysis to determine the carbon content and molecular weight of the fuel is required if continuous, on-line equipment, such as a gas chromatograph, is in place to make these measurements. Otherwise, weekly sampling and analysis shall be performed.

(F) For mixtures (blends) of solid fuels, weekly sampling is required to obtain composite samples, which are analyzed monthly. For blends of liquid fuels, and for gas mixtures consisting only of natural gas and biogas, sampling and analysis is required at least once per calendar quarter. For gas mixtures that contain gases other than natural gas (including biogas), daily sampling and analysis to determine the carbon content and molecular weight of the fuel is required if continuous, on-line equipment is in place to make these measurements. Otherwise, weekly sampling and analysis shall be performed.

* * * * *

(v) To calculate the CO_2 mass emissions from combustion of a blend of fuels in the same state of matter (solid, liquid, or gas), you may either:

(A) Apply Equation C–3, C–4 or C–5 of this subpart (as applicable) to each component of the blend, if the mass or volume, the carbon content, and (if applicable), the molecular weight of each component are accurately measured prior to blending; or

(B) Consider the blend to be the "fuel type." Then, at the frequency specified in paragraph (b)(3)(ii)(F) of this section, measure the carbon content and, if applicable, the molecular weight of the blend and calculate the annual average value of each parameter in the manner described in § 98.33(a)(2)(ii). Also measure the mass or volume of the blended fuel combusted during the reporting year. Substitute these measured values into Equation C–3, C–4, or C–5 of this subpart (as applicable).

(4) You must use one of the following appropriate fuel sampling and analysis methods. The results of chromatographic analysis of the fuel may be used, provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions. Alternatively, you may use a method published by a consensus-based standards organization if such a method exists, or you may use industry standard practice to determine the carbon content and molecular weight (for gaseous fuel) of the fuel. Consensus-based standards organizations include, but are not limited to, the following: ASTM International (100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–B2959, (800) 262–1373, *http://www.astm.org*), the American National Standards Institute (ANSI, 1819 L Street, NW., 6th floor, Washington, DC 20036, (202) 293–8020, *http://www.ansi.org*), the American Gas Association (AGA, 400 North Capitol Street, NW., 4th Floor, Washington, DC 20001, (202) 824–7000, *http://www.aga.org*), the American Society of Mechanical Engineers (ASME, Three Park Avenue, New York, NY 10016–5990, (800) 843–2763, *http://www.asme.org*), the American Petroleum Institute (API, 1220 L Street, NW., Washington, DC 20005–4070, (202) 682–8000, *http://www.api.org*), and the North American Energy Standards Board (NAESB, 801 Travis Street, Suite 1675, Houston, TX 77002, (713) 356–0060, *http://www.api.org*). The method(s) used shall be documented in the Monitoring Plan required under § 98.3(g)(5).

(c) For the Tier 4 Calculation Methodology, the CO_2, flow rate, and (if applicable) moisture monitors must be

certified prior to the applicable deadline specified in § 98.33(b)(5).

(1) * * *

(i) §§ 75.20(c)(2), (c)(4), and (c)(5) through (c)(7) of this chapter and appendix A to part 75 of this chapter.

(ii) The calibration drift test and relative accuracy test audit (RATA) procedures of Performance Specification 3 in appendix B to part 60 of this chapter (for the CO_2 concentration monitor) and Performance Specification 6 in appendix B to part 60 of this chapter (for the continuous emission rate monitoring system (CERMS)).

* * * * *

(2) If an O_2 concentration monitor is used to determine CO_2 concentrations, the applicable provisions of part 75 of this chapter, part 60 of this chapter, or an applicable State continuous monitoring program shall be followed for initial certification and on-going quality assurance, and all required RATAs of the monitor shall be done on a percent CO_2 basis.

(3) For ongoing quality assurance, follow the applicable procedures in either appendix B to part 75 of this chapter, appendix F to part 60 of this chapter, or an applicable State continuous monitoring program. If appendix F to part 60 of this chapter is selected for on-going quality assurance, perform daily calibration drift assessments for both the CO_2 monitor (or surrogate O_2 monitor) and the flow rate monitor, conduct cylinder gas audits of the CO_2 concentration monitor in three of the four quarters of each year (except for non-operating quarters), and perform annual RATAs of the CO_2 concentration monitor and the CERMS.

(4) For the purposes of this part, the stack gas volumetric flow rate monitor RATAs required by appendix B to part 75 of this chapter and the annual RATAs of the CERMS required by appendix F to part 60 of this chapter need only be done at one operating level, representing normal load or normal process operating conditions, both for initial certification and for ongoing quality assurance.

* * * * *

(6) For certain applications where combined process emissions and combustion emissions are measured, the CO_2 concentrations in the flue gas may be considerably higher than for combustion emissions alone. In such cases, the span of the CO_2 monitor may, if necessary, be set higher than the specified levels in the applicable regulations. If the CO_2 span value is set higher than 20 percent CO_2, the cylinder gas audits of the CO_2 monitor under appendix F to part 60 of this chapter may be performed at 40 to 60 percent and 80 to 100 percent of span, in lieu of the prescribed calibration levels of 5 to 8 percent CO_2 and 10 to 14 percent CO_2.

(7) Hourly average data from the CEMS shall be validated in a manner consistent with one of the following: §§ 60.13(h)(2)(i) through (h)(2)(vi) of this chapter; § 75.10(d)(1) of this chapter; or the hourly data validation requirements of an applicable State CEM regulation.

(d) Except as otherwise provided in § 98.33 (b)(1)(vi) and (b)(1)(vii), when municipal solid waste (MSW) is either the primary fuel combusted in a unit or the only fuel with a biogenic component combusted in the unit, determine the biogenic portion of the CO_2 emissions using ASTM D6866–08 Standard Test Methods for Determining the Biobased Content of Solid, Liquid, and Gaseous Samples Using Radiocarbon Analysis (incorporated by reference, see § 98.7) and ASTM D7459–08 Standard Practice for Collection of Integrated Samples for the Speciation of Biomass (Biogenic) and Fossil-Derived Carbon Dioxide Emitted from Stationary Emissions Sources (incorporated by reference, see § 98.7). Perform the ASTM D7459–08 sampling and the ASTM D6866–08 analysis at least once in every calendar quarter in which MSW is combusted in the unit. Collect each gas sample during normal unit operating conditions for at least 24 total (not necessarily consecutive) hours, or longer if the facility deems it necessary to obtain a representative sample. Notwithstanding this requirement, if the types of fuels combusted and their relative proportions are consistent throughout the year, the minimum required sampling time may be reduced to 8 hours if at least two 8-hour samples and one 24-hour sample are collected under normal operating conditions, and arithmetic average of the biogenic fraction of the flue gas from the 8-hour samples (expressed as a decimal) is within ± 5 percent of the biogenic fraction from the 24-hour test. There must be no overlapping of the 8-hour and 24-hour test periods. Document the results of the demonstration in the unit's monitoring plan. If the types of fuels and their relative proportions are not consistent throughout the year, an optional sampling approach that facilities may wish to consider to obtain a more representative sample is to collect an integrated sample by extracting a small amount of flue gas (*e.g.,* 1 to 5 cc) in each unit operating hour during the quarter. Separate the total annual CO_2 emissions into the biogenic and non-biogenic fractions using the average proportion of biogenic emissions of all samples analyzed during the reporting year. Express the results as a decimal fraction (*e.g.,* 0.30, if 30 percent of the CO_2 is biogenic). When MSW is the primary fuel for multiple units at the facility, and the units are fed from a common fuel source, testing at only one of the units is sufficient.

(e) For other units that combust combinations of biomass fuel(s) (or heterogeneous fuels that have a biomass component, *e.g.,* tires) and fossil (or other non-biogenic) fuel(s), in any proportions, ASTM D6866–08 (incorporated by reference, see § 98.7) and ASTM D7459–08 (incorporated by reference, see § 98.7) may be used to determine the biogenic portion of the CO_2 emissions in every calendar quarter in which biomass and non-biogenic fuels are co-fired in the unit. Follow the procedures in paragraph (d) of this section. If the primary fuel for multiple units at the facility consists of tires, and the units are fed from a common fuel source, testing at only one of the units is sufficient.

(f) The records required under § 98.3(g)(2)(i) shall include an explanation of how the following parameters are determined from company records (or, if applicable, from the best available information):

(1) Fuel consumption, when the Tier 1 and Tier 2 Calculation Methodologies are used, including cases where § 98.36(c)(4) applies.

* * * * *

(3) Fossil fuel consumption when § 98.33(e)(2) applies to a unit that uses CEMS to quantify CO_2 emissions and that combusts both fossil and biomass fuels.

* * * * *

(5) Quantity of steam generated by a unit when § 98.33(a)(2)(iii) applies.

(6) Biogenic fuel consumption and high heating value, as applicable, under §§ 98.33(e)(5) and (e)(6).

(7) Fuel usage for CH_4 and N_2O emissions calculations under § 98.33(c)(4)(ii).

(8) Mass of biomass combusted, for premixed fuels that contain biomass and fossil fuels under § 98.33(e)(1)(iii).

■ 11. Section 98.35 is amended by revising paragraph (a) to read as follows:

§ 98.35 Procedures for estimating missing data.

* * * * *

(a) For all units subject to the requirements of the Acid Rain Program, and all other stationary combustion units subject to the requirements of this part that monitor and report emissions and heat input data year-round in

accordance with part 75 of this chapter, the missing data substitution procedures in part 75 of this chapter shall be followed for CO_2 concentration, stack gas flow rate, fuel flow rate, high heating value, and fuel carbon content.

* * * * *

■ 12. Section 98.36 is amended by:
■ a. Revising paragraph (b)(5).
■ b. Removing paragraphs (b)(9) and (b)(10).
■ c. Redesignating paragraphs (b)(6) through (b)(8) as paragraphs (b)(8) through (b)(10), respectively.
■ d. Revising newly designated paragraphs (b)(8) and (b)(9).
■ e. Adding new paragraphs (b)(6) and (b)(7).
■ f. Removing and reserving paragraphs (c)(1)(ii) and (c)(1)(iii).
■ g. Revising paragraphs (c)(1)(vi) and (c)(1)(vii).
■ h. Redesignating paragraph (c)(1)(viii) as paragraph (c)(1)(x), and revising newly designated paragraph (c)(1)(x).
■ i. Removing paragraph (c)(1)(ix).
■ j. Adding new paragraphs (c)(1)(viii) and (c)(1)(ix).
■ k. Revising paragraphs (c)(2) introductory text, (c)(2)(ii), (c)(2)(iii), and (c)(2)(v).
■ l. Removing paragraph (c)(2)(viii).
■ m. Redesignating paragraphs (c)(2)(vi) and (c)(2)(vii) as paragraphs (c)(2)(viii) and (c)(2)(ix), and revising newly designated paragraphs (c)(2)(viii) and (c)(2)(ix).
■ n. Adding new paragraphs (c)(2)(vi) and (c)(2)(vii).
■ o. Removing and reserving paragraph (c)(3)(ii).
■ p. Revising paragraphs (c)(3) introductory text, (c)(3)(iii), and (c)(3)(vii).
■ q. Removing paragraph (c)(3)(viii).
■ r. Adding new paragraphs (c)(3)(viii), (c)(3)(ix), and (c)(4).
■ s. Revising paragraph (d).
■ t. Revising paragraphs (e)(1)(iii), (e)(2)(i), (e)(2)(ii)(C), (e)(2)(ii)(D), (e)(2)(iii), (e)(2)(iv)(A), and (e)(2)(iv)(C).
■ u. Adding paragraphs (e)(2)(iv)(F) and (e)(2)(iv)(G).
■ v. Revising paragraph (e)(2)(v)(C).
■ w. Adding paragraph (e)(2)(v)(E).
■ x. Revising paragraphs (e)(2)(vii)(A), (e)(2)(ix) introductory text, and (e)(2)(x) introductory text.
■ y. Removing paragraphs (e)(2)(x)(B) and (e)(2)(x)(C).
■ z. Redesignating paragraph (e)(2)(x)(D) as (e)(2)(x)(B), and revising newly designated paragraph (e)(2)(x)(B).
■ aa. Revising paragraph (e)(2)(xi).

§ 98.36 Data reporting requirements.

* * * * *

(b) * * *

(5) The methodology (*i.e.,* tier) used to calculate the CO_2 emissions for each type of fuel combusted (*i.e.,* Tier 1, 2, 3, or 4).

(6) The methodology start date, for each fuel type.

(7) The methodology end date, for each fuel type.

(8) For a unit that uses Tiers 1, 2, or 3:

(i) The annual CO_2 mass emissions (including biogenic CO_2), and the annual CH_4, and N_2O mass emissions for each type of fuel combusted during the reporting year, expressed in metric tons of each gas and in metric tons of CO_2e; and

(ii) Metric tons of biogenic CO_2 emissions (if applicable).

(9) For a unit that uses Tier 4:

(i) If the total annual CO_2 mass emissions measured by the CEMS consists entirely of non-biogenic CO_2 (*i.e.,* CO_2 from fossil fuel combustion plus, if applicable, CO_2 from sorbent and/or process CO_2), report the total annual CO_2 mass emissions, expressed in metric tons. You are not required to report the combustion CO_2 emissions by fuel type.

(ii) Report the total annual CO_2 mass emissions measured by the CEMS. If this total includes both biogenic and non-biogenic CO_2, separately report the annual non-biogenic CO_2 mass emissions and the annual CO_2 mass emissions from biomass combustion, each expressed in metric tons. You are not required to report the combustion CO_2 emissions by fuel type.

(iii) An estimate of the heat input from each type of fuel listed in Table C–2 of this subpart that was combusted in the unit during the report year, and the annual CH_4 and N_2O emissions for each of these fuels, expressed in metric tons of each gas and in metric tons of CO_2e.

* * * * *

(c) * * *

(1) * * *

(ii) [Reserved]

(iii) [Reserved]

* * * * *

(vi) Annual CO_2 mass emissions and annual CH_4, and N_2O mass emissions, aggregated for each type of fuel combusted in the group of units during the report year, expressed in metric tons of each gas and in metric tons of CO_2e. If any of the units burn both fossil fuels and biomass, report also the annual CO_2 emissions from combustion of all fossil fuels combined and annual CO_2 emissions from combustion of all biomass fuels combined, expressed in metric tons.

(vii) The methodology (*i.e.,* tier) used to calculate the CO_2 mass emissions for each type of fuel combusted in the units (*i.e.,* Tier 1, Tier 2, or Tier 3).

(viii) The methodology start date, for each fuel type.

(ix) The methodology end date, for each fuel type.

(x) The calculated CO_2 mass emissions (if any) from sorbent expressed in metric tons.

(2) *Monitored common stack or duct configurations.* When the flue gases from two or more stationary fuel combustion units at a facility are combined together in a common stack or duct before exiting to the atmosphere and if CEMS are used to continuously monitor CO_2 mass emissions at the common stack or duct according to the Tier 4 Calculation Methodology, you may report the combined emissions from the units sharing the common stack or duct, in lieu of separately reporting the GHG emissions from the individual units. This monitoring and reporting alternative may also be used when process off-gases or a mixture of combustion products and process gases are combined together in a common stack or duct before exiting to the atmosphere. Whenever the common stack or duct monitoring option is applied, the following information shall be reported instead of the information in paragraph (b) of this section:

* * * * *

(ii) Number of units sharing the common stack or duct. Report "1" when the flue gas flowing through the common stack or duct includes combustion products and/or process off-gases, and all of the effluent comes from a single unit (*e.g.,* a furnace, kiln, petrochemical production unit, or smelter).

(iii) Combined maximum rated heat input capacity of the units sharing the common stack or duct (mmBtu/hr). This data element is required only when all of the units sharing the common stack are stationary fuel combustion units.

* * * * *

(v) The methodology (tier) used to calculate the CO_2 mass emissions, *i.e.,* Tier 4.

(vi) The methodology start date.

(vii) The methodology end date.

(viii) Total annual CO_2 mass emissions measured by the CEMS, expressed in metric tons. If any of the units burn both fossil fuels and biomass, separately report the annual non-biogenic CO_2 mass emissions (*i.e.,* CO_2 from fossil fuel combustion plus, if applicable, CO_2 from sorbent and/or process CO_2) and the annual CO_2 mass emissions from biomass combustion, each expressed in metric tons.

(ix) An estimate of the heat input from each type of fuel listed in Table C–2 of

this subpart that was combusted during the report year in the units sharing the common stack or duct during the report year, and, for each of these fuels, the annual CH_4 and N_2O mass emissions from the units sharing the common stack or duct, expressed in metric tons of each gas and in metric tons of CO_2e.

(3) *Common pipe configurations.* When two or more stationary combustion units at a facility combust the same type of liquid or gaseous fuel and the fuel is fed to the individual units through a common supply line or pipe, you may report the combined emissions from the units served by the common supply line, in lieu of separately reporting the GHG emissions from the individual units, provided that the total amount of fuel combusted by the units is accurately measured at the common pipe or supply line using a fuel flow meter, or, for natural gas, the amount of fuel combusted may be obtained from gas billing records. For Tier 3 applications, the flow meter shall be calibrated in accordance with § 98.34(b). If a portion of the fuel measured (or obtained from gas billing records) at the main supply line is diverted to either: A flare; or another stationary fuel combustion unit (or units), including units that use a CO_2 mass emissions calculation method in part 75 of this chapter; or a chemical or industrial process (where it is used as a raw material but not combusted), and the remainder of the fuel is distributed to a group of combustion units for which you elect to use the common pipe reporting option, you may use company records to subtract out the diverted portion of the fuel from the fuel measured (or obtained from gas billing records) at the main supply line prior to performing the GHG emissions calculations for the group of units using the common pipe option. If the diverted portion of the fuel is combusted, the GHG emissions from the diverted portion shall be accounted for in accordance with the applicable provisions of this part. When the common pipe option is selected, the applicable tier shall be used based on the maximum rated heat input capacity of the largest unit served by the common pipe configuration, except where the applicable tier is based on criteria other than unit size. For example, if the maximum rated heat input capacity of the largest unit is greater than 250 mmBtu/hr, Tier 3 will apply, unless the fuel transported through the common pipe is natural gas or distillate oil, in which case Tier 2 may be used, in accordance with § 98.33(b)(2)(ii). As a second example, in accordance with § 98.33(b)(1)(v), Tier 1 may be used regardless of unit size when natural gas is transported through the common pipe, if the annual fuel consumption is obtained from gas billing records in units of therms. When the common pipe reporting option is selected, the following information shall be reported instead of the information in paragraph (b) of this section:

* * * * *

(iii) The highest maximum rated heat input capacity of any unit served by the common pipe (mmBtu/hr).

* * * * *

(vii) Annual CO_2 mass emissions and annual CH_4 and N_2O emissions from each fuel type for the units served by the common pipe, expressed in metric tons of each gas and in metric tons of CO_2e.

(viii) Methodology start date

(ix) Methodology end date

(4) The following alternative reporting option applies to facilities at which a common liquid or gaseous fuel supply is shared between one or more large combustion units, such as boilers or combustion turbines (including units subject to subpart D of this part and other units subject to part 75 of this chapter) and small combustion sources, including, but not limited to, space heaters, hot water heaters, and lab burners. In this case, you may simplify reporting by attributing all of the GHG emissions from combustion of the shared fuel to the large combustion unit(s), provided that:

(i) The total quantity of the fuel combusted during the report year in the units sharing the fuel supply is measured, either at the "gate" to the facility or at a point inside the facility, using a fuel flow meter, billing meter, or tank drop measurements (as applicable);

(ii) On an annual basis, at least 95 percent (by mass or volume) of the shared fuel is combusted in the large combustion unit(s), and the remainder is combusted in the small combustion sources. Company records may be used to determine the percentage distribution of the shared fuel to the large and small units; and

(iii) The use of this reporting option is documented in the Monitoring Plan required under § 98.3(g)(5). Indicate in the Monitoring Plan which units share the common fuel supply and the method used to demonstrate that this alternative reporting option applies. For the small combustion sources, a description of the types of units and the approximate number of units is sufficient.

(d) *Units subject to part 75 of this chapter.*

(1) For stationary combustion units that are subject to subpart D of this part, you shall report the following unit-level information:

(i) Unit or stack identification numbers. Use exact same unit, common stack, common pipe, or multiple stack identification numbers that represent the monitored locations (*e.g.,* 1, 2, CS001, MS1A, CP001, *etc.*) that are reported under § 75.64 of this chapter.

(ii) Annual CO_2 emissions at each monitored location, expressed in both short tons and metric tons. Separate reporting of biogenic CO_2 emissions under § 98.3(c)(4)(ii) and § 98.3(c)(4)(iii)(A) is optional only for the 2010 reporting year, as provided in § 98.3(c)(12).

(iii) Annual CH_4 and N_2O emissions at each monitored location, for each fuel type listed in Table C–2 that was combusted during the year (except as otherwise provided in § 98.33(c)(4)(ii)(B)), expressed in metric tons of CO_2e.

(iv) The total heat input from each fuel listed in Table C–2 that was combusted during the year (except as otherwise provided in § 98.33(c)(4)(ii)(B)), expressed in mmBtu.

(v) Identification of the Part 75 methodology used to determine the CO_2 mass emissions.

(vi) Methodology start date.

(vii) Methodology end date.

(viii) Acid Rain Program indicator.

(ix) Annual CO_2 mass emissions from the combustion of biomass, expressed in metric tons of CO_2e, except where the reporting provisions of §§ 98.3(c)(12)(i) through (c)(12)(iii) are implemented for the 2010 reporting year.

(2) For units that use the alternative CO_2 mass emissions calculation methods provided in § 98.33(a)(5), you shall report the following unit-level information:

(i) Unit, stack, or pipe ID numbers. Use exact same unit, common stack, common pipe, or multiple stack identification numbers that represent the monitored locations (*e.g.,* 1, 2, CS001, MS1A, CP001, *etc.*) that are reported under § 75.64 of this chapter.

(ii) For units that use the alternative methods specified in § 98.33(a)(5)(i) and (ii) to monitor and report heat input data year-round according to appendix D to part 75 of this chapter or § 75.19 of this chapter:

(A) Each type of fuel combusted in the unit during the reporting year.

(B) The methodology used to calculate the CO_2 mass emissions for each fuel type.

(C) Methodology start date.

(D) Methodology end date.

(E) A code or flag to indicate whether heat input is calculated according to appendix D to part 75 of this chapter or § 75.19 of this chapter.

(F) Annual CO_2 emissions at each monitored location, across all fuel types, expressed in metric tons of CO_2e.

(G) Annual heat input from each type of fuel listed in Table C–2 of this subpart that was combusted during the reporting year, expressed in mmBtu.

(H) Annual CH_4 and N_2O emissions at each monitored location, from each fuel type listed in Table C–2 of this subpart that was combusted during the reporting year (except as otherwise provided in § 98.33(c)(4)(ii)(D)), expressed in metric tons CO_2e.

(I) Annual CO_2 mass emissions from the combustion of biomass, expressed in metric tons CO_2e, except where the reporting provisions of §§ 98.3(c)(12)(i) through (c)(12)(iii) are implemented for the 2010 reporting year.

(iii) For units with continuous monitoring systems that use the alternative method for units with continuous monitoring systems in § 98.33(a)(5)(iii) to monitor heat input year-round according to part 75 of this chapter:

(A) Each type of fuel combusted during the reporting year.

(B) Methodology used to calculate the CO_2 mass emissions.

(C) Methodology start date.

(D) Methodology end date.

(E) A code or flag to indicate that the heat input data is derived from CEMS measurements.

(F) The total annual CO_2 emissions at each monitored location, expressed in metric tons of CO_2e.

(G) Annual heat input from each type of fuel listed in Table C–2 of this subpart that was combusted during the reporting year, expressed in mmBtu.

(H) Annual CH_4 and N_2O emissions at each monitored location, from each fuel type listed in Table C–2 of this subpart that was combusted during the reporting year (except as otherwise provided in § 98.33(c)(4)(ii)(B)), expressed in metric tons CO_2e.

(I) Annual CO_2 mass emissions from the combustion of biomass, expressed in metric tons CO_2e, except where the reporting provisions of §§ 98.3(c)(12)(i) through (c)(12)(iii) are implemented for the 2010 reporting year.

(e) * * *

(1) * * *

(iii) Are not in the Acid Rain Program, but are required to monitor and report CO_2 mass emissions and heat input data year-round, in accordance with part 75 of this chapter.

(2) * * *

(i) For the Tier 1 Calculation Methodology, report the total quantity of each type of fuel combusted in the unit or group of aggregated units (as applicable) during the reporting year, in short tons for solid fuels, gallons for liquid fuels and standard cubic feet for gaseous fuels, or, if applicable, therms or mmBtu for natural gas.

(ii) * * *

(C) The high heat values used in the CO_2 emissions calculations for each type of fuel combusted during the reporting year, in mmBtu per short ton for solid fuels, mmBtu per gallon for liquid fuels, and mmBtu per scf for gaseous fuels. Report a HHV value for each calendar month in which HHV determination is required. If multiple values are obtained in a given month, report the arithmetic average value for the month. Indicate whether each reported HHV is a measured value or a substitute data value.

(D) If Equation C–2c of this subpart is used to calculate CO_2 mass emissions, report the total quantity (*i.e.,* pounds) of steam produced from MSW or solid fuel combustion during each month of the reporting year, and the ratio of the maximum rate heat input capacity to the design rated steam output capacity of the unit, in mmBtu per lb of steam.

(iii) For the Tier 2 Calculation Methodology, keep records of the methods used to determine the HHV for each type of fuel combusted and the date on which each fuel sample was taken, except where fuel sampling data are received from the fuel supplier. In that case, keep records of the dates on which the results of the fuel analyses for HHV are received.

(iv) * * *

(A) The quantity of each type of fuel combusted in the unit or group of units (as applicable) during each month of the reporting year, in short tons for solid fuels, gallons for liquid fuels, and scf for gaseous fuels.

* * * * *

(C) The carbon content and, if applicable, gas molecular weight values used in the emission calculations (including both valid and substitute data values). For each calendar month of the reporting year in which carbon content and, if applicable, molecular weight determination is required, report a value of each parameter. If multiple values of a parameter are obtained in a given month, report the arithmetic average value for the month. Express carbon content as a decimal fraction for solid fuels, kg C per gallon for liquid fuels, and kg C per kg of fuel for gaseous fuels. Express the gas molecular weights in units of kg per kg-mole.

* * * * *

(F) The annual average HHV, when measured HHV data, rather than a default HHV from Table C–1 of this subpart, are used to calculate CH_4 and N_2O emissions for a Tier 3 unit, in accordance with § 98.33(c)(1).

(G) The value of the molar volume constant (MVC) used in Equation C–5 (if applicable).

(v) * * *

(C) The methods used to determine the carbon content and (if applicable) the molecular weight of each type of fuel combusted.

* * * * *

(E) The date on which each fuel sample was taken, except where fuel sampling data are received from the fuel supplier. In that case, keep records of the dates on which the results of the fuel analyses for carbon content and (if applicable) molecular weight are received.

* * * * *

(vii) * * *

(A) Whether the CEMS certification and quality assurance procedures of part 75 of this chapter, part 60 of this chapter, or an applicable State continuous monitoring program were used.

* * * * *

(ix) For units that combust both fossil fuel and biomass, when biogenic CO_2 is determined according to § 98.33(e)(2), you shall report the following additional information, as applicable:

* * * * *

(x) When ASTM methods D7459–08 (incorporated by reference, see § 98.7) and D6866–08 (incorporated by reference, see § 98.7) are used to determine the biogenic portion of the annual CO_2 emissions from MSW combustion, as described in § 98.34(d), report:

* * * * *

(B) The annual biogenic CO_2 mass emissions from MSW combustion, in metric tons.

(xi) When ASTM methods D7459–08 (incorporated by reference, see § 98.7) and D6866–08 (incorporated by reference, see § 98.7) are used in accordance with § 98.34(e) to determine the biogenic portion of the annual CO_2 emissions from a unit that co-fires biogenic fuels (or partly-biogenic fuels, including tires if you are electing to report biogenic CO_2 emissions from tire combustion) and non-biogenic fuels, you shall report the results of each quarterly sample analysis, expressed as a decimal fraction (*e.g.,* if the biogenic fraction of the CO_2 emissions is 30 percent, report 0.30).

* * * * *

■ 13. Table C–1 to Subpart C is amended by:

■ a. Revising the heading.
■ b. Removing the entry for "Pipeline (Weighted U.S. Average)" and adding an entry for "(Weighted U.S. Average)" in its place.
■ c. Removing the entry for "Still Gas."
■ d. Adding an entry for "Used Oil", following the entry for "Residual Fuel Oil No. 6."
■ e. Revising the entry for "Ethane".
■ f. Adding an entry for "Ethanol", following the entry for "Ethane."
■ g. Revising the phrase "Fossil fuel-derived fuels (solid)" to read "Other fuels-solid."
■ h. Revising the entry for "Municipal Solid Waste."
■ i. Adding entries for "Plastics" and "Petroleum Coke", following the entry for "Tires."
■ j. Revising the phrase "Fossil fuel-derived fuels (gaseous)" to read "Other fuels—gaseous."
■ k. Adding entries for "Propane Gas" and "Fuel Gas," following the entry for "Coke Oven Gas."
■ l. Amending the entry for "Biomass fuels—liquid" by centering "Biomass fuels—liquid."
■ m. Revising the entries for "Ethanol" and "Biodiesel" that follow the entry for "Biomass fuels—liquid."
■ n. Revising footnote "1."
■ o. Adding footnote "2."

TABLE C–1 TO SUBPART C—DEFAULT CO_2 EMISSION FACTORS AND HIGH HEAT VALUES FOR VARIOUS TYPES OF FUEL

Fuel type	Default high heat value	Default CO_2 emission factor
* * * * *	*	*
(Weighted U.S. Average)	1.028×10^{-3}	53.02
* * * * *	*	*
Used Oil	0.135	74.00
* * * * *	*	*
Ethane	0.069	62.64
Ethanol	0.084	68.44
* * * * *	*	*
Other fuels (solid)	mmBtu/short ton	kg CO_2/mmBtu
Municipal Solid Waste	9.95 [1]	90.7
* * * * *	*	*
Plastics	38.00	75.00
Petroleum Coke	30.00	102.41
Other fuels (gaseous)	mmBtu/scf	kg CO_2/mmBtu
* * * * *	*	*
Propane Gas	2.516×10^{-3}	61.46
Fuel Gas [2]	1.388×10^{-3}	59.00
* * * * *	*	*
Ethanol	0.084	68.44
Biodiesel	0.128	73.84
* * * * *	*	*

[1] Use of this default HHV is allowed only for: (a) Units that combust MSW, do not generate steam, and are allowed to use Tier 1; (b) units that derive no more than 10 percent of their annual heat input from MSW and/or tires; and (c) small batch incinerators that combust no more than 1,000 tons of MSW per year.

[2] Reporters subject to subpart X of this part that are complying with § 98.243(d) or subpart Y of this part may only use the default HHV and the default CO_2 emission factor for fuel gas combustion under the conditions prescribed in § 98.243(d)(2)(i) and (d)(2)(ii) and § 98.252(a)(1) and (a)(2), respectively. Otherwise, reporters subject to subpart X or subpart Y shall use either Tier 3 (Equation C–5) or Tier 4.

■ 14. The first Table C–2 to Subpart C is removed, and the second Table C–2 to Subpart C is revised to read as follows:

TABLE C–2 TO SUBPART C—DEFAULT CH_4 AND N_2O EMISSION FACTORS FOR VARIOUS TYPES OF FUEL

Fuel type	Default CH_4 emission factor (kg CH_4/mmBtu)	Default N_2O emission factor (kg N_2O/mmBtu)
Coal and Coke (All fuel types in Table C–1)	1.1×10^{-02}	1.6×10^{-03}
Natural Gas	1.0×10^{-03}	1.0×10^{-04}
Petroleum (All fuel types in Table C–1)	3.0×10^{-03}	6.0×10^{-04}
Municipal Solid Waste	3.2×10^{-02}	4.2×10^{-03}
Tires	3.2×10^{-02}	4.2×10^{-03}
Blast Furnace Gas	2.2×10^{-05}	1.0×10^{-04}
Coke Oven Gas	4.8×10^{-04}	1.0×10^{-04}
Biomass Fuels—Solid (All fuel types in Table C–1)	3.2×10^{-02}	4.2×10^{-03}
Biogas	3.2×10^{-03}	6.3×10^{-04}

TABLE C–2 TO SUBPART C—DEFAULT CH_4 AND N_2O EMISSION FACTORS FOR VARIOUS TYPES OF FUEL—Continued

Fuel type	Default CH_4 emission factor (kg CH_4/mmBtu)	Default N_2O emission factor (kg N_2O/mmBtu)
Biomass Fuels—Liquid (All fuel types in Table C–1)	1.1×10^{-03}	1.1×10^{-04}

Note: Those employing this table are assumed to fall under the IPCC definitions of the "Energy Industry" or "Manufacturing Industries and Construction". In all fuels except for coal the values for these two categories are identical. For coal combustion, those who fall within the IPCC "Energy Industry" category may employ a value of 1g of CH_4/mmBtu.

Subpart D—[Amended]

■ 15. Section 98.40 is amended by revising paragraph (a) to read as follows:

§ 98.40 Definition of the source category.

(a) The electricity generation source category comprises electricity generating units that are subject to the requirements of the Acid Rain Program and any other electricity generating units that are required to monitor and report to EPA CO_2 mass emissions year-round according to 40 CFR part 75.

* * * * *

■ 16. Section 98.43 is revised to read as follows:

§ 98.43 Calculating GHG emissions.

(a) Except as provided in paragraph (b) of this section, continue to monitor and report CO_2 mass emissions as required under § 75.13 or section 2.3 of appendix G to 40 CFR part 75, and § 75.64. Calculate CO_2, CH_4, and N_2O emissions as follows:

(1) Convert the cumulative annual CO_2 mass emissions reported in the fourth quarter electronic data report required under § 75.64 from units of short tons to metric tons. To convert tons to metric tons, divide by 1.1023.

(2) Calculate and report annual CH_4 and N_2O mass emissions under this subpart by following the applicable method specified in § 98.33(c).

(b) Calculate and report biogenic CO_2 emissions under this subpart by following the applicable methods specified in § 98.33(e). The CO_2 emissions (excluding biogenic CO_2) for units subject to this subpart that are reported under §§ 98.3(c)(4)(i) and (c)(4)(iii)(B) shall be calculated by subtracting the biogenic CO_2 mass emissions calculated according to § 98.33(e) from the cumulative annual CO_2 mass emissions from paragraph (a)(1) of this section. Separate calculation and reporting of biogenic CO_2 emissions is optional only for the 2010 reporting year pursuant to § 98.3(c)(12) and required every year thereafter.

■ 17. Section 98.46 is revised to read as follows:

§ 98.46 Data reporting requirements.

The annual report shall comply with the data reporting requirements specified in § 98.36(d)(1).

■ 18. Section 98.47 is revised to read as follows:

§ 98.47 Records that must be retained.

You shall comply with the recordkeeping requirements of §§ 98.3(g) and 98.37. Records retained under § 75.57(h) of this chapter for missing data events satisfy the recordkeeping requirements of § 98.3(g)(4) for those same events.

Subpart F—[Amended]

■ 19. Section 98.62 is amended by revising paragraphs (a) and (b) to read as follows:

§ 98.62 GHGs to report.

* * * * *

(a) Perfluoromethane (CF_4), and perfluoroethane (C_2F_6) emissions from anode effects in all prebake and Søderberg electrolysis cells.

(b) CO_2 emissions from anode consumption during electrolysis in all prebake and Søderberg electrolysis cells.

* * * * *

■ 20. Section 98.63 is amended by:

■ a. In paragraph (a), revising the only sentence and the definitions of "E_{PFC}," and "E_m" in Equation F–1.

■ b. Revising the only sentence of paragraph (b).

■ c. Revising paragraph (c).

§ 98.63 Calculating GHG emissions.

(a) The annual value of each PFC compound (CF_4, C_2F_6) shall be estimated from the sum of monthly values using Equation F–1 of this section:

* * * * *

E_{PFC} = Annual emissions of each PFC compound from aluminum production (metric tons PFC).

E_m = Emissions of the individual PFC compound from aluminum production for the month "m" (metric tons PFC).

(b) Use Equation F–2 of this section to estimate CF_4 emissions from anode effect duration or Equation F–3 of this section to estimate CF_4 emissions from overvoltage, and use Equation F–4 of this section to estimate C_2F_6 emissions from anode effects from each prebake and Søderberg electrolysis cell.

* * * * *

(c) You must calculate and report the annual process CO_2 emissions from anode consumption during electrolysis and anode baking of prebake cells using either the procedures in paragraph (d) of this section, the procedures in paragraphs (e) and (f) of this section, or the procedures in paragraph (g) of this section.

* * * * *

■ 21. Section 98.64 is amended by revising the first sentence of paragraph (a); and by revising paragraph (b) to read as follows:

§ 98.64 Monitoring and QA/QC requirements.

(a) Effective December 31, 2010 for smelters with no prior measurement or effective December 31, 2012, for facilities with historic measurements, the smelter-specific slope coefficients, overvoltage emission factors, and weight fractions used in Equations F–2, F–3, and F–4 of this subpart must be measured in accordance with the recommendations of the EPA/IAI Protocol for Measurement of Tetrafluoromethane (CF_4) and Hexafluoroethane (C_2F_6) Emissions from Primary Aluminum Production (2008) (incorporated by reference, see § 98.7), except the minimum frequency of measurement shall be every 10 years unless a change occurs in the control algorithm that affects the mix of types of anode effects or the nature of the anode effect termination routine. * * *

(b) The minimum frequency of the measurement and analysis is annually except as follows:

(1) Monthly for anode effect minutes per cell day (or anode effect overvoltage and current efficiency).

(2) Monthly for aluminum production.

(3) Smelter-specific slope coefficients, overvoltage emission factors, and weight fractions according to paragraph (a) of this section.

* * * * *

■ 22. Section 98.65 is amended by revising the only sentence of paragraph (a) to read as follows:

§ 98.65 Procedures for estimating missing data.

* * * * *

(a) Where anode or paste consumption data are missing, CO_2 emissions can be estimated from aluminum production per Equation F–8 of this section.

* * * * *

■ 23. Section 98.66 is amended by revising paragraph (c)(1) to read as follows:

§ 98.66 Data reporting requirements.

* * * * *

(c) * * *

(1) Perfluoromethane emissions and perfluoroethane emissions from anode effects in all prebake and all Søderberg electrolysis cells combined.

* * * * *

■ 24. Table F–1 to Subpart F of Part 98 is revised to read as follows:

TABLE F–1 TO SUBPART F OF PART 98—SLOPE AND OVERVOLTAGE COEFFICIENTS FOR THE CALCULATION OF PFC EMISSIONS FROM ALUMINUM PRODUCTION

Technology	CF_4 slope coefficient [(kg CF_4/metric ton Al)/(AE–Mins/cell-day)]	CF_4 overvoltage coefficient [(kg CF_4/metric ton Al)/(mV)]	Weight fraction C_2F_6/CF_4 [(kg C_2F_6/kg CF_4)]
Center Worked Prebake (CWPB)	0.143	1.16	0.121
Side Worked Prebake (SWPB)	0.272	3.65	0.252
Vertical Stud Søderberg (VSS)	0.092	NA	0.053
Horizontal Stud Søderberg (HSS)	0.099	NA	0.085

■ 25. Table F–2 to Subpart F of Part 98 is amended by removing the entry for "CO_2 Emissions from Pitch Volatiles Combustion (VSS and HSS)" and adding a new entry in its place to read as follows:

TABLE F–2 TO SUBPART F OF PART 98—DEFAULT DATA SOURCES FOR PARAMETERS USED FOR CO_2 EMISSIONS

Parameter	Data source
CO_2 Emissions From Prebake Cells (CWPB and SWPB)	
* * * * * * *	
CO_2 Emissions From Pitch Volatiles Combustion (CWPB and SWPB)	
* * * * * * *	

Subpart G—[Amended]

■ 26. Section 98.72 is amended by revising paragraphs (a) and (b) to read as follows:

§ 98.72 GHGs to report.

* * * * *

(a) CO_2 process emissions from steam reforming of a hydrocarbon or the gasification of solid and liquid raw material, reported for each ammonia manufacturing process unit following the requirements of this subpart (CO_2 process emissions reported under this subpart may include CO_2 that is later consumed on site for urea production, and therefore is not released to the ambient air from the ammonia manufacturing process unit).

(b) CO_2, CH_4, and N_2O emissions from each stationary fuel combustion unit. You must report these emissions under subpart C of this part (General Stationary Fuel Combustion Sources), by following the requirements of subpart C, except that for ammonia manufacturing processes subpart C does not apply to any CO_2 resulting from combustion of the waste recycle stream (commonly referred to as the purge gas stream).

* * * * *

■ 27. Section 98.73 is amended by:

■ a. Revising paragraph (b) introductory text.

■ b. Revising the definition of "$CO_{2,G}$" in Equation G–1 of paragraph (b)(1).

■ c. Revising the definition of "$CO_{2,L}$" in Equation G–2 of paragraph (b)(2).

■ d. Revising the definition of "$CO_{2,S}$" in Equation G–3 of paragraph (b)(3).

■ e. Revising the definition of "CO_2" in Equation G–5 of paragraph (b)(5).

■ f. Removing paragraph (b)(6).

§ 98.73 Calculating GHG emissions.

* * * * *

(b) Calculate and report under this subpart process CO_2 emissions using the procedures in paragraphs (b)(1) through (b)(5) of this section for gaseous feedstock, liquid feedstock, or solid feedstock, as applicable.

(1) * * *

$CO_{2,G,k}$ = Annual CO_2 emissions arising from gaseous feedstock consumption (metric tons).

* * * * *

(2) * * *

$CO_{2,L,k}$ = Annual CO_2 emissions arising from liquid feedstock consumption (metric tons).

* * * * *

(3) * * *

$CO_{2,S,k}$ = Annual CO_2 emissions arising from solid feedstock consumption (metric tons).

* * * * *

(5) * * *

CO_2 = Annual combined CO_2 emissions from all ammonia processing units (metric tons) (CO_2 process emissions reported under this subpart may include CO_2 that is later consumed on site for urea production, and therefore is not released to the ambient air from the ammonia manufacturing process unit(s)).

* * * * *

■ 28. Section 98.74 is amended by revising paragraph (d) to read as set forth below and by removing and reserving paragraph (f):

§ 98.74 Monitoring and QA/QC requirements.

* * * * *

(d) Calibrate all oil and gas flow meters that are used to measure liquid and gaseous feedstock volumes and flow rates (except for gas billing meters) according to the monitoring and QA/QC

requirements for the Tier 3 methodology in § 98.34(b)(1). Perform oil tank drop measurements (if used to quantify feedstock volumes) according to § 98.34(b)(2).

* * * * *

■ 29. Section 98.75 is amended by revising the first sentence of paragraph (a); and by revising paragraph (b) to read as follows:

§ 98.75 Procedures for estimating missing data.

* * * * *

(a) For missing data on monthly carbon contents of feedstock, the substitute data value shall be the arithmetic average of the quality-assured values of that carbon content in the month preceding and the month immediately following the missing data incident. * * *

(b) For missing feedstock supply rates used to determine monthly feedstock consumption, you must determine the best available estimate(s) of the parameter(s), based on all available process data.

■ 30. Section 98.76 is amended by:

■ a. Revising paragraphs (a) introductory text and (b)(6).

■ b. Removing paragraphs (b)(12) through (b)(15).

■ c. Redesignating paragraph (b)(16) as paragraph (b)(12).

■ d. Adding paragraph (b)(13).

■ e. Removing paragraphs (b)(17) and (c).

§ 98.76 Data reporting requirements.

* * * * *

(a) If a CEMS is used to measure CO_2 emissions, then you must report the relevant information required under § 98.36 for the Tier 4 Calculation Methodology and the following information in this paragraph (a):

* * * * *

(b) * * *

(6) Sampling analysis results of carbon content of feedstock as determined for QA/QC of supplier data under § 98.74(e).

* * * * *

(13) CO_2 from the steam reforming of a hydrocarbon or the gasification of solid and liquid raw material at the ammonia manufacturing process unit used to produce urea and the method used to determine the CO_2 consumed in urea production.

Subpart P—[Amended]

■ 31. Section 98.163 is amended by revising the definitions of "CC_n" and "MW" in Equation P–1 of paragraph (b)(1) to read as follows:

§ 98.163 Calculating GHG emissions.

* * * * *

(b) * * *

(1) * * *

CC_n = Average carbon content of the gaseous fuel and feedstock, from the results of one or more analyses for month n (kg carbon per kg of fuel and feedstock). If measurements are taken more frequently than monthly, use the arithmetic average of measurement values within the month to calculate a monthly average.

MW_n = Average molecular weight of the gaseous fuel and feedstock from the results of one or more analyses for month n (kg/kg-mole).

* * * * *

■ 32. Section 98.164 is amended by revising paragraphs (b)(1), (b)(2), and (b)(5) introductory text to read as follows:

§ 98.164 Monitoring and QA/QC requirements.

* * * * *

(b) * * *

(1) Calibrate all oil and gas flow meters that are used to measure liquid and gaseous feedstock volumes (except for gas billing meters) according to the monitoring and QA/QC requirements for the Tier 3 methodology in § 98.34(b)(1). Perform oil tank drop measurements (if used to quantify liquid fuel or feedstock consumption) according to § 98.34(b)(2). Calibrate all solids weighing equipment according to the procedures in § 98.3(i).

(2) Determine the carbon content and the molecular weight annually of standard gaseous hydrocarbon fuels and feedstocks having consistent composition (*e.g.,* natural gas). For other gaseous fuels and feedstocks (*e.g.,* biogas, refinery gas, or process gas), sample and analyze no less frequently than weekly to determine the carbon content and molecular weight of the fuel and feedstock.

* * * * *

(5) You must use the following applicable methods to determine the carbon content for all fuels and feedstocks, and molecular weight of gaseous fuels and feedstocks. Alternatively, you may use the results of continuous chromatographic analysis of the fuel and feedstock, provided that the gas chromatograph (GC) is operated, maintained, and calibrated according to the manufacturer's instructions; and the methods used for operation, maintenance, and calibration of the GC are documented in the written monitoring plan for the unit under § 98.3(g)(5).

* * * * *

Subpart V—[Amended]

■ 33. Section 98.226 is amended by removing and reserving paragraph (o).

Subpart X—[Amended]

■ 34. Section 98.240 is amended by revising paragraph (a); and by adding paragraph (g) to read as follows:

§ 98.240 Definition of the source category.

(a) The petrochemical production source category consists of all processes that produce acrylonitrile, carbon black, ethylene, ethylene dichloride, ethylene oxide, or methanol, except as specified in paragraphs (b) through (g) of this section. The source category includes processes that produce the petrochemical as an intermediate in the on-site production of other chemicals as well as processes that produce the petrochemical as an end product for sale or shipment off site.

* * * * *

(g) A process that solely distills or recycles waste solvent that contains a petrochemical is not part of the petrochemical production source category.

■ 35. Section 98.242 is amended by revising paragraph (a)(1) and paragraph (b) introductory text to read as follows:

§ 98.242 GHGs to report.

* * * * *

(a) * * *

(1) If you comply with § 98.243(b) or (d), report under this subpart the calculated CO_2, CH_4, and N_2O emissions for each stationary combustion source and flare that burns any amount of petrochemical process off-gas. If you comply with § 98.243(b), also report under this subpart the measured CO_2 emissions from process vents routed to stacks that are not associated with stationary combustion units.

* * * * *

(b) CO_2, CH_4, and N_2O combustion emissions from stationary combustion units.

* * * * *

■ 36. Section 98.243 is amended by:

■ a. Revising the second sentence of paragraph (b).

■ b. Revising paragraph (c)(3).

■ c. Revising the definition of "MVC" in Equation X–1 in paragraph (c)(5)(i).

■ d. Revising paragraph (d).

§ 98.243 Calculating GHG emissions.

* * * * *

(b) * * * For each stack (except flare stacks) that includes emissions from combustion of petrochemical process off-gas, calculate CH_4 and N_20 emissions in accordance with subpart C of this

part (use the Tier 3 methodology, emission factors for "Petroleum" in Table C–2 of subpart C of this part, and either the default high heat value for fuel gas in Table C–1 of subpart C of this part or a calculated HHV, as allowed in Equation C–8 of subpart C of this part). * * *

(c) * * *

(3) Collect a sample of each feedstock and product at least once per month and determine the carbon content of each sample according to the procedures of § 98.244(b)(4). If multiple valid carbon content measurements are made during the monthly measurement period, average them arithmetically. However, if a particular liquid or solid feedstock is delivered in lots, and if multiple deliveries of the same feedstock are received from the same supply source in a given calendar month, only one representative sample is required. Alternatively, you may use the results of analyses conducted by a fuel or feedstock supplier, provided the sampling and analysis is conducted at least once per month using any of the procedures specified in § 98.244(b)(4).

* * * * *

(5) * * *

(i) * * *

MVC = Molar volume conversion factor (849.5 scf per kg-mole at 68 °F and 14.7 pounds per square inch absolute or 836.6 scf/kg-mole at 60 °F and 14.7 pounds per square inch absolute).

* * * * *

(d) *Optional combustion methodology for ethylene production processes.* For each ethylene production process, calculate GHG emissions from combustion units that burn fuel that contains any off-gas from the ethylene process as specified in paragraphs (d)(1) through (d)(5) of this section.

(1) Except as specified in paragraphs (d)(2) and (d)(5) of this section, calculate CO_2 emissions using the Tier 3 or Tier 4 methodology in subpart C of this part.

(2) You may use either Equation C–1 or Equation C–2a in subpart C of this part to calculate CO_2 emissions from combustion of any ethylene process off-gas streams that meet either of the conditions in paragraphs (d)(2)(i) or (d)(2)(ii) of this section (for any default values in the calculation, use the defaults for fuel gas in Table C–1 of subpart C of this part). Follow the otherwise applicable procedures in subpart C to calculate emissions from combustion of all other fuels in the combustion unit.

(i) The annual average flow rate of fuel gas (that contains ethylene process off-gas) in the fuel gas line to the combustion unit, prior to any split to individual burners or ports, does not exceed 345 standard cubic feet per minute at 60 °F and 14.7 pounds per square inch absolute, and a flow meter is not installed at any point in the line supplying fuel gas or an upstream common pipe. Calculate the annual average flow rate using company records assuming total flow is evenly distributed over 525,600 minutes per year.

(ii) The combustion unit has a maximum rated heat input capacity of less than 30 mmBtu/hr, and a flow meter is not installed at any point in the line supplying fuel gas (that contains ethylene process off-gas) or an upstream common pipe.

(3) Except as specified in paragraph (d)(5) of this section, calculate CH_4 and N_2O emissions using the applicable procedures in § 98.33(c) for the same tier methodology that you used for calculating CO_2 emissions.

(i) For all gaseous fuels that contain ethylene process off-gas, use the emission factors for "Petroleum" in Table C–2 of subpart C of this part (General Stationary Fuel Combustion Sources).

(ii) For Tier 3, use either the default high heat value for fuel gas in Table C–1 of subpart C of this part or a calculated HHV, as allowed in Equation C–8 of subpart C of this part.

(4) You are not required to use the same Tier for each stationary combustion unit that burns ethylene process off-gas.

(5) For each flare, calculate CO_2, CH_4, and N_2O emissions using the methodology specified in §§ 98.253(b)(1) through (b)(3).

■ 37. Section 98.244 is amended by revising paragraphs (b)(1) through (b)(3), (b)(4) introductory text, and (b)(4)(viii); and by adding paragraphs (b)(4)(xi) through (b)(4)(xv) to read as follows:

§ 98.244 Monitoring and QA/QC requirements.

* * * * *

(b) * * *

(1) Operate, maintain, and calibrate belt scales or other weighing devices as described in Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices NIST Handbook 44 (2009) (incorporated by reference, see § 98.7), or follow procedures specified by the measurement device manufacturer. You must recalibrate each weighing device according to one of the following frequencies. You may recalibrate either at the minimum frequency specified by the manufacturer or biennially (*i.e.,* once every two years).

(2) Operate and maintain all flow meters used for gas and liquid feedstocks and products according to the manufacturer's recommended procedures. You must calibrate each of these flow meters as specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this section:

(i) You may use either the calibration methods specified by the flow meter manufacturer or an industry consensus standard method. Each flow meter must meet the applicable accuracy specification in § 98.3(i), except as otherwise specified in §§ 98.3(i)(4) through (i)(6).

(ii) You must recalibrate each flow meter according to one of the following frequencies. You may recalibrate at the minimum frequency specified by the manufacturer, biennially (every two years), or at the interval specified by the industry consensus standard practice used.

(3) You must perform tank level measurements (if used to determine feedstock or product flows) according to one of the following methods. You may use any standard method published by a consensus-based standards organization or you may use an industry standard practice. Consensus-based standards organizations include, but are not limited to, the following: ASTM International (100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–B2959, (800) 262–1373, *http://www.astm.org*), the American National Standards Institute (ANSI, 1819 L Street, NW., 6th Floor, Washington, DC 20036, (202) 293–8020, *http://www.ansi.org*), the American Gas Association (AGA, 400 North Capitol Street, NW., 4th Floor, Washington, DC 20001, (202) 824–7000, *http://www.aga.org*), the American Society of Mechanical Engineers (ASME, Three Park Avenue, New York, NY 10016–5990, (800) 843–2763, *http://www.asme.org*), the American Petroleum Institute (API, 1220 L Street, NW., Washington, DC 20005–4070, (202) 682–8000, *http://www.api.org,*) and the North American Energy Standards Board (NAESB, 801 Travis Street, Suite 1675, Houston, TX 77002, (713) 356–0060, *http://www.api.org*).

(4) Beginning January 1, 2010, use any applicable methods specified in paragraphs (b)(4)(i) through (b)(4)(xiv) of this section to determine the carbon content or composition of feedstocks and products and the average molecular weight of gaseous feedstocks and products. Calibrate instruments in accordance with paragraphs (b)(4)(i) through (b)(4)(xvi), as applicable. For coal used as a feedstock, the samples for carbon content determinations shall be

taken at a location that is representative of the coal feedstock used during the corresponding monthly period. For carbon black products, samples shall be taken of each grade or type of product produced during the monthly period. Samples of coal feedstock or carbon black product for carbon content determinations may be either grab samples collected and analyzed monthly or a composite of samples collected more frequently and analyzed monthly. Analyses conducted in accordance with methods specified in paragraphs (b)(4)(i) through (b)(4)(xv) of this section may be performed by the owner or operator, by an independent laboratory, or by the supplier of a feedstock.

* * * * *

(viii) Method 8015C, Method 8021B, Method 8031, or Method 9060A (all incorporated by reference, see § 98.7).

* * * * *

(xi) ASTM D2593–93 (Reapproved 2009) Standard Test Method for Butadiene Purity and Hydrocarbon Impurities by Gas Chromatography (incorporated by reference, see § 98.7).

(xii) ASTM D7633–10 Standard Test Method for Carbon Black—Carbon Content (incorporated by reference, see § 98.7).

(xiii) The results of chromatographic analysis of a feedstock or product, provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions.

(xiv) The carbon content results of mass spectrometer analysis of a feedstock or product, provided that the mass spectrometer is operated, maintained, and calibrated according to the manufacturer's instructions.

(xv) Beginning on January 1, 2010, the methods specified in paragraphs (b)(4)(xv)(A) and (B) of this section may be used as alternatives for the methods specified in paragraphs (b)(4)(i) through (b)(4)(xiv) of this section.

(A) An industry standard practice for carbon black feedstock oils and carbon black products.

(B) Modifications of existing analytical methods or other methods that are applicable to your process provided that the methods listed in paragraphs (b)(4)(i) through (b)(4)(xiv) of this section are not appropriate because the relevant compounds cannot be detected, the quality control requirements are not technically feasible, or use of the method would be unsafe.

■ 38. Section 98.246 is amended by:

■ a. Revising paragraphs (a) introductory text and (a)(4).

■ b. Removing and reserving paragraph (a)(7).

■ c. Revising paragraph (a)(10).

■ d. Adding paragraph (a)(11).

■ e. Revising paragraphs (b) introductory text, and (b)(1) through (b)(5).

■ f. Revising paragraph (c).

§ 98.246 Data reporting requirements.

* * * * *

(a) If you use the mass balance methodology in § 98.243(c), you must report the information specified in paragraphs (a)(1) through (a)(11) of this section for each type of petrochemical produced, reported by process unit.

* * * * *

(4) Each of the monthly volume, mass, and carbon content values used in Equations X–1 through X–3 of this subpart (*i.e.,* the directly measured values, substitute values, or the calculated values based on other measured data such as tank levels or gas composition) and the molecular weights for gaseous feedstocks and products used in Equation X–1 of this subpart, and the temperature (in °F) at which the gaseous feedstock and product volumes used in Equation X–1 of this subpart were determined. Indicate whether you used the alternative to sampling and analysis specified in § 98.243(c)(4).

* * * * *

(10) You may elect to report the flow and carbon content of wastewater, and you may elect to report the annual mass of carbon released in fugitive emissions and in process vents that are not controlled with a combustion device. These values may be estimated based on engineering analyses. These values are not to be used in the mass balance calculation.

(11) If you determine carbon content or composition of a feedstock or product using a method under § 98.244(b)(4)(xv)(B), report the information listed in paragraphs (a)(11)(i) through (a)(11)(iv) of this section. Include the information in paragraph (a)(11)(i) of this section in each annual report. Include the information in paragraphs (a)(11)(ii) and (a)(11)(iii) of this section only in the first applicable annual report, and provide any changes to this information in subsequent annual reports.

(i) Name or title of the analytical method.

(ii) A copy of the method. If the method is a modification of a method listed in §§ 98.244(b)(4)(i) through (xiv), you may provide a copy of only the sections that differ from the listed method.

(iii) An explanation of why an alternative to the methods listed in §§ 98.244(b)(4)(i) through (xii) is needed.

(b) If you measure emissions in accordance with § 98.243(b), then you must report the information listed in paragraphs (b)(1) through (b)(8) of this section.

(1) The petrochemical process unit ID or other appropriate descriptor, and the type of petrochemical produced.

(2) For CEMS used on stacks for stationary combustion units, report the relevant information required under § 98.36 for the Tier 4 calculation methodology. Section 98.36(b)(9)(iii) does not apply for the purposes of this subpart.

(3) For CEMS used on stacks that are not used for stationary combustion units, report the information required under § 98.36(e)(2)(vi).

(4) The CO_2 emissions from each stack and the combined CO_2 emissions from all stacks (except flare stacks) that handle process vent emissions and emissions from stationary combustion units that burn process off-gas for the petrochemical process unit. For each stationary combustion unit (or group of combustion units monitored with a single CO_2 CEMS) that burns petrochemical process off-gas, provide an estimate based on engineering judgment of the fraction of the total emissions that is attributable to combustion of off-gas from the petrochemical process unit.

(5) For stationary combustion units that burn process off-gas from the petrochemical process unit, report the information related to CH_4 and N_2O emissions as specified in paragraphs (b)(5)(i) through (b)(5)(iv) of this section.

(i) The CH_4 and N_2O emissions from each stack that is monitored with a CO_2 CEMS, expressed in metric tons of each gas and in metric tons of CO_2e. For each stack provide an estimate based on engineering judgment of the fraction of the total emissions that is attributable to combustion of off-gas from the petrochemical process unit.

(ii) The combined CH_4 and N_2O emissions from all stationary combustion units, expressed in metric tons of each gas and in metric tons of CO_2e.

(iii) The quantity of each type of fuel used in Equation C–8 in § 98.33(c) for each stationary combustion unit or group of units (as applicable) during the reporting year, expressed in short tons for solid fuels, gallons for liquid fuels, and scf for gaseous fuels.

(iv) The HHV (either default or annual average from measured data) used in Equation C–8 in § 98.33(c) for each

stationary combustion unit or group of combustion units (as applicable).

* * * * *

(c) If you comply with the combustion methodology specified in § 98.243(d), you must report under this subpart the information listed in paragraphs (c)(1) through (c)(5) of this section.

(1) The ethylene process unit ID or other appropriate descriptor.

(2) For each stationary combustion unit that burns ethylene process off-gas (or group of stationary sources with a common pipe), except flares, the relevant information listed in § 98.36 for the applicable Tier methodology. For each stationary combustion unit or group of units (as applicable) that burns ethylene process off-gas, provide an estimate based on engineering judgment of the fraction of the total emissions that is attributable to combustion of off-gas from the ethylene process unit.

(3) Information listed in § 98.256(e) of subpart Y of this part for each flare that burns ethylene process off-gas.

(4) Name and annual quantity of each feedstock.

(5) Annual quantity of ethylene produced from each process unit (metric tons).

■ 39. Section 98.247 is amended by:

■ a. Revising paragraph (a).

■ b. Adding paragraph (b)(4).

■ c. Revising paragraph (c).

§ 98.247 Records that must be retained.

* * * * *

(a) If you comply with the CEMS measurement methodology in § 98.243(b), then you must retain under this subpart the records required for the Tier 4 Calculation Methodology in § 98.37, records of the procedures used to develop estimates of the fraction of total emissions attributable to combustion of petrochemical process off-gas as required in § 98.246(b), and records of any annual average HHV calculations.

(b) * * *

(4) The dates and results (*e.g.,* percent calibration error) of the calibrations of each measurement device.

(c) If you comply with the combustion methodology in § 98.243(d), then you must retain under this subpart the records required for the applicable Tier Calculation Methodologies in § 98.37. If you comply with § 98.243(d)(2), you must also keep records of the annual average flow calculations.

Subpart Y—[Amended]

■ 40. Section 98.252 is amended by revising paragraph (a) and the first sentence of paragraph (i) to read as follows:

§ 98.252 GHGs to report.

* * * * *

(a) CO_2, CH_4, and N_2O combustion emissions from stationary combustion units and from each flare. Calculate and report the emissions from stationary combustion units under subpart C of this part (General Stationary Fuel Combustion Sources) by following the requirements of subpart C, except for emissions from combustion of fuel gas. For CO_2 emissions from combustion of fuel gas, use either Equation C–5 in subpart C of this part or the Tier 4 methodology in subpart C of this part, unless either of the conditions in paragraphs (a)(1) or (2) of this section are met, in which case use either Equations C–1 or C–2a in subpart C of this part. For CH_4 and N_2O emissions from combustion of fuel gas, use the applicable procedures in § 98.33(c) for the same tier methodology that was used for calculating CO_2 emissions. (Use the default CH_4 and N_2O emission factors for "Petroleum (All fuel types in Table C–1)" in Table C–2 of this part. For Tier 3, use either the default high heat value for fuel gas in Table C–1 of subpart C of this part or a calculated HHV, as allowed in Equation C–8 of subpart C of this part.) You may aggregate units, monitor common stacks, or monitor common (fuel) pipes as provided in § 98.36(c) when calculating and reporting emissions from stationary combustion units. Calculate and report the emissions from flares under this subpart.

(1) The annual average fuel gas flow rate in the fuel gas line to the combustion unit, prior to any split to individual burners or ports, does not exceed 345 standard cubic feet per minute at 60 °F and 14.7 pounds per square inch absolute and either of the conditions in paragraph (a)(1)(i) or (ii) of this section exist. Calculate the annual average flow rate using company records assuming total flow is evenly distributed over 525,600 minutes per year.

(i) A flow meter is not installed at any point in the line supplying fuel gas or an upstream common pipe.

(ii) The fuel gas line contains only vapors from loading or unloading, waste or wastewater handling, and remediation activities that are combusted in a thermal oxidizer or thermal incinerator.

(2) The combustion unit has a maximum rated heat input capacity of less than 30 mmBtu/hr and either of the following conditions exist:

(i) A flow meter is not installed at any point in the line supplying fuel gas or an upstream common pipe; or

(ii) The fuel gas line contains only vapors from loading or unloading, waste or wastewater handling, and remediation activities that are combusted in a thermal oxidizer or thermal incinerator.

* * * * *

(i) CO_2 emissions from non-merchant hydrogen production process units (not including hydrogen produced from catalytic reforming units) under this subpart. * * *

■ 41. Section 98.253 is amended by:

■ a. Revising paragraph (b)(1)(ii)(A).

■ b. Revising the definition of "$(Flare)_p$" in Equation Y–2 in paragraph (b)(1)(ii)(B).

■ c. Revising the definition of "MVC" in Equation Y–3 in paragraph (b)(1)(iii)(C).

■ d. Revising paragraph (c)(1)(ii).

■ e. Revising the definition of "MVC" in Equation Y–6 in paragraph (c)(2)(i).

■ f. Revising paragraph (c)(2)(ii).

■ g. Revising the definitions of "CB_Q" and "n" in Equation Y–11 in paragraph (e)(3).

■ h. Revising the first sentence of paragraph (f) introductory text and the last sentence of paragraph (f)(1).

■ i. Revising the definition of "MVC" in Equation Y–12 in paragraph (f)(4).

■ j. Revising the definition of "M_{dust}" in Equation Y–13 in paragraph (g)(2).

■ k. Revising paragraphs (h) introductory text and (h)(2).

■ l. In paragraph (i)(1), revising the first two sentences and the definition of "MVC" in Equation Y–18.

■ m. In paragraph (j), revising the first two sentences; and revising the definitions of "$(VR)_p$," "$(MF_x)_p$," and "MVC" in Equation Y–19.

■ n. In paragraph (k), revising the first sentence and the definition of "MVC" in Equation Y–20.

■ o. Revising paragraph (m) introductory text.

■ p. Revising the only sentence of paragraph (m)(1).

■ p. Revising the definitions of "MF_{CH4}" and "MVC" in Equation Y–23 in paragraph (m)(2).

■ q. Revising paragraph (n).

§ 98.253 Calculating GHG emissions.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(A) If you monitor gas composition, calculate the CO_2 emissions from the flare using either Equation Y–1a or Equation Y–1b of this section. If daily or more frequent measurement data are available, you must use daily values when using Equation Y–1a or Equation Y–1b of this section; otherwise, use weekly values.

$$CO_2 = 0.98 \times 0.001 \times \left(\sum_{p=1}^{n} \left[\frac{44}{12} \times (Flare)_p \times \frac{(MW)_p}{MVC} \times (CC)_p \right] \right) \quad \text{(Eq. Y-1a)}$$

Where:

CO_2 = Annual CO_2 emissions for a specific fuel type (metric tons/year).

0.98 = Assumed combustion efficiency of a flare.

0.001 = Unit conversion factor (metric tons per kilogram, mt/kg).

n = Number of measurement periods. The minimum value for n is 52 (for weekly measurements); the maximum value for n is 366 (for daily measurements during a leap year).

p = Measurement period index.

44 = Molecular weight of CO_2 (kg/kg-mole).

12 = Atomic weight of C (kg/kg-mole).

$(Flare)_p$ = Volume of flare gas combusted during measurement period (standard cubic feet per period, scf/period). If a mass flow meter is used, measure flare gas flow rate in kg/period and replace the term "$(MW)_p$/MVC" with "1".

$(MW)_p$ = Average molecular weight of the flare gas combusted during measurement period (kg/kg-mole). If measurements are taken more frequently than daily, use the arithmetic average of measurement values within the day to calculate a daily average.

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 pounds per square inch absolute (psia) or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

$(CC)_p$ = Average carbon content of the flare gas combusted during measurement period (kg C per kg flare gas). If measurements are taken more frequently than daily, use the arithmetic average of measurement values within the day to calculate a daily average.

$$CO_2 = \sum_{p=1}^{n} \left[(Flare)_p \times \frac{44}{MVC} \times 0.001 \times \left(\frac{(\%CO_2)_p}{100\%} + \sum_{x=1}^{y} \left\{ 0.98 \times \frac{(\%C_x)_p}{100\%} \times CMN_x \right\} \right) \right] \quad \text{(Eq. Y-1b)}$$

Where:

CO_2 = Annual CO_2 emissions for a specific fuel type (metric tons/year).

n = Number of measurement periods. The minimum value for n is 52 (for weekly measurements); the maximum value for n is 366 (for daily measurements during a leap year).

p = Measurement period index.

$(Flare)_p$ = Volume of flare gas combusted during measurement period (standard cubic feet per period, scf/period). If a mass flow meter is used, you must determine the average molecular weight of the flare gas during the measurement period and convert the mass flow to a volumetric flow.

44 = Molecular weight of CO_2 (kg/kg-mole).

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

0.001 = Unit conversion factor (metric tons per kilogram, mt/kg).

$(\%CO_2)_p$ = Mole percent CO_2 concentration in the flare gas stream during the measurement period (mole percent = percent by volume).

y = Number of carbon-containing compounds other than CO_2 in the flare gas stream.

x = Index for carbon-containing compounds other than CO_2.

0.98 = Assumed combustion efficiency of a flare (mole CO_2 per mole carbon).

$(\%C_x)_p$ = Mole percent concentration of compound "x" in the flare gas stream during the measurement period (mole percent = percent by volume)

CMN_x = Carbon mole number of compound "x" in the flare gas stream (mole carbon atoms per mole compound). E.g., CMN for ethane (C_2H_6) is 2; CMN for propane (C_3H_8) is 3.

(B) * * *

$(Flare)_p$ = Volume of flare gas combusted during measurement period (million (MM) scf/period). If a mass flow meter is used, you must also measure molecular weight and convert the mass flow to a volumetric flow as follows: Flare[MMscf] = 0.000001 × Flare[kg] × MVC/$(MW)_p$, where MVC is the molar volume conversion factor [849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia depending on the standard conditions used when determining $(HHV)_p$] and $(MW)_p$ is the average molecular weight of the flare gas combusted during measurement period (kg/kg-mole).

* * * * *

(iii) * * *

(C) * * *

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

* * * * *

(c) * * *

(1) * * *

(ii) For catalytic cracking units whose process emissions are discharged through a combined stack with other CO_2 emissions (*e.g.,* co-mingled with emissions from a CO boiler) you must also calculate the other CO_2 emissions using the applicable methods for the applicable subpart (*e.g.,* subpart C of this part in the case of a CO boiler). Calculate the process emissions from the catalytic cracking unit or fluid coking unit as the difference in the CO_2 CEMS emissions and the calculated emissions associated with the additional units discharging through the combined stack.

(2) * * *

(i) * * *

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

(ii) Either continuously monitor the volumetric flow rate of exhaust gas from the fluid catalytic cracking unit regenerator or fluid coking unit burner prior to the combustion of other fossil fuels or calculate the volumetric flow rate of this exhaust gas stream using either Equation Y–7a or Equation Y–7b of this section.

$$Q_r = \frac{\left(79 * Q_a + (100 - \%O_{oxy}) * Q_{oxy}\right)}{100 - \%CO_2 - \%CO - \%O_2} \quad \text{(Eq. Y-7a)}$$

Where:

Q_r = Volumetric flow rate of exhaust gas from the fluid catalytic cracking unit regenerator or fluid coking unit burner

prior to the combustion of other fossil fuels (dscfh).

Q_a = Volumetric flow rate of air to the fluid catalytic cracking unit regenerator or fluid coking unit burner, as determined from control room instrumentation (dscfh).

Q_{oxy} = Volumetric flow rate of oxygen enriched air to the fluid catalytic cracking unit regenerator or fluid coking unit burner as determined from control room instrumentation (dscfh).

$\%O_2$ = Hourly average percent oxygen concentration in exhaust gas stream from the fluid catalytic cracking unit regenerator or fluid coking unit burner (percent by volume—dry basis).

$\%O_{oxy}$ = O_2 concentration in oxygen enriched gas stream inlet to the fluid catalytic cracking unit regenerator or fluid coking unit burner based on oxygen purity specifications of the oxygen supply used for enrichment (percent by volume—dry basis).

$\%CO_2$ = Hourly average percent CO_2 concentration in the exhaust gas stream from the fluid catalytic cracking unit regenerator or fluid coking unit burner (percent by volume—dry basis).

%CO = Hourly average percent CO concentration in the exhaust gas stream from the fluid catalytic cracking unit regenerator or fluid coking unit burner (percent by volume—dry basis). When no auxiliary fuel is burned and a continuous CO monitor is not required under 40 CFR part 63 subpart UUU, assume %CO to be zero.

$$Q_r = \frac{\left(78.1 * Q_a + (\%N_{2,oxy}) * Q_{oxy}\right)}{\%N_{2,exhaust}} \qquad \text{(Eq. Y-7b)}$$

Where:

Q_r = Volumetric flow rate of exhaust gas from the fluid catalytic cracking unit regenerator or fluid coking unit burner prior to the combustion of other fossil fuels (dscfh).

Q_a = Volumetric flow rate of air to the fluid catalytic cracking unit regenerator or fluid coking unit burner, as determined from control room instrumentation (dscfh).

Q_{oxy} = Volumetric flow rate of oxygen enriched air to the fluid catalytic cracking unit regenerator or fluid coking unit burner as determined from control room instrumentation (dscfh).

$\%N_{2,oxy}$ = N_2 concentration in oxygen enriched gas stream inlet to the fluid catalytic cracking unit regenerator or fluid coking unit burner based on measured value or maximum N_2 impurity specifications of the oxygen supply used for enrichment (percent by volume—dry basis).

$\%N_{2,exhaust}$ = Hourly average percent N_2 concentration in the exhaust gas stream from the fluid catalytic cracking unit regenerator or fluid coking unit burner (percent by volume—dry basis).

* * * * *

(e) * * *

(3) * * *

CB_Q = Coke burn-off quantity per regeneration cycle or measurement period from engineering estimates (kg coke/cycle or kg coke/measurement period).

n = Number of regeneration cycles or measurement periods in the calendar year.

* * * * *

(f) For on-site sulfur recovery plants and for sour gas sent off site for sulfur recovery, calculate and report CO_2 process emissions from sulfur recovery plants according to the requirements in paragraphs (f)(1) through (f)(5) of this section, or, for non-Claus sulfur recovery plants, according to the requirements in paragraph (j) of this section regardless of the concentration of CO_2 in the vented gas stream. * * *

(1) * * * Other sulfur recovery plants must either install a CEMS that complies with the Tier 4 Calculation Methodology in subpart C, or follow the requirements of paragraphs (f)(2) through (f)(5) of this section, or (for non-Claus sulfur recovery plants only) follow the requirements in paragraph (j) of this section to determine CO_2 emissions for the sulfur recovery plant.

* * * * *

(4) * * *

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

* * * * *

(g) * * *

(2) * * *

M_{dust} = Annual mass of petroleum coke dust removed from the process through the dust collection system of the coke calcining unit from facility records (metric ton petroleum coke dust/year). For coke calcining units that recycle the collected dust, the mass of coke dust removed from the process is the mass of coke dust collected less the mass of coke dust recycled to the process.

* * * * *

(h) For asphalt blowing operations, calculate CO_2 and CH_4 emissions according to the requirements in paragraph (j) of this section regardless of the CO_2 and CH_4 concentrations or according to the applicable provisions in paragraphs (h)(1) and (h)(2) of this section.

* * * * *

(2) For asphalt blowing operations controlled by thermal oxidizer or flare, calculate CO_2 using either Equation Y–16a or Equation Y–16b of this section and calculate CH_4 emissions using Equation Y–17 of this section, provided these emissions are not already included in the flare emissions calculated in paragraph (b) of this section or in the stationary combustion unit emissions required under subpart C of this part (General Stationary Fuel Combustion Sources).

$$CO_2 = 0.98 \times \left(Q_{AB} \times CEF_{AB} \times \frac{44}{12}\right) \qquad \text{(Eq. Y-16a)}$$

Where:

CO_2 = Annual CO_2 emissions from controlled asphalt blowing (metric tons CO_2/year).

0.98 = Assumed combustion efficiency of thermal oxidizer or flare.

Q_{AB} = Quantity of asphalt blown (MMbbl/year).

CEF_{AB} = Carbon emission factor from asphalt blowing from facility-specific test data (metric tons C/MMbbl asphalt blown); default = 2,750.

44 = Molecular weight of CO_2 (kg/kg-mole).

12 = Atomic weight of C (kg/kg-mole).

$$CO_2 = Q_{AB} \times \left(EF_{AB,CO2} + 0.98 \times \left[\left(CEF_{AB} \times \frac{44}{12} \right) - EF_{AB,CO2} \right] \right) \quad \text{(Eq. Y-16b)}$$

Where:

CO_2 = Annual CO_2 emissions from controlled asphalt blowing (metric tons CO_2/year).

Q_{AB} = Quantity of asphalt blown (MMbbl/year).

0.98 = Assumed combustion efficiency of thermal oxidizer or flare.

$EF_{AB,CO2}$ = Emission factor for CO_2 from uncontrolled asphalt blowing from facility-specific test data (metric tons CO_2/MMbbl asphalt blown); default = 1,100.

CEF_{AB} = Carbon emission factor from asphalt blowing from facility-specific test data (metric tons C/MMbbl asphalt blown); default = 2,750.

44 = Molecular weight of CO_2 (kg/kg-mole).

12 = Atomic weight of C (kg/kg-mole).

$$CH_4 = 0.02 \times \left(Q_{AB} \times EF_{AB,CH4} \right) \quad \text{(Eq. Y-17)}$$

Where:

CH_4 = Annual methane emissions from controlled asphalt blowing (metric tons CH_4/year).

0.02 = Fraction of methane uncombusted in thermal oxidizer or flare based on assumed 98% combustion efficiency.

Q_{AB} = Quantity of asphalt blown (million barrels per year, MMbbl/year).

$EF_{AB,CH4}$ = Emission factor for CH_4 from uncontrolled asphalt blowing from facility-specific test data (metric tons CH_4/MMbbl asphalt blown); default = 580.

(i) * * *

(1) Use the process vent method in paragraph (j) of this section to calculate the CH_4 emissions from the depressurization of the coke drum or vessel regardless of the CH_4 concentration and also calculate the CH_4 emissions from the subsequent opening of the vessel for coke cutting operations using Equation Y–18 of this section. If you have coke drums or vessels of different dimensions, use the process vent method in paragraph (j) of this section and Equation Y–18 for each set of coke drums or vessels of the same size and sum the resultant emissions across each set of coke drums or vessels to calculate the CH_4 emissions for all delayed coking units.

* * * * *

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

* * * * *

(j) For each process vent not covered in paragraphs (a) through (i) of this section that can reasonably be expected to contain greater than 2 percent by volume CO_2 or greater than 0.5 percent by volume of CH_4 or greater than 0.01 percent by volume (100 parts per million) of N_2O, calculate GHG emissions using the Equation Y–19 of this section. You must use Equation Y–19 of this section to calculate CH_4 emissions for catalytic reforming unit depressurization and purge vents when methane is used as the purge gas or if you elected this method as an alternative to the methods in paragraphs (f), (h), or (k) of this section.

* * * * *

$(VR)_p$ = Average volumetric flow rate of process gas during the event (scf per hour) from measurement data, process knowledge, or engineering estimates.

$(MF_x)_p$ = Mole fraction of GHG x in process vent during the event (kg-mol of GHG x/kg-mol vent gas) from measurement data, process knowledge, or engineering estimates.

* * * * *

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

* * * * *

(k) For uncontrolled blowdown systems, you must calculate CH4 emissions either using the methods for process vents in paragraph (j) of this section regardless of the CH_4 concentration or using Equation Y20 of this section. * * *

* * * * *

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

* * * * *

(m) For storage tanks, except as provided in paragraph (m)(4) of this section, calculate CH_4 emissions using the applicable methods in paragraphs (m)(1) through (m)(3) of this section.

(1) For storage tanks other than those processing unstabilized crude oil, you must either calculate CH_4 emissions from storage tanks that have a vapor-phase methane concentration of 0.5 volume percent or more using tank-specific methane composition data (from measurement data or product knowledge) and the emission estimation methods provided in AP 42, Section 7.1 (incorporated by reference, see § 98.7) or estimate CH_4 emissions from storage tanks using Equation Y–22 of this section.

* * * * *

(2) * * *

MF_{CH4} = Average mole fraction of CH_4 in vent gas from the unstabilized crude oil storage tanks from facility measurements (kg-mole CH_4/kg-mole gas); use 0.27 as a default if measurement data are not available.

* * * * *

MVC = Molar volume conversion factor (849.5 scf/kg-mole at 68 °F and 14.7 psia or 836.6 scf/kg-mole at 60 °F and 14.7 psia).

* * * * *

(n) For crude oil, intermediate, or product loading operations for which the vapor-phase concentration of methane is 0.5 volume percent or more, calculate CH_4 emissions from loading operations using vapor-phase methane composition data (from measurement data or process knowledge) and the emission estimation procedures provided in AP 42, Section 5.2 (incorporated by reference, see § 98.7). For loading operations in which the vapor-phase concentration of methane is less than 0.5 volume percent, you may assume zero methane emissions.

■ 42. Section 98.254 is amended by:

■ a. Revising paragraph (a).

■ b. Revising paragraph (b).

■ c. Revising paragraph (c).

■ d. Revising paragraph (d) introductory text.

■ e. Adding paragraph (d)(6).

■ f. Revising paragraph (e) introductory text.

■ g. Revising paragraph (f) introductory text and (f)(1).

■ h. Removing and reserving paragraph (f)(2).

■ i. Removing paragraph (f)(4).

■ j. Revising paragraph (g).

■ k. Revising the second sentence of paragraph (h).

■ l. Removing paragraph (l).

§ 98.254 Monitoring and QA/QC requirements.

(a) Fuel flow meters, gas composition monitors, and heating value monitors that are associated with sources that use a CEMS to measure CO_2 emissions

according to subpart C of this part or that are associated with stationary combustion sources must meet the applicable monitoring and QA/QC requirements in § 98.34.

(b) All gas flow meters, gas composition monitors, and heating value monitors that are used to provide data for the GHG emissions calculations in this subpart for sources other than those subject to the requirements in paragraph (a) of this section shall be calibrated according to the procedures specified by the manufacturer, or according to the procedures in the applicable methods specified in paragraphs (c) through (g) of this section. In the case of gas flow meters, all gas flow meters must meet the calibration accuracy requirements in § 98.3(i). All gas flow meters, gas composition monitors, and heating value monitors must be recalibrated at the applicable frequency specified in paragraph (b)(1) or (b)(2) of this section.

(1) You must recalibrate each gas flow meter according to one of the following frequencies. You may recalibrate at the minimum frequency specified by the manufacturer, biennially (every two years), or at the interval specified by the industry consensus standard practice used.

(2) You must recalibrate each gas composition monitor and heating value monitor according to one of the following frequencies. You may recalibrate at the minimum frequency specified by the manufacturer, annually, or at the interval specified by the industry standard practice used.

(c) For flare or sour gas flow meters and gas flow meters used to comply with the requirements in § 98.253(j), operate, calibrate, and maintain the flow meter according to one of the following. You may use the procedures specified by the flow meter manufacturer, or a method published by a consensus-based standards organization. Consensus-based standards organizations include, but are not limited to, the following: ASTM International (100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–B2959, (800) 262–1373, *http://www.astm.org*), the American National Standards Institute (ANSI, 1819 L Street, NW., 6th floor, Washington, DC 20036, (202) 293–8020, *http://www.ansi.org*), the American Gas Association (AGA, 400 North Capitol Street, NW., 4th Floor, Washington, DC 20001, (202) 824–7000, *http://www.aga.org*), the American Society of Mechanical Engineers (ASME, Three Park Avenue, New York, NY 10016–5990, (800) 843–2763, *http://www.asme.org*), the American Petroleum Institute (API, 1220 L Street, NW., Washington, DC 20005–4070, (202) 682–8000, *http://www.api.org*), and the North American Energy Standards Board (NAESB, 801 Travis Street, Suite 1675, Houston, TX 77002, (713) 356–0060, *http://www.api.org*).

(d) Except as provided in paragraph (g) of this section, determine gas composition and, if required, average molecular weight of the gas using any of the following methods. Alternatively, the results of chromatographic analysis of the fuel may be used, provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions; and the methods used for operation, maintenance, and calibration of the gas chromatograph are documented in the written Monitoring Plan for the unit under § 98.3(g)(5).

* * * * *

(6) ASTM D2503–92 (Reapproved 2007) Standard Test Method for Relative Molecular Mass (Molecular Weight) of Hydrocarbons by Thermoelectric Measurement of Vapor Pressure (incorporated by reference, see § 98.7).

(e) Determine flare gas higher heating value using any of the following methods. Alternatively, the results of chromatographic analysis of the fuel may be used, provided that the gas chromatograph is operated, maintained, and calibrated according to the manufacturer's instructions; and the methods used for operation, maintenance, and calibration of the gas chromatograph are documented in the written Monitoring Plan for the unit under § 98.3(g)(5).

* * * * *

(f) For gas flow meters used to comply with the requirements in § 98.253(c)(2)(ii), install, operate, calibrate, and maintain each gas flow meter according to the requirements in 40 CFR 63.1572(c) and the following requirements.

(1) Locate the flow monitor at a site that provides representative flow rates. Avoid locations where there is swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

* * * * *

(g) For exhaust gas CO_2/CO/O_2 composition monitors used to comply with the requirements in § 98.253(c)(2), install, operate, calibrate, and maintain exhaust gas composition monitors according to the requirements in 40 CFR 60.105a(b)(2) or 40 CFR 63.1572(c) or according to the manufacturer's specifications and requirements.

(h) * * * Calibrate the measurement device according to the procedures specified by NIST handbook 44 (incorporated by reference, see § 98.7) or the procedures specified by the manufacturer. * * *

* * * * *

■ 43. Section 98.256 is amended by:
■ a. Revising paragraph (e)(6).
■ b. Redesignating paragraphs (e)(7) through (e)(9) as (e)(8) through (e)(10), respectively.
■ c. Adding paragraph (e)(7).
■ d. Revising newly designated paragraphs (e)(8) and (e)(9).
■ e. Revising paragraphs (f)(6) through (f)(8).
■ f. Redesignating paragraphs (f)(9) through (f)(12) as (f)(10) through (f)(13), respectively.
■ g. Adding paragraph (f)(9).
■ h. Revising newly designated paragraphs (f)(11) through (f)(13).
■ i. Revising paragraphs (g)(5), (h)(2), and (h)(4), and the first sentence of paragraph (h)(6).
■ j. Adding paragraph (h)(7).
■ k. Revising paragraphs (i)(5), (i)(6), (i)(8), and (j)(2).
■ l. Redesignating paragraph (j)(8) as (j)(9).
■ m. Adding paragraph (j)(8).
■ n. Revising paragraphs (k)(1), (k)(3), (l) introductory text, (l)(5), and (m).
■ o. Revising paragraphs (o)(1) through (o)(4).

§ 98.256 Data reporting requirements.

* * * * *

(e) * * *

(6) If you use Equation Y–1a of this subpart, an indication of whether daily or weekly measurement periods are used, the annual volume of flare gas combusted (in scf/year) and the annual average molecular weight (in kg/kg-mole), the molar volume conversion factor (in scf/kg-mole), and annual average carbon content of the flare gas (in kg carbon per kg flare gas).

(7) If you use Equation Y–1b of this subpart, an indication of whether daily or weekly measurement periods are used, the annual volume of flare gas combusted (in scf/year), the molar volume conversion factor (in scf/kg-mole), the annual average CO_2 concentration (volume or mole percent), the number of carbon containing compounds other than CO_2 in the flare gas stream, and for each of the carbon containing compounds other than CO_2 in the flare gas stream:

(i) The annual average concentration of the compound (volume or mole percent).

(ii) The carbon mole number of the compound (moles carbon per mole compound).

(8) If you use Equation Y–2 of this subpart, an indication of whether daily

or weekly measurement periods are used, the annual volume of flare gas combusted (in million (MM) scf/year), the annual average higher heating value of the flare gas (in mmBtu/mmscf), and an indication of whether the annual volume of flare gas combusted and the annual average higher heating value of the flare gas were determined using standard conditions of 68 °F and 14.7 psia or 60 °F and 14.7 psia.

(9) If you use Equation Y–3 of this subpart, the annual volume of flare gas combusted (in MMscf/year) during normal operations, the annual average higher heating value of the flare gas (in mmBtu/mmscf), the number of SSM events exceeding 500,000 scf/day, the volume of gas flared (in scf/event), the average molecular weight (in kg/kg-mole), the molar volume conversion factor (in scf/kg-mole), and carbon content of the flare gas (in kg carbon per kg flare) for each SSM event over 500,000 scf/day.

* * * * *

(f) * * *

(6) If you use a CEMS, the relevant information required under § 98.36 for the Tier 4 Calculation Methodology, the CO_2 annual emissions as measured by the CEMS (unadjusted to remove CO_2 combustion emissions associated with additional units, if present) and the process CO_2 emissions as calculated according to § 98.253(c)(1)(ii). Report the CO_2 annual emissions associated with sources other than those from the coke burn-off in the applicable subpart (*e.g.,* subpart C of this part in the case of a CO boiler).

(7) If you use Equation Y–6 of this subpart, the annual average exhaust gas flow rate, $\%CO_2$, %CO, and the molar volume conversion factor (in scf/kg-mole).

(8) If you use Equation Y–7a of this subpart, the annual average flow rate of inlet air and oxygen-enriched air, $\%O_2$, $\%O_{oxy}$, $\%CO_2$, and %CO.

(9) If you use Equation Y–7b of this subpart, the annual average flow rate of inlet air and oxygen-enriched air, $\%N_{2,oxy}$, and $\%N_{2,exhaust}$.

* * * * *

(11) Indicate whether you use a measured value, a unit-specific emission factor, or a default emission factor for CH_4 emissions. If you use a unit-specific emission factor for CH_4, report the unit-specific emission factor for CH_4, the units of measure for the unit-specific factor, the activity data for calculating emissions (*e.g.,* if the emission factor is based on coke burn-off rate, the annual quantity of coke burned), and the basis for the factor.

(12) Indicate whether you use a measured value, a unit-specific emission factor, or a default emission factor for N_2O emissions. If you use a unit-specific emission factor for N_2O, report the unit-specific emission factor for N_2O, the units of measure for the unit-specific factor, the activity data for calculating emissions (*e.g.,* if the emission factor is based on coke burn-off rate, the annual quantity of coke burned), and the basis for the factor.

(13) If you use Equation Y–11 of this subpart, the number of regeneration cycles or measurement periods during the reporting year, the average coke burn-off quantity per cycle or measurement period, and the average carbon content of the coke.

(g) * * *

(5) If the GHG emissions for the low heat value gas are calculated at the flexicoking unit, also report the calculated annual CO_2, CH_4, and N_2O emissions for each unit, expressed in metric tons of each pollutant emitted, and the applicable equation input parameters specified in paragraphs (f)(7) through (f)(13) of this section.

(h) * * *

(2) Maximum rated throughput of each independent sulfur recovery plant, in metric tons sulfur produced/stream day, a description of the type of sulfur recovery plant, and an indication of the method used to calculate CO_2 annual emissions for the sulfur recovery plant (*e.g.,* CO_2 CEMS, Equation Y–12, or process vent method in § 98.253(j)).

* * * * *

(4) If you use Equation Y–12 of this subpart, the annual volumetric flow to the sulfur recovery plant (in scf/year), the molar volume conversion factor (in scf/kg-mole), and the annual average mole fraction of carbon in the sour gas (in kg-mole C/kg-mole gas).

* * * * *

(6) If you use a CEMS, the relevant information required under § 98.36 for the Tier 4 Calculation Methodology, the CO_2 annual emissions as measured by the CEMS and the annual process CO_2 emissions calculated according to § 98.253(f)(1). * * *

(7) If you use the process vent method in § 98.253(j) for a non-Claus sulfur recovery plant, the relevant information required under paragraph (l)(5) of this section.

(i) * * *

(5) If you use Equation Y–13 of this subpart, annual mass and carbon content of green coke fed to the unit, the annual mass and carbon content of marketable coke produced, the annual mass of coke dust removed from the process through dust collection systems, and an indication of whether coke dust is recycled to the unit (*e.g.,* all dust is recycled, a portion of the dust is recycled, or none of the dust is recycled).

(6) If you use a CEMS, the relevant information required under § 98.36 for the Tier 4 Calculation Methodology, the CO_2 annual emissions as measured by the CEMS and the annual process CO_2 emissions calculated according to § 98.253(g)(1). * * *

* * * * *

(8) Indicate whether you use a measured value, a unit-specific emission factor, or a default emission factor for N_2O emissions. If you use a unit-specific emission factor for N_2O, report the unit-specific emission factor for N_2O, the units of measure for the unit-specific factor, the activity data for calculating emissions (*e.g.,* if the emission factor is based on coke burn-off rate, the annual quantity of coke burned), and the basis for the factor.

(j) * * *

(2) The quantity of asphalt blown (in million bbl) at the unit in the reporting year.

* * * * *

(8) If you use Equation Y–16b of this subpart, the CO_2 emission factor used and the basis for its value and the carbon emission factor used and the basis for its value.

* * * * *

(k) * * *

(1) The cumulative annual CH_4 emissions (in metric tons of CH_4) for all delayed coking units at the facility.

* * * * *

(3) The total number of delayed coking units at the facility, the total number of delayed coking drums at the facility, and for each coke drum or vessel: The dimensions, the typical gauge pressure of the coking drum when first vented to the atmosphere, typical void fraction, the typical drum outage (*i.e.* the unfilled distance from the top of the drum, in feet), the molar volume conversion factor (in scf/kg-mole), and annual number of coke-cutting cycles.

* * * * *

(l) For each process vent subject to § 98.253(j), the owner or operator shall report:

* * * * *

(5) The annual volumetric flow discharged to the atmosphere (in scf), and an indication of the measurement or estimation method, annual average mole fraction of each GHG above the concentration threshold or otherwise required to be reported and an indication of the measurement or estimation method, the molar volume conversion factor (in scf/kg-mole), and for intermittent vents, the number of

venting events and the cumulative venting time.

(m) For uncontrolled blowdown systems, the owner or operator shall report:

(1) An indication of whether the uncontrolled blowdown emission are reported under § 98.253(k) or § 98.253(j) or a statement that the facility does not have any uncontrolled blowdown systems.

(2) The cumulative annual CH_4 emissions (in metric tons of CH_4) for uncontrolled blowdown systems.

(3) For uncontrolled blowdown systems reporting under § 98.253(k), the total quantity (in million bbl) of crude oil plus the quantity of intermediate products received from off site that are processed at the facility in the reporting year, the methane emission factor used for uncontrolled blowdown systems, the basis for the value, and the molar volume conversion factor (in scf/kg-mole).

(4) For uncontrolled blowdown systems reporting under § 98.253(j), the relevant information required under paragraph (l)(5) of this section.

* * * * *

(o) * * *

(1) The cumulative annual CH_4 emissions (in metric tons of CH_4) for all storage tanks, except for those used to process unstabilized crude oil.

(2) For storage tanks other than those processing unstabilized crude oil:

(i) The method used to calculate the reported storage tank emissions for storage tanks other than those processing unstabilized crude (*i.e.,* either AP 42, Section 7.1 (incorporated by reference, see § 98.7), or Equation Y–22 of this section).

(ii) The total quantity (in MMbbl) of crude oil plus the quantity of intermediate products received from off site that are processed at the facility in the reporting year.

(3) The cumulative CH_4 emissions (in metric tons of CH_4) for storage tanks used to process unstabilized crude oil or a statement that the facility did not receive any unstabilized crude oil during the reporting year.

(4) For storage tanks that process unstabilized crude oil:

(i) The method used to calculate the reported unstabilized crude oil storage tank emissions.

(ii) The quantity of unstabilized crude oil received during the calendar year (in MMbbl).

(iii) The average pressure differential (in psi).

(iv) The molar volume conversion factor (in scf/kg-mole).

(v) The average mole fraction of CH_4 in vent gas from unstabilized crude oil storage tanks and the basis for the mole fraction.

(vi) If you did not use Equation Y–23, the tank-specific methane composition data and the gas generation rate data used to estimate the cumulative CH_4 emissions for storage tanks used to process unstabilized crude oil.

* * * * *

■ 44. Section 98.257 is revised to read as follows:

§ 98.257 Records that must be retained.

In addition to the records required by § 98.3(g), you must retain the records of all parameters monitored under § 98.255. If you comply with the combustion methodology in § 98.252(a), then you must retain under this subpart the records required for the Tier 3 and/or Tier 4 Calculation Methodologies in § 98.37 and you must keep records of the annual average flow calculations.

Subpart AA—[Amended]

■ 45. Section 98.273 is amended by:

■ a. Revising paragraphs (a)(1) and (a)(2).

■ b. Revising the definition of "EF" in Equation AA–1 of paragraph (a)(3).

■ c. Revising paragraphs (b)(1) and (b)(2).

■ d. Revising paragraphs (c)(1) and (c)(2).

§ 98.273 Calculating GHG emissions.

(a) * * *

(1) Calculate fossil fuel-based CO_2 emissions from direct measurement of fossil fuels consumed and default emissions factors according to the Tier 1 methodology for stationary combustion sources in § 98.33(a)(1). A higher tier from § 98.33(a) may be used to calculate fossil fuel-based CO_2 emissions if the respective monitoring and QA/QC requirements described in § 98.34 are met.

(2) Calculate fossil fuel-based CH_4 and N_2O emissions from direct measurement of fossil fuels consumed, default or site-specific HHV, and default emissions factors and convert to metric tons of CO_2 equivalent according to the methodology for stationary combustion sources in § 98.33(c).

(3) * * *

(EF) = Default or site-specific emission factor for CO_2, CH_4, or N_2O, from Table AA–1 of this subpart (kg CO_2, CH_4, or N_2O per mmBtu).

* * * * *

(b) * * *

(1) Calculate fossil CO_2 emissions from fossil fuels from direct measurement of fossil fuels consumed and default emissions factors according to the Tier 1 Calculation Methodology for stationary combustion sources in § 98.33(a)(1). A higher tier from § 98.33(a) may be used to calculate fossil fuel-based CO_2 emissions if the respective monitoring and QA/QC requirements described in § 98.34 are met.

(2) Calculate CH_4 and N_2O emissions from fossil fuels from direct measurement of fossil fuels consumed, default or site-specific HHV, and default emissions factors and convert to metric tons of CO_2 equivalent according to the methodology for stationary combustion sources in § 98.33(c).

* * * * *

(c) * * *

(1) Calculate CO_2 emissions from fossil fuel from direct measurement of fossil fuels consumed and default HHV and default emissions factors, according to the Tier 1 Calculation Methodology for stationary combustion sources in § 98.33(a)(1). A higher tier from § 98.33(a) may be used to calculate fossil fuel-based CO_2 emissions if the respective monitoring and QA/QC requirements described in § 98.34 are met.

(2) Calculate CH_4 and N_2O emissions from fossil fuel from direct measurement of fossil fuels consumed, default or site-specific HHV, and default emissions factors and convert to metric tons of CO_2 equivalent according to the methodology for stationary combustion sources in § 98.33(c); use the default HHV listed in Table C–1 of subpart C and the default CH_4 and N_2O emissions factors listed in Table AA–2 of this subpart.

* * * * *

■ 46. Section 98.276 is amended by revising the introductory text and revising paragraph (e) to read as follows:

§ 98.276 Data reporting requirements.

In addition to the information required by § 98.3(c) and the applicable information required by § 98.36, each annual report must contain the information in paragraphs (a) through (k) of this section as applicable:

* * * * *

(e) The default or site-specific emission factor for CO_2, CH_4, or N_2O, used in Equation AA–1 of this subpart (kg CO_2, CH_4, or N_2O per mmBtu).

* * * * *

■ 47. Table AA–2 to Subpart AA is revised to read as follows:

TABLE AA–2 TO SUBPART AA—KRAFT LIME KILN AND CALCINER EMISSIONS FACTORS FOR FOSSIL FUEL-BASED CH_4 AND N_2O

Fuel	Fossil fuel-based emissions factors (kg/mmBtu HHV)			
	Kraft lime kilns		Kraft calciners	
	CH_4	N_2O	CH_4	N_2O
Residual Oil				0.0003
Distillate Oil			0.0027	0.0004
Natural Gas	0.0027			0.0001
Biogas				0.0001
Petroleum coke			NA	[a] NA

[a] Emission factors for kraft calciners are not available.

Subpart OO—[Amended]

■ 48. Section 98.410 is amended by revising paragraph (b) to read as follows:

§ 98.410 Definition of the source category.

* * * * *

(b) To produce a fluorinated GHG means to manufacture a fluorinated GHG from any raw material or feedstock chemical. Producing a fluorinated GHG includes the manufacture of a fluorinated GHG as an isolated intermediate for use in a process that will result in its transformation either at or outside of the production facility. Producing a fluorinated GHG also includes the creation of a fluorinated GHG (with the exception of HFC–23) that is captured and shipped off site for any reason, including destruction. Producing a fluorinated GHG does not include the reuse or recycling of a fluorinated GHG, the creation of HFC–23 during the production of HCFC–22, the creation of intermediates that are created and transformed in a single process with no storage of the intermediates, or the creation of fluorinated GHGs that are released or destroyed at the production facility before the production measurement at § 98.414(a).

* * * * *

■ 49. Section 98.414 is amended by:

■ a. Adding second and third sentences to paragraph (a).

■ b. Revising paragraph (h).

■ c. Removing and reserving paragraph (j).

■ d. Adding new paragraphs (n) through (q).

§ 98.414 Monitoring and QA/QC requirements.

(a) * * * If the measured mass includes more than one fluorinated GHG, the concentrations of each of the fluorinated GHGs, other than low-concentration constituents, shall be measured as set forth in paragraph (n) of this section. For each fluorinated GHG, the mean of the concentrations of that fluorinated GHG (mass fraction) measured under paragraph (n) of this section shall be multiplied by the mass measurement to obtain the mass of that fluorinated GHG coming out of the production process.

* * * * *

(h) You must measure the mass of each fluorinated GHG that is fed into the destruction device and that was previously produced as defined at § 98.410(b). Such fluorinated GHGs include but are not limited to quantities that are shipped to the facility by another facility for destruction and quantities that are returned to the facility for reclamation but are found to be irretrievably contaminated and are therefore destroyed. You must use flowmeters, weigh scales, or a combination of volumetric and density measurements with an accuracy and precision of one percent of full scale or better. If the measured mass includes more than trace concentrations of materials other than the fluorinated GHG being destroyed, you must estimate the concentrations of the fluorinated GHG being destroyed considering current or previous representative concentration measurements and other relevant process information. You must multiply this concentration (mass fraction) by the mass measurement to obtain the mass of the fluorinated GHG fed into the destruction device.

* * * * *

(n) If the mass coming out of the production process includes more than one fluorinated GHG, you shall measure the concentrations of all of the fluorinated GHGs, other than low-concentration constituents, as follows:

(1) *Analytical Methods.* Use a quality-assured analytical measurement technology capable of detecting the analyte of interest at the concentration of interest and use a procedure validated with the analyte of interest at the concentration of interest. Where standards for the analyte are not available, a chemically similar surrogate may be used. Acceptable analytical measurement technologies include but are not limited to gas chromatography (GC) with an appropriate detector, infrared (IR), fourier transform infrared (FTIR), and nuclear magnetic resonance (NMR). Acceptable methods include EPA Method 18 in Appendix A–1 of 40 CFR part 60; EPA Method 320 in Appendix A of 40 CFR part 63; the Protocol for Measuring Destruction or Removal Efficiency (DRE) of Fluorinated Greenhouse Gas Abatement Equipment in Electronics Manufacturing, Version 1, EPA–430–R–10–003, (March 2010) (incorporated by reference, see § 98.7); ASTM D6348–03 Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy (incorporated by reference, see § 98.7); or other analytical methods validated using EPA Method 301 in Appendix A of 40 CFR part 63 or some other scientifically sound validation protocol. The validation protocol may include analytical technology manufacturer specifications or recommendations.

(2) *Documentation in GHG Monitoring Plan.* Describe the analytical method(s) used under paragraph (n)(1) of this section in the site GHG Monitoring Plan as required under § 98.3(g)(5). At a minimum, include in the description of the method a description of the analytical measurement equipment and procedures, quantitative estimates of the method's accuracy and precision for the analytes of interest at the concentrations of interest, as well as a description of how these accuracies and precisions were estimated, including the validation protocol used.

(3) *Frequency of measurement.* Perform the measurements at least once by February 15, 2011 if the fluorinated GHG product is being produced on December 17, 2010. Perform the measurements within 60 days of commencing production of any fluorinated GHG product that was not

being produced on December 17, 2010. Repeat the measurements if an operational or process change occurs that could change the identities or significantly change the concentrations of the fluorinated GHG constituents of the fluorinated GHG product. Complete the repeat measurements within 60 days of the operational or process change.

(4) *Measure all product grades.* Where a fluorinated GHG is produced at more than one purity level (*e.g.,* pharmaceutical grade and refrigerant grade), perform the measurements for each purity level.

(5) *Number of samples.* Analyze a minimum of three samples of the fluorinated GHG product that have been drawn under conditions that are representative of the process producing the fluorinated GHG product. If the relative standard deviation of the measured concentrations of any of the fluorinated GHG constituents (other than low-concentration constituents) is greater than or equal to 15 percent, draw and analyze enough additional samples to achieve a total of at least six samples of the fluorinated GHG product.

(o) All analytical equipment used to determine the concentration of fluorinated GHGs, including but not limited to gas chromatographs and associated detectors, IR, FTIR and NMR devices, shall be calibrated at a frequency needed to support the type of analysis specified in the site GHG Monitoring Plan as required under § 98.414(n) and § 98.3(g)(5) of this part. Quality assurance samples at the concentrations of concern shall be used for the calibration. Such quality assurance samples shall consist of or be prepared from certified standards of the analytes of concern where available; if not available, calibration shall be performed by a method specified in the GHG Monitoring Plan.

(p) Isolated intermediates that are produced and transformed at the same facility are exempt from the monitoring requirements of this section.

(q) Low-concentration constituents are exempt from the monitoring and QA/QC requirements of this section.

■ 50. Section 98.416 is amended by:

■ a. Revising paragraph (a)(3).

■ b. Removing and reserving paragraph (a)(4).

■ c. Revising paragraphs (a)(11) and (a)(15).

■ d. Revising paragraphs (b) introductory text and (b)(1).

■ e. Revising paragraphs (c) introductory text, (c)(1), and (c)(10).

■ f. Revising paragraph (d) introductory text.

■ g. Revising paragraph (e) introductory text.

■ h. Adding paragraphs (f) through (h).

§ 98.416 Data reporting requirements.

* * * * *

(a) * * *

(3) Mass in metric tons of each fluorinated GHG that is destroyed at that facility and that was previously produced as defined at § 98.410(b). Quantities to be reported under this paragraph (a)(3) of this section include but are not limited to quantities that are shipped to the facility by another facility for destruction and quantities that are returned to the facility for reclamation but are found to be irretrievably contaminated and are therefore destroyed.

* * * * *

(11) Mass in metric tons of each fluorinated GHG that is fed into the destruction device and that was previously produced as defined at § 98.410(b). Quantities to be reported under this paragraph (a)(11) of this section include but are not limited to quantities that are shipped to the facility by another facility for destruction and quantities that are returned to the facility for reclamation but are found to be irretrievably contaminated and are therefore destroyed.

* * * * *

(15) Names and addresses of facilities to which any fluorinated GHGs were sent for destruction, and the quantities (metric tons) of each fluorinated GHG that were sent to each for destruction.

* * * * *

(b) By March 31, 2011 or within 60 days of commencing fluorinated GHG destruction, whichever is later, a fluorinated GHG production facility or importer that destroys fluorinated GHGs shall submit a one-time report containing the following information for each destruction process:

(1) Destruction efficiency (DE).

* * * * *

(c) Each bulk importer of fluorinated GHGs or nitrous oxide shall submit an annual report that summarizes its imports at the corporate level, except for shipments including less than twenty-five kilograms of fluorinated GHGs or nitrous oxide, transshipments, and heels that meet the conditions set forth at § 98.417(e). The report shall contain the following information for each import:

(1) Total mass in metric tons of nitrous oxide and each fluorinated GHG imported in bulk, including each fluorinated GHG constituent of the fluorinated GHG product that makes up between 0.5 percent and 100 percent of the product by mass.

* * * * *

(10) If applicable, the names and addresses of the persons and facilities to which the fluorinated GHGs were sold or transferred for destruction, and the quantities (metric tons) of each fluorinated GHG that were sold or transferred to each facility for destruction.

(d) Each bulk exporter of fluorinated GHGs or nitrous oxide shall submit an annual report that summarizes its exports at the corporate level, except for shipments including less than twenty-five kilograms of fluorinated GHGs or nitrous oxide, transshipments, and heels. The report shall contain the following information for each export:

* * * * *

(e) By March 31, 2011, or within 60 days of commencing fluorinated GHG production, whichever is later, a fluorinated GHG production facility shall submit a one-time report describing the following information:

* * * * *

(f) By March 31, 2011, all fluorinated GHG production facilities shall submit a one-time report that includes the concentration of each fluorinated GHG constituent in each fluorinated GHG product as measured under § 98.414(n). If the facility commences production of a fluorinated GHG product that was not included in the initial report or performs a repeat measurement under § 98.414(n) that shows that the identities or concentrations of the fluorinated GHG constituents of a fluorinated GHG product have changed, then the new or changed concentrations, as well as the date of the change, must be reflected in a revision to the report. The revised report must be submitted to EPA by the March 31st that immediately follows the measurement under § 98.414(n).

(g) Isolated intermediates that are produced and transformed at the same facility are exempt from the reporting requirements of this section.

(h) Low-concentration constituents are exempt from the reporting requirements of this section.

■ 51. Section 98.417 is amended by revising paragraphs (a)(2), (b), and (d)(2); and by adding paragraphs (f) and (g) to read as follows:

§ 98.417 Records that must be retained.

(a) * * *

(2) Records documenting the initial and periodic calibration of the analytical equipment (including but not limited to GC, IR, FTIR, or NMR), weigh scales, flowmeters, and volumetric and density measures used to measure the quantities reported under this subpart, including the manufacturer directions or industry standards used for

calibration pursuant to § 98.414(m) and (o).

(b) In addition to the data required by paragraph (a) of this section, any fluorinated GHG production facility that destroys fluorinated GHGs shall keep records of test reports and other information documenting the facility's one-time destruction efficiency report in § 98.416(b).

* * * * *

(d) * * *

(2) The invoice for the export.

* * * * *

(f) Isolated intermediates that are produced and transformed at the same facility are exempt from the recordkeeping requirements of this section.

(g) Low-concentration constituents are exempt from the recordkeeping requirements of this section.

■ 52. Section 98.418 is revised to read as follows:

§ 98.418 Definitions.

Except as provided below, all of the terms used in this subpart have the same meaning given in the Clean Air Act and subpart A of this part. If a conflict exists between a definition provided in this subpart and a definition provided in subpart A, the definition in this subpart shall take precedence for the reporting requirements in this subpart.

Isolated intermediate means a product of a process that is stored before subsequent processing. An isolated intermediate is usually a product of chemical synthesis. Storage of an isolated intermediate marks the end of a process. Storage occurs at any time the intermediate is placed in equipment used solely for storage.

Low-concentration constituent means, for purposes of fluorinated GHG production and export, a fluorinated GHG constituent of a fluorinated GHG product that occurs in the product in concentrations below 0.1 percent by mass. For purposes of fluorinated GHG import, low-concentration constituent means a fluorinated GHG constituent of a fluorinated GHG product that occurs in the product in concentrations below 0.5 percent by mass. Low-concentration constituents do not include fluorinated GHGs that are deliberately combined with the product (*e.g.,* to affect the performance characteristics of the product).

Subpart PP—[Amended]

■ 53. Section 98.422 is amended by revising paragraphs (a) and (b) to read as follows:

§ 98.422 GHGs to report.

(a) Mass of CO_2 captured from production process units.

(b) Mass of CO_2 extracted from CO_2 production wells.

* * * * *

■ 54. Section 98.423 is amended by:

■ a. Revising the first sentence of paragraph (a) introductory text.

■ b. Revising the first sentences of paragraphs (a)(1) and (a)(2).

■ c. Revising the definitions of "$C_{CO2,p}$" and "D_p" in Equation PP–2 in paragraph (a)(2).

■ d. Revising paragraph (a)(3).

■ e. Redesignating paragraph (b) as paragraph (c) and revising newly designated paragraph (c).

■ f. Adding paragraph (b).

§ 98.423 Calculating CO_2 Supply.

(a) Except as allowed in paragraph (b) of this section, calculate the annual mass of CO_2 captured, extracted, imported, or exported through each flow meter in accordance with the procedures specified in either paragraph (a)(1) or (a)(2) of this section. * * *

(1) For each mass flow meter, you shall calculate quarterly the mass of CO_2 in a CO_2 stream in metric tons by multiplying the mass flow by the composition data, according to Equation PP–1 of this section. * * *

* * * * *

(2) For each volumetric flow meter, you shall calculate quarterly the mass of CO_2 in a CO_2 stream in metric tons by multiplying the volumetric flow by the concentration and density data, according to Equation PP–2 of this section. * * *

* * * * *

$C_{CO2,p}$ = Quarterly CO_2 concentration measurement in flow for flow meter u in quarter p (measured as either volume % CO_2 or weight % CO_2).

* * * * *

D_p = Density of CO_2 in quarter p (metric tons CO_2 per standard cubic meter) for flow meter u if $C_{CO2,p}$ is measured as volume % CO_2, or density of the whole CO_2 stream for flow meter u (metric tons per standard cubic meter) if $C_{CO2,p}$ is measured as weight % CO_2.

* * * * *

(3) To aggregate data, use either Equation PP–3a or PP–3b in this paragraph, as appropriate.

(i) For facilities with production process units that capture a CO_2 stream and either measure it after segregation or do not segregate the flow, calculate the total CO_2 supplied in accordance with Equation PP–3a.

$$CO_2 = \sum_{p=1}^{U} CO_{2,u} \qquad \text{(Eq. PP-3a)}$$

Where:

CO_2 = Total annual mass of CO_2 (metric tons).

$CO_{2,u}$ = Annual mass of CO_2 (metric tons) through flow meter u.

u = Flow meter.

(ii) For facilities with production process units that capture a CO_2 stream and measure it ahead of segregation, calculate the total CO_2 supplied in accordance with Equation PP–3b.

$$CO_2 = \sum_{p=1}^{U} CO_{2,u} - \sum_{p=1}^{V} CO_{2,v} \qquad \text{(Eq. PP-3b)}$$

Where:

CO_2 = Total annual mass of CO_2 (metric tons).

$CO_{2,u}$ = Annual mass of CO_2 (metric tons) through main flow meter u.

$CO_{2,v}$ = Annual mass of CO_2 (metric tons) through subsequent flow meter v for use on site.

u = Main flow meter.

v = Subsequent flow meter.

(b) As an alternative to paragraphs (a)(1) through (3) of this section for CO_2 that is supplied in containers, calculate the annual mass of CO_2 supplied in containers delivered by each CO_2 stream

in accordance with the procedures specified in either paragraph (b)(1) or (b)(2) of this section. If multiple CO_2 streams are used to deliver CO_2 to containers, you shall calculate the annual mass of CO_2 supplied in containers delivered by all CO_2 streams according to the procedures specified in paragraph (b)(3) of this section.

(1) For each CO_2 stream that delivers CO_2 to containers, for which mass is measured, you shall calculate CO_2 supply in containers using Equation PP–1 of this section.

Where:

$CO_{2,u}$ = Annual mass of CO_2 (metric tons) supplied in containers delivered by CO_2 stream u.

$C_{CO2,p,u}$ = Quarterly CO_2 concentration measurement of CO_2 stream u that delivers CO_2 to containers in quarter p (wt. %CO_2).

$Q_{p,u}$ = Quarterly mass of contents supplied in all containers delivered by CO_2 stream u in quarter p (metric tons).

p = Quarter of the year.

u = CO_2 stream that delivers to containers.

(2) For each CO_2 stream that delivers to containers, for which volume is measured, you shall calculate CO_2 supply in containers using Equation PP–2 of this section.

Where:

$CO_{2,u}$ = Annual mass of CO_2 (metric tons) supplied in containers delivered by CO_2 stream u.

$C_{CO2,p}$ = Quarterly CO_2 concentration measurement of CO_2 stream u that delivers CO_2 to containers in quarter p (measured as either volume % CO_2 or weight % CO_2).

Q_p = Quarterly volume of contents supplied in all containers delivered by CO_2 stream u in quarter p (standard cubic meters).

D_p = Quarterly CO_2 density determination for CO_2 stream u in quarter p (metric tons per standard cubic meter) if $CO_{2,p}$ is measured as volume % CO_2, or density of CO_2 stream u (metric tons per standard cubic meter) if $CO_{2,p}$ is measured as weight % CO_2.

p = Quarter of the year.

u = CO_2 stream that delivers to containers.

(3) To aggregate data, sum the mass of CO_2 supplied in containers delivered by all CO_2 streams in accordance with Equation PP–3a of this section.

Where:

CO_2 = Annual mass of CO_2 (metric tons) supplied in containers delivered by all CO_2 streams.

$CO_{2,u}$ = Annual mass of CO_2 (metric tons) supplied in containers delivered by CO_2 stream u.

u = CO_2 stream that delivers to containers.

(c) Importers or exporters that import or export CO_2 in containers shall calculate the total mass of CO_2 imported or exported in metric tons based on summing the mass in each CO_2 container using weigh bills, scales, or load cells according to Equation PP–4 of this section.

$$CO_2 = \sum_{p=1}^{I} Q \qquad \text{(Eq. PP-4)}$$

Where:

CO_2 = Annual mass of CO_2 (metric tons).

Q = Annual mass in all CO_2 containers imported or exported during the reporting year (metric tons).

■ 55. Section 98.424 is amended by:

■ a. Revising paragraphs (a)(1), (a)(2), and (a)(5).

■ b. Revising the second sentence of paragraph (b)(2).

■ c. Adding paragraph (c).

§ 98.424 Monitoring and QA/QC requirements.

(a) * * *

(1) Reporters following the procedures in § 98.423(a) shall determine quantity using a flow meter or meters located in accordance with this paragraph.

(i) If the CO_2 stream is segregated such that only a portion is captured for commercial application or for injection, you must locate the flow meter according to the following:

(A) For reporters following the procedures in § 98.423(a)(3)(i), you must locate the flow meter(s) after the point of segregation.

(B) For reporters following the procedures in paragraph (a)(3)(ii) of § 98.423, you must locate the main flow meter(s) on the captured CO_2 stream(s) prior to the point of segregation and the subsequent flow meter(s) on the CO_2 stream(s) for on-site use after the point of segregation. You may only follow the procedures in paragraph (a)(3)(ii) of § 98.423 if the CO_2 stream(s) for on-site use is/are the only diversion(s) from the main, captured CO_2 stream(s) after the main flow meter location(s).

(ii) Reporters that have a mass flow meter or volumetric flow meter installed to measure the flow of a CO_2 stream that meets the requirements of paragraph (a)(1)(i) of this section shall base calculations in § 98.423 of this subpart on the installed mass flow or volumetric flow meters.

(iii) Reporters that do not have a mass flow meter or volumetric flow meter installed to measure the flow of the CO_2 stream that meets the requirements of paragraph (a)(1)(i) of this section shall base calculations in § 98.423 of this subpart on the flow of gas transferred off site using a mass flow meter or a volumetric flow meter located at the point of off-site transfer.

(2) Reporters following the procedures in paragraph (b) of § 98.423 shall determine quantity in accordance with this paragraph.

(i) Reporters that supply CO_2 in containers using weigh bills, scales, or load cells shall measure the mass of contents of each CO_2 container to which the CO_2 stream is delivered, sum the mass of contents supplied in all containers to which the CO_2 stream is delivered during each quarter, sample the CO_2 stream delivering CO_2 to containers on a quarterly basis to determine the composition of the CO_2 stream, and apply Equation PP–1.

(ii) Reporters that supply CO_2 in containers using loaded container volumes shall measure the volume of contents of each CO_2 container to which the CO_2 stream is delivered, sum the volume of contents supplied in all containers to which the CO_2 stream is delivered during each quarter, sample the CO_2 stream on a quarterly basis to determine the composition of the CO_2 stream, determine the density quarterly, and apply Equation PP–2.

* * * * *

(5) Reporters using Equation PP–2 of this subpart and measuring CO_2 concentration as weight % CO_2 shall determine the density of the CO_2 stream on a quarterly basis in order to calculate the mass of the CO_2 stream according to one of the following procedures:

(i) You may use a method published by a consensus-based standards organization. Consensus-based standards organizations include, but are not limited to, the following: ASTM International (100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–B2959, (800) 262–1373, *http://www.astm.org*), the American National Standards Institute (ANSI, 1819 L Street, NW., 6th floor, Washington, DC 20036, (202) 293–8020, *http://www.ansi.org*), the American Gas Association (AGA, 400 North Capitol Street, NW., 4th Floor, Washington, DC 20001, (202) 824–7000, *http://www.aga.org*), the American Society of

Mechanical Engineers (ASME, Three Park Avenue, New York, NY 10016–5990, (800) 843–2763, *http://www.asme.org*), the American Petroleum Institute (API, 1220 L Street, NW., Washington, DC 20005–4070, (202) 682–8000, *http://www.api.org*), and the North American Energy Standards Board (NAESB, 801 Travis Street, Suite 1675, Houston, TX 77002, (713) 356–0060, *http://www.api.org*). The method(s) used shall be documented in the Monitoring Plan required under § 98.3(g)(5).

(ii) You may follow an industry standard method.

(b) * * *

(2) * * * Acceptable methods include, but are not limited to, the U.S. Food and Drug Administration food-grade specifications for CO_2 (*see* 21 CFR 184.1240) and ASTM standard E1747–95 (Reapproved 2005) Standard Guide for Purity of Carbon Dioxide Used in Supercritical Fluid Applications (ASTM International, 100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–B2959, (800) 262–1373, *http://www.astm.org*).

(c) You shall convert the density of the CO_2 stream(s) and all measured volumes of carbon dioxide to the following standard industry temperature and pressure conditions: Standard cubic meters at a temperature of 60 degrees Fahrenheit and at an absolute pressure of 1 atmosphere. If you apply the density value for CO_2 at standard conditions, you must use 0.001868 metric tons per standard cubic meter.

■ 56. Section 98.425 is amended by revising paragraph (a) introductory text; and by adding paragraph (d) to read as follows:

§ 98.425 Procedures for estimating missing data.

(a) Whenever the quality assurance procedures in § 98.424(a)(1) of this subpart cannot be followed to measure quarterly mass flow or volumetric flow of CO_2, the most appropriate of the following missing data procedures shall be followed:

* * * * *

(d) Whenever the quality assurance procedures in § 98.424(a)(2) of this subpart cannot be followed to measure quarterly quantity of CO_2 in containers, the most appropriate of the following missing data procedures shall be followed:

(1) A quarterly quantity of CO_2 in containers that is missing may be substituted with a quarterly value measured during another representative quarter of the current reporting year.

(2) A quarterly quantity of CO_2 in containers that is missing may be substituted with a quarterly value measured during the same quarter from the past reporting year.

(3) The quarterly quantity of CO_2 in containers recorded for purposes of product tracking and billing according to the reporter's established procedures may be substituted for any period during which measurement equipment is inoperable.

■ 57. Section 98.426 is amended by:

■ a. Revising paragraphs (a) introductory text and (a)(2).

■ b. Adding paragraph (a)(5).

■ c. Revising paragraphs (b) introductory text, (b)(2), (b)(3), and (b)(4).

■ d. Adding paragraph (b)(7).

■ e. Revising paragraphs (c) and (e)(1).

§ 98.426 Data reporting requirements.

* * * * *

(a) If you use Equation PP–1 of this subpart, report the following information for each mass flow meter or CO_2 stream that delivers CO_2 to containers:

* * * * *

(2) Quarterly mass in metric tons of CO_2.

* * * * *

(5) The location of the flow meter in your process chain in relation to the points of CO_2 stream capture, dehydration, compression, and other processing.

* * * * *

(b) If you use Equation PP–2 of this subpart, report the following information for each volumetric flow meter or CO_2 stream that delivers CO_2 to containers:

* * * * *

(2) Quarterly volume in standard cubic meters of CO_2.

(3) Quarterly concentration of the CO_2 stream in volume or weight percent.

(4) Report density as follows:

(i) Quarterly density of CO_2 in metric tons per standard cubic meter if you report the concentration of the CO_2 stream in paragraph (b)(3) of this section in weight percent.

(ii) Quarterly density of the CO_2 stream in metric tons per standard cubic meter if you report the concentration of the CO_2 stream in paragraph (b)(3) of this section in volume percent.

* * * * *

(7) The location of the flow meter in your process chain in relation to the points of CO_2 stream capture, dehydration, compression, and other processing.

(c) For the aggregated annual mass of CO_2 emissions calculated using Equation PP–3a or PP–3b, report the following:

(1) If you use Equation PP–3a of this subpart, report the annual CO_2 mass in metric tons from all flow meters and CO_2 streams that deliver CO_2 to containers.

(2) If you use Equation PP–3b of this subpart, report:

(i) The total annual CO_2 mass through main flow meter(s) in metric tons.

(ii) The total annual CO_2 mass through subsequent flow meter(s) in metric tons.

(iii) The total annual CO_2 mass supplied in metric tons.

(iv) The location of each flow meter in relation to the point of segregation.

* * * * *

(e) * * *

(1) The type of equipment used to measure the total flow of the CO_2 stream or the total mass or volume in CO_2 containers.

* * * * *

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Federal Register

Friday,
December 17, 2010

Part III

Department of Health and Human Services

Centers for Medicare & Medicaid Services

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—July Through September 2010; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9062–N]

Medicare and Medicaid Programs; Quarterly Listing of Program Issuances—July Through September 2010

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice lists CMS manual instructions, substantive and interpretive regulations, and other **Federal Register** notices that were published from July through September 2010, relating to the Medicare and Medicaid programs. This notice provides information on national coverage determinations (NCDs) affecting specific medical and health care services under Medicare. Additionally, this notice identifies certain devices with investigational device exemption (IDE) numbers approved by the Food and Drug Administration (FDA) that potentially may be covered under Medicare. This notice also includes listings of all approval numbers from the Office of Management and Budget for collections of information in CMS regulations and a list of Medicare-approved carotid stent facilities. Included in this notice is a list of the American College of Cardiology's National Cardiovascular Data registry sites, active CMS coverage-related guidance documents, and special one-time notices regarding national coverage provisions. Also included in this notice is a list of National Oncologic Positron Emissions Tomography Registry sites, a list of Medicare-approved ventricular assist device (destination therapy) facilities, a list of Medicare-approved lung volume reduction surgery facilities, a list of Medicare-approved clinical trials for fluorodeoxyglucose positron emissions tomography for dementia, and a list of Medicare-approved bariatric surgery facilities.

Section 1871(c) of the Social Security Act requires that we publish a list of Medicare issuances in the **Federal Register** at least every 3 months. Although we are not mandated to do so by statute, for the sake of completeness of the listing, and to foster more open and transparent collaboration efforts, we are also including all Medicaid issuances and Medicaid substantive and interpretive regulations (proposed and final) published during this 3-month timeframe.

FOR FURTHER INFORMATION CONTACT: It is possible that an interested party may need specific information and not be able to determine from the listed information whether the issuance or regulation would fulfill that need. Consequently, we are providing contact persons to answer general questions concerning these items. Copies are not available through the contact persons. (*See* Section III of this notice for how to obtain listed material.)

Questions concerning CMS manual instructions in Addendum III may be addressed to Ismael Torres, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–1864.

Questions concerning regulation documents published in the **Federal Register** in Addendum IV may be addressed to Terri Plumb, Office of Strategic Operations and Regulatory Affairs, Centers for Medicare & Medicaid Services, C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–4481.

Questions concerning Medicare NCDs in Addendum V may be addressed to Patricia Brocato-Simons, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–0261.

Questions concerning FDA-approved Category B IDE numbers listed in Addendum VI may be addressed to John Manlove, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–13–04, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6877.

Questions concerning approval numbers for collections of information in Addendum VII may be addressed to Eulanda Grigg, Office of Strategic Operations and Regulatory Affairs, Regulations Development and Issuances Group, Centers for Medicare & Medicaid Services, C5–11–16, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7202.

Questions concerning Medicare-approved carotid stent facilities in Addendum VIII may be addressed to Sarah J. McClain, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–2994.

Questions concerning Medicare's recognition of the American College of Cardiology-National Cardiovascular Data Registry sites in Addendum IX may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare's active coverage-related guidance documents in Addendum X may be addressed to Beverly Lofton, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7136.

Questions concerning one-time notices regarding national coverage provisions in Addendum XI may be addressed to Beverly Lofton, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7136.

Questions concerning National Oncologic Positron Emission Tomography Registry sites in Addendum XII may be addressed to Stuart Caplan, RN, MAS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–8564.

Questions concerning Medicare-approved ventricular assist device (destination therapy) facilities in Addendum XIII may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare-approved lung volume reduction surgery facilities listed in Addendum XIV may be addressed to JoAnna Baldwin, MS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–7205.

Questions concerning Medicare-approved bariatric surgery facilities listed in Addendum XV may be addressed to Kate Tillman, RN, MA, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–9252.

Questions concerning fluorodeoxyglucose positron emission

tomography for dementia trials listed in Addendum XVI may be addressed to Stuart Caplan, RN, MAS, Office of Clinical Standards and Quality, Centers for Medicare & Medicaid Services, C1–09–06, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–8564.

Questions concerning all other information may be addressed to Annette Brewer, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group, Centers for Medicare & Medicaid Services, C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, or you can call (410) 786–6580.

SUPPLEMENTARY INFORMATION:

I. Program Issuances

The Centers for Medicare & Medicaid Services (CMS) is responsible for administering the Medicare and Medicaid programs. These programs pay for health care and related services for 39 million Medicare beneficiaries and 35 million Medicaid recipients. Administration of the two programs involves the following: (1) Furnishing information to Medicare beneficiaries and Medicaid recipients, health care providers, and the public; and (2) maintaining effective communications with regional offices, State governments, State Medicaid agencies, State survey agencies, various providers of health care, all Medicare contractors that process claims and pay bills, and others. To implement the various statutes on which the programs are based, we issue regulations under the authority granted to the Secretary of the Department of Health and Human Services under sections 1102, 1871, 1902, and related provisions of the Social Security Act (the Act). We also issue various manuals, memoranda, and statements necessary to administer the programs efficiently.

Section 1871(c)(1) of the Act requires that we publish a list of all Medicare manual instructions, interpretive rules, statements of policy, and guidelines of general applicability not issued as regulations at least every 3 months in the **Federal Register**. We published our first notice June 9, 1988 (53 FR 21730). Although we are not mandated to do so by statute, for the sake of completeness of the listing of operational and policy statements, and to foster more open and transparent collaboration, we are continuing our practice of including Medicare substantive and interpretive regulations (proposed and final) published during the respective 3-month time frame.

II. How To Use the Addenda

This notice is organized so that a reader may review the subjects of manual issuances, memoranda, substantive and interpretive regulations, national coverage determinations (NCD), and FDA-approved investigational device exemptions (IDE) published during the subject quarter to determine whether any are of particular interest. We expect this notice to be used in concert with previously published notices. Those unfamiliar with a description of our Medicare manuals may wish to review Table I of our first three notices (53 FR 21730, 53 FR 36891, and 53 FR 50577) published in 1988, and the notice published March 31, 1993 (58 FR 16837). Those desiring information on the Medicare NCD Manual (NCDM, formerly the Medicare Coverage Issues Manual (CIM)) may wish to review the August 21, 1989, publication (54 FR 34555). Those interested in the revised process used in making NCDs under the Medicare program may review the September 26, 2003, publication (68 FR 55634).

To aid the reader, we have organized and divided this current listing into 11 addenda:

- Addendum I lists the publication dates of the most recent quarterly listings of program issuances.
- Addendum II identifies previous **Federal Register** documents that contain a description of all previously published CMS Medicare and Medicaid manuals and memoranda.
- Addendum III lists a unique CMS transmittal number for each instruction in our manuals or Program Memoranda and its subject matter. A transmittal may consist of a single or multiple instruction(s). Often, it is necessary to use information in a transmittal in conjunction with information currently in the manuals.
- Addendum IV lists all substantive and interpretive Medicare and Medicaid regulations and general notices published in the **Federal Register** during the quarter covered by this notice. For each item, we list the following:
  - ++ Date published;
  - ++ **Federal Register** citation;
  - ++ Parts of the Code of Federal Regulations (CFR) that have changed (if applicable);
  - ++ Agency file code number; and
  - ++ Title of the regulation.
- Addendum V includes completed NCDs, or reconsiderations of completed NCDs, from the quarter covered by this notice. Completed decisions are identified by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision.
- Addendum VI includes listings of the FDA-approved IDE categorizations, using the IDE numbers the FDA assigns. The listings are organized according to the categories to which the device numbers are assigned (that is, Category A or Category B), and identified by the IDE number.
- Addendum VII includes listings of all approval numbers from the Office of Management and Budget (OMB) for collections of information in CMS regulations in title 42; title 45, subchapter C; and title 20 of the CFR.
- Addendum VIII includes listings of Medicare-approved carotid stent facilities. All facilities listed meet CMS standards for performing carotid artery stenting for high risk patients.
- Addendum IX includes a list of the American College of Cardiology's National Cardiovascular Data registry sites. We cover implantable cardioverter defibrillators (ICDs) for certain indications, as long as information about the procedures is reported to a central registry.
- Addendum X includes a list of active CMS guidance documents. As required by section 731 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173, enacted on December 8, 2003), we will begin listing the current versions of our guidance documents in each quarterly listings notice.
- Addendum XI includes a list of special one-time notices regarding national coverage provisions. We are publishing a list of issues that require public notification, such as a particular clinical trial or research study that qualifies for Medicare coverage.
- Addendum XII includes a listing of National Oncologic Positron Emission Tomography Registry (NOPR) sites. We cover positron emission tomography (PET) scans for particular oncologic indications when they are performed in a facility that participates in the NOPR.
- Addendum XIII includes a listing of Medicare-approved facilities that receive coverage for ventricular assist devices used as destination therapy. All facilities were required to meet our standards in order to receive coverage for ventricular assist devices implanted as destination therapy.
- Addendum XIV includes a listing of Medicare-approved facilities that are eligible to receive coverage for lung volume reduction surgery. Until May 17, 2007, facilities that participated in the National Emphysema Treatment Trial are also eligible to receive coverage.

• Addendum XV includes a listing of Medicare-approved facilities that meet minimum standards for facilities modeled in part on professional society statements on competency. All facilities must meet our standards in order to receive coverage for bariatric surgery procedures.

• Addendum XVI includes a listing of Medicare-approved clinical trials for fluorodeoxyglucose positron emission tomography (FDG–PET) for dementia and neurodegenerative diseases.

III. How To Obtain Listed Material

A. Manuals

Those wishing to subscribe to program manuals should contact either the Government Printing Office (GPO) or the National Technical Information Service (NTIS) at the following addresses: Superintendent of Documents, Government Printing Office, ATTN: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954, Telephone (202) 512–1800, Fax number (202) 512–2250 (for credit card orders); or National Technical Information Service, Department of Commerce, 5825 Port Royal Road, Springfield, VA 22161, Telephone (703) 487–4630.

In addition, individual manual transmittals and Program Memoranda listed in this notice can be purchased from NTIS. Interested parties should identify the transmittal(s) they want. GPO or NTIS can give complete details on how to obtain the publications they sell. Additionally, most manuals are available at the following Internet address: *http://cms.hhs.gov/manuals/default.asp.*

B. Regulations and Notices

Regulations and notices are published in the daily **Federal Register**. Interested individuals may purchase individual copies or subscribe to the **Federal Register** by contacting the GPO at the address given above. When ordering individual copies, it is necessary to cite either the date of publication or the volume number and page number.

The **Federal Register** is also available on 24x microfiche and as an online database through *GPO Access.* The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is *http://www.–gpoaccess.–gov/–fr/–index.–html,* by using local WAIS client software, or by telnet to swais.gpoaccess.gov, then log in as guest (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then log in as guest (no password required).

C. Rulings

We publish rulings on an infrequent basis. CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. CMS Rulings provide clarification and interpretation of complex or ambiguous provisions of the law or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters. Interested individuals can obtain copies from the nearest CMS Regional Office or review them at the nearest regional depository library. On occasion, we publish rulings in the **Federal Register**. Rulings, beginning with those released in 1995, are available online, through the CMS Home Page. The Internet address is *http://www.cms.hhs.gov/rulings.*

D. CMS' Compact Disk-Read Only Memory (CD–ROM)

Our laws, regulations, and manuals are also available on CD–ROM and may be purchased from GPO or NTIS on a subscription or single copy basis. The Superintendent of Documents list ID is HCLRM, and the stock number is 717–139–00000–3. The following material is on the CD–ROM disk:

• Titles XI, XVIII, and XIX of the Act.
• CMS-related regulations.
• CMS manuals and monthly revisions.
• CMS program memoranda.

The titles of the Compilation of the Social Security Laws are current as of January 1, 2005. (Updated titles of the Social Security Laws are available on the Internet at *http://www.ssa.gov/OP_Home/ssact/comp-toc.htm.*) The remaining portions of CD–ROM are updated on a monthly basis.

Because of complaints about the unreadability of the Appendices (Interpretive Guidelines) in the State Operations Manual (SOM), as of March 1995, we deleted these appendices from CD–ROM. We intend to re-visit this issue in the near future and, with the aid of newer technology, we may again be able to include the appendices on CD–ROM.

Any cost report forms incorporated in the manuals are included on the CD–ROM disk as LOTUS files. LOTUS software is needed to view the reports once the files have been copied to a personal computer disk.

IV. How To Review Listed Material

Transmittals or Program Memoranda can be reviewed at a local Federal Depository Library (FDL). Under the FDL program, government publications are sent to approximately 1,400 designated libraries throughout the United States. Some FDLs may have arrangements to transfer material to a local library not designated as an FDL. Contact any library to locate the nearest FDL.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of most Federal Government publications, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library.

For each CMS publication listed in Addendum III, CMS publication and transmittal numbers are shown. To help FDLs locate the materials, use the CMS publication and transmittal numbers. For example, to find the Medicare National Coverage Determination publication titled "Positron Emission Tomography (FDG PET) for Initial Treatment Strategy (PI) in Solid Tumors and Myeloma," use CMS–Pub. 100–03, Transmittal No. 124.

Authority: (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, Program No. 93.774, Medicare—Supplementary Medical Insurance Program, and Program No. 93.714, Medical Assistance Program)

Dated: December 10, 2010.

Jacquelyn Y. White,

Director, Office of Strategic Operations and Regulatory Affairs.

BILLING CODE 4120–01–P

ADDENDUM I:

This addendum lists the publication dates of the most recent quarterly listings of program issuances.

September 26, 2008 (73 FR 55902)
December 30, 2008 (73 FR 79982)
March 27, 2009 (74 FR 13516)
June 26, 2009 (74 FR 30689)
September 25, 2009 (74 FR 49076)
December 18, 2009 (74 FR 67310)
March 26, 2010 (75 FR 14906)
June 28, 2010 (75 FR 36786)
September 24, 2010 (75 FR 58790)

ADDENDUM II: Description of Manuals, Memoranda, and CMS Rulings

An extensive descriptive listing of Medicare manuals and memoranda was published in the June 9, 1988 **Federal Register** (53 FR 21730) and supplemented in the September 22, 1988 **Federal Register** (53 FR 36891) and the December 16, 1988 **Federal Register** (53 FR 50577). Also, a complete description of the former CIM (now the NCDM) was published in the August 21, 1989 **Federal Register** (54 FR 34555). A brief description of the various Medicaid manuals and memoranda that we maintain was published in the October 16, 1992 **Federal Register** (57 FR 47468).

ADDENDUM III: Medicare and Medicaid Manual Instructions July Through September 2010

Transmittal No.	Manual/Subject/Publication Number
	Medicare General Information (CMS-Pub. 100-01)
64	January 2011 Update to the CMS Standard File for Reason Codes for the Fiscal Intermediary Shared System (FISS)
	Medicare Benefit Policy (CMS-Pub. 100-02)
132	Revisions and Re-issuance of Audiology Policies
	Medicare National Coverage Determination (CMS-Pub. 100-03)
123	Magnetic Resonance Angiography (MRA)
	Magnetic Resonance Imaging (MRI) (Various Effective Dates Below)
	Magnetic Resonance Angiography (MRA)
124	Positron Emission Tomography (FDG PET) for Initial Treatment Strategy (PI) in Solid Tumors and Myeloma
125	Intensive Cardiac Rehabilitation (ICR) Programs - Dr. Ornish's Program for Reversing Heart Disease and the Pritikin Program
	Medicare Claims Processing (CMS-Pub. 100-04)
1993	July Quarterly Update for 2010 Durable Medical Equipment, Prosthetics, Orthotics, and Suppliers (DMEPOS) Fee Schedule
1994	Billing and Claims Processing for Automatic Implantable Cardiac Defibrillator (ICD) Services
	Claims Processing for Implantable Automatic Defibrillators
	Claims Processing for Implantable Automatic Defibrillators
1995	Billing Requirements for Patients Enrolled in a Data Collection System/ Issued to a specific audience, not posted to Internet/Intranet due to Sensitivity of Instruction
1996	Medicare Contractor Annual Update of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM)
1997	Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
1998	Magnetic Resonance Angiography (MRA)
	Magnetic Resonance Imaging (MRI) Procedures
	Magnetic Resonance Imaging (MRI) Procedures
1999	Issued to a specific audience not, posted to the Internet/Intranet due to Sensitivity of Instruction
2000	Issued to a specific audience not, posted to the Internet / Intranet due to

Confidentiality of Instruction
2001 Changes to the Laboratory National Coverage Determination (NCD) Edit Software for October 2010
2002 Claim Status Category and Claim Status Code Update
2003 New Physician Specialty Code for Geriatric Psychiatry
Physician Specialty Codes
2004 Update to Hospice Payment Rates, Hospice Cap, Hospice Wage Index, and the Hospice Pricer for FY 2011.
2005 Billing and Claims Processing for Automatic Implantable Cardiac Defibrillator (ICD) Services
Claims Processing for Implantable Automatic Defibrillators
Claims Processing for Implantable Automatic Defibrillators
Claims Processing for Implantable Automatic Defibrillators
2006 October Quarterly Update for 2010 Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule
Process for Submitting Revisions to DMEPOS Fee Schedule to CMS
2007 Revisions and Re-issuance of Audiology Policies
Part B Outpatient Rehabilitation and Comprehensive Outpatient Rehabilitation Facility (CORF) Services – General
Applicable Revenue Codes
Line Item Date of Service Reporting
CWF and PSandR Requirements – Fis
Audiology Services
2008 Common Working File (CWF) Override Edit for Kidney Transplant Donor Claims When the Kidney Recipient is Deceased
2009 Implementation of the Interrupted Stay Policy under the Inpatient Psychiatric Facility Prospective Payment System (IPF PPS)
Interrupted Stays
IPF PPS System Edits
Inputs/Outputs to PRICER
2010 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
2011 Revised Instructions for Reporting Assessment Dates under the Inpatient Rehabilitation Facility (IRF), Skilled Nursing Facility (SNF), and Swing Bed (SB) Prospective Payment Systems (PPS)
Low-Income Patient (LIP) Adjustment: The Supplemental Security Income (SSI)/Medicare Beneficiary Data for Inpatient Rehabilitation Facilities (IRFs) Paid Under the Prospective Payment System (PPS)
Payment Adjustment for Late Transmission of Patient Assessment Data
Billing SNF PPS Services
2012 Issued to a specific audience not, posted to the Internet / Intranet due to Confidentiality of Instruction
2013 Issued to a specific audience not, posted to the Internet/Intranet due to Sensitivity of Instruction
2014 Common Working File (CWF) Unsolicited Response Adjustments for Claims Denied Due to an Open Medicare Secondary Payer (MSP) Group Health Plan (GHP) Record Where the GHP Record was Subsequently Deleted or Terminated
2015 Revisions to Claims Processing Instructions for Services Rendered in Place of Service Home
Payment Jurisdiction Among Local B/MACs for Services Paid Under the Physician Fee Schedule and Anesthesia Services
Claims Processing Instructions for Payment Jurisdiction
Carrier Data Element Requirements
Conditional Data Element Requirements for Carriers and DMERCs
Items 14-33 - Provider of Services or Supplier Information
2016 Implementation--Processing Additional International Classification of Diseases, 9th Revision-Clinical Modification (ICD-9-CM) Diagnosis and Procedure Codes in Pricer, Grouper, and the Medicare Code Editor (MCE)
Medicare Code Editor (MCE)
DRG GROUPER Program
Identifying Claims Eligible for the Add-On Payment for New Technology
Comorbidity Adjustments
General Rules
Input/Output Record Layout
2017 Medicare Contractor Annual Update of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM)
Indian Health Services (IHS) Hospital Payment Rates for Calendar Year 2010
Claim Adjustment Reason Code (CARC), Remittance Advice Remark Code (RARC), and Medicare Remit Easy Print (MREP) Update
Clarification of Billing Requirement for Ancillary Services Performed in the Ambulatory Surgical Center (ASC) by Entities Other Than ASCs
Applicable Messages for ASC 2008 Payment Changes Effective January 1, 2008
2021 Issued to a specific audience not, posted to the Internet / Intranet due to Sensitivity of Instruction
2022 Issued to a specific audience not, posted to the Internet/Intranet due to Confidentiality of Instruction
2023 Medicare Part A Skilled Nursing Facility (SNF) Prospective Payment System (PPS) Pricer Update FY 2011
2024 Issued to a specific, audience not, posted to the Internet/Intranet due to Sensitivity of Instruction
2025 Issued to a specific audience not, posted to the Internet/Intranet due to Confidentiality of Instruction
2026 Inpatient Rehabilitation Facility (IRF) Annual Update: Prospective Payment System (PPS) Pricer Changes for FY 2011
Payment Provisions Under IRF PPS
Billing Requirements Under IRF PPS
2027 Issued to a specific audience not, posted to the Internet/Intranet due to Confidentiality of Instruction
2028 5010 Implementation--Processing Additional International Classification of Diseases, 9th Revision-Clinical Modification (ICD-9-CM) Diagnosis and Procedure Codes in Pricer, Grouper, and the Medicare Code Editor (MCE
Medicare Code Editor (MCE)
DRG GROUPER Program
Identifying Claims Eligible for the Add-On Payment for New Technology

Comorbidity Adjustments
General Rules
Input/Output Record Layout
2029 Issued to a specific, audience not, posted to the Internet/Intranet due to Sensitivity of Instruction
2030 New Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Specialty Code for Ocularists
Nonphysician Practitioner, Supplier, and Provider Specialty Codes
2031 Beneficiary-Submitted Claims
Monitoring Claims Submission Violations
Handling Incomplete or Invalid Claims
2032 Issued to a specific, audience not, posted to the Internet/Intranet due to Sensitivity of Instruction
2033 End Stage Renal Disease (ESRD) Prospective Payment System (PPS) and Consolidated Billing for Limited Part B Services
General Description of ESRD Payment
Deductible and Coinsurance
Amount of payment
Calculation of Case Mix Adjusted Composite Rate and Prospective payment System Rate
Publication of Composite Rate
Processing Requests for Composite Rate Exceptions
Pediatric Payment Model for ESRD PPS
Lab Services Included in the Prospective Payment System
Drugs and Biologicals Included in the Prospective Payment System
Required Information for In-Facility Claims Paid Under the Composite Rate and PPS
Training and Retraining
Coding for Adequacy of Dialysis, Vascular Access and Infection
Lab Services
Drugs Furnished in Dialysis Facilities
Drugs Furnished in Dialysis Facilities
Separately Billable ESRD Drugs
Facilities Billing for ESRD Drugs Equivalent to Injectable Drugs
Drug Payment Amounts for Facilities
Blood and Blood Services Furnished in Hospital Based and Independent Dialysis Facilities
Payment Amount for Epoetin Alfa (EPO)
Payment for Epoetin Alfa (EPO) in Other Settings
Vaccines Furnished to ESRD Patients
Payment Amount for Darbepoetin Alfa (Aranesp)
Payment for Darbepoetin Alfa (Aranesp) in Other Settings
Payment for Home Dialysis
Method Selection for Home Dialysis Payment
2034 Issued to a specific, audience not, posted to the Internet/Intranet due to Sensitivity of Instruction
2035 Change Physician Specialty Code 12 to Osteopathic Manipulative Medicine Physician Specialty Codes
2036 Quarterly Update to Correct Coding Initiative (CCI) Edits, Version 16.3, Effective October 1, 2010
2037 Healthcare Common Procedure Coding System (HCPCS) Annual Update Reminder
2038 New Waived Tests
2039 Issued to a specific, audience not, posted to the Internet/Intranet due to Sensitivity of Instruction
2040 Issued to a specific, audience not, posted to the Internet/Intranet due to Sensitivity of Instruction
2041 Calendar Year 2011 Payments to Home Health Agencies That Do Not Submit Required Quality Data
Payments to Home Health Agencies That Do Not Submit Required Quality Data
2042 October 2010 Integrated Outpatient Code Editor (I/OCE) Specifications Version 11.3
2043 Calendar Year 2011 Payments to Home Health Agencies That Do Not Submit Required Quality Data
Payments to Home Health Agencies That Do Not Submit Required Quality Data
2044 Revisions and Re-issuance of Audiology Policies
Part B Outpatient Rehabilitation and Comprehensive Outpatient Applicable Revenue Codes Rehabilitation Facility (CORF) Services – General
Line Item Date of Service Reporting
CWF and PSandR Requirements- Fiscal Intermediaries (FIs)
Audiology Services
2045 October 2010 Update of the Ambulatory Surgical Center (ASC) Payment System
2046 Healthcare Provider Taxonomy Codes (HPTC) Update October 2010
2047 Instructions for Downloading the Medicare ZIP Code File for January 2011
2048 2011 Annual Update of Healthcare Common Procedure Code System (HCPCS) Codes for Skilled Nursing Facility (SNF) Consolidated Billing (CB) Update
2049 Claim Status Category and Claim Status Codes Update
2050 October 2010 Update of the Hospital Outpatient Prospective Payment System (OPPS)
Policy and Billing Instructions for Condition Code 44
Outlier Adjustments
2051 October Update to the 2010 Medicare Physician Fee Schedule Database (MPFSDB)
2052 Billing and Processing for Healthy Control Group Volunteers in a Qualified Clinical Trial
Requirements for Billing Routine Costs of Clinical Trials
2053 Issued to a specific audience not, posted to the Internet/Intranet due to Confidentiality of Instruction
2054 2011 Annual Update for the Health Professional Shortage Area (HPSA) Bonus Payments
2055 Issued to a specific, audience not, posted to the Internet/Intranet due to

Sensitivity of Instruction
2056 2010 Durable Medical Equipment Prosthetics, Orthotics, and Supply Healthcare Common Procedure Coding System (HCPCS) Code Jurisdiction List
2057 Fiscal Year (FY) 2011 Inpatient Prospective Payment System (IPPS), Long Term Care Hospital (LTCH) PPS, and Inpatient Psychiatric Facility (IPF) PPS Changes
Transfers
IPPS Transfers Between Hospitals
Short Stay Outliers
Payment Policy for Co-Located Providers

Medicare Secondary Payer
(CMS-Pub. 100-05)

00 None

Medicare Financial Management
(CMS-Pub. 100-06)

167 Recovery Audit Contractors (RACs)
Adjusting the Claim
Tracking Appeals
168 Recovery Audit Contractors (RACs)
Communication with the RACs
Inputting Suppression and Exclusion Cases to the RAC Data Warehouse
169 Recovery Audit Contractors (RACs)
Providing Suppressed Cases to the RAC Data Warehouse
170 Cardiac Rehabilitation and Intensive Cardiac Rehabilitation

Medicare State Operations Manual
(CMS-Pub. 100-07)

59 Clarification of the Interpretive Guidelines for the Anesthesia Services Condition of Participation

Medicare Program Integrity
(CMS-Pub. 100-08)

334 Update to Site Verification Process
Site Verifications to Determine Operational Status
Site Verifications to Determine if a Provider or Supplier Meets or Continues to Meet the Regulatory Requirements for Their Provider or Supplier Type
335 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
336 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
337 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
338 Clinical Review Judgment (CRJ)
339 Cardiac Rehabilitation and Intensive Cardiac Rehabilitation
Cardiac Rehabilitation (CR) and Intensive Cardiac Rehabilitation (ICR)
340 Issued to a specific audience, not posted to the Internet/Intranet due to Confidentiality of Instruction
341 Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality Instruction

Medicare Contractor Beneficiary and Provider Communications
(CMS-Pub. 100-09)

00 None

Medicare End-Stage Renal Disease Network Organizations
(CMS Pub 100-14)

00 None

Medicare Managed Care
(CMS-Pub. 100-16)

00 None

Medicare Business Partners Systems Security
(CMS-Pub. 100-17)

00 None

Demonstrations
(CMS-Pub. 100-19)

65 Clarification of Unsolicited Response and Auto Adjustment of Claims under CR 6001 for the Medicare Acute Care Episode (ACE) Demonstration

One Time Notification
(CMS-Pub. 100-20)

667 Health Insurance Portability and Accountability Act (HIPAA) 005010 837 Institutional (837I) Edits and 005010 837 Professional (837P) Edits - July Version
668 HIPAA 5010/D.0 Project Receipt, Control and Balancing Second Phase
669 Guidance on Implementing System Edits for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)
670 Allow Zoned Program Integrity Contractors (ZPICs) to Access Medicare Administrative Contractors (MACs) by ZPIC Zone

671 Implementation of a File-Based Recovery Audit Contractor (RAC) Mass Adjustment Process in VMS (This CR Rescinds and Fully Replaces CR 6549)
672 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
673 Modification of the File-Based RAC Mass Adjustment Process in FISS (This CR Rescinds and Fully Replaces CR 6555)
674 Temporary 3 Percent Rural Add-On for the Home Health Prospective Payment System (HH PPS)
675 Customer Information Control System (CICS) Production Region Merge of the Part A Arkansas, Louisiana and Mississippi Workloads in Preparation for the J7 A/B Medicare Administrative Contractor (MAC) Implementation.
676 Payment of Oxygen Contents to Suppliers Af ter the 36th Month Rental Cap under the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program
677 Expansion of the Current Scope of Editing for Attending Physician Providers For Free-Standing and Provider-Based Home Health Agency (HHA) Claims Processed by Medicare Regional Home Health Intermediaries (RHHIs)
678 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
679 Carrier and Part A and Part B Medicare Administrative Contractors (A/B MACs) Implementation of Title 42 Code of Federal Regulations (CFR) Section 424.535
680 Deactivation Letters for the Fiscal Intermediary Standard System (FISS)
681 Requirement for Submission of Shared Systems Data to the Integrated Data Repository (IDR)
682 Sending DMEPOS Medicare Summary Notices on a Monthly Schedule to all Beneficiaries in Miami-Dade, Broward and Palm Beach County Zip Codes in Florida
683 Analysis of the Expansion of the Legal Business Name (LBN), Practice Location and Special Payment Address Fields in the Viable Medicare System (VMS)
684 New Medicare Summary Notice (MSN) Message for Higher than Expected (PPS) Payments
685 Provide Mapping of Shared Systems Data to the HIPAA835 and 837 Formats
686 Change in Claims Filing Jurisdiction for Tracheo-Esophageal Voice Prosthesis Healthcare Common Procedure Coding System (HCPCS) Code
687 Additional Medicare Secondary Payer (MSP) Claims Processing Instructions for the Common Working File, Medicare Part B, and Durable Medical Equipment (DME) Shared Systems Regarding Medicare Secondary Payer Claims that Contain a Claim Adjustment Reason Code (CARC) 19, 20 or 21
688 Durable Medical Equipment National Competitive Bidding Implementation – Phase 10G: Paying for Oxygen Equipment when Grandfathered
689 Analysis and Design to Ensure That Coordination of Benefits Agreement (COBA) Trading Partners Can Accept and Process Acute Care Episodic (ACE) Demonstration Claims For Crossover Purposes
690 Durable Medical Equipment National Competitive Bidding Implementation – Phase 10C: Exception for Medicare Beneficiaries Previously Enrolled in a Medicare Advantage Plan
691 The Transition of a Segment of the Wisconsin Physicians Service (WPS) Legacy Workload (Formerly Processed by Mutual of Omaha) for the States of Colorado, New Mexico, Oklahoma, and Texas to the J4 A/B Medicare Administrative Contractor (MAC)
692 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
693 Instructions Regarding the Processing of Inpatient Claims for Gender/Procedure Conflict
694 Multiple Procedure Payment Reduction (MPPR) on the Technical Component (TC) of Certain Diagnostic Imaging Procedures
695 Addition of Repair Codes to the List of Healthcare Common Procedure Coding System (HCPCS) Codes Payable Under the Instructions Provided in Change Requests (CRs) 6573 and 5917
696 Requirements for Hospital Attestation and Billing of Fiscal Year 2007 and 2008 Informational Only Inpatient Claims for Medicare Advantage Beneficiaries
697 Systems Changes Necessary to Implement the Patient Protection and Affordable Care Act (PPACA) Section 6404 - Maximum Period for Submission of Medicare Claims Reduced to Not More Than 12 Months
698 Phase 2 Base System Changes for Implementation of the Next Version of the Health Insurance Portability and Accountability Act (HIPAA) – Multi Carrier System (MCS) Only
699 Implementation of the Electronic Health Record (EHR) Incentive Program for Medicare Hospitals - The American Recovery and Reinvestment Act of 2009 (ARRA)
700 Revised Payment Files for the 2010 Medicare Physician Fee Schedule Database (MPFSDB) and Retroactive Provisions under the Patient Protection and Affordable Care Act (Pub. L. 111-148) (the Affordable Care Act)
701 October Common Edits and Enhancements Module (CEM) Updates
702 Common Edits and Enhancements Module (CEM) October Release Update for Test/Production Indicator Activity and Outbound Data Scrubbing
703 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality of Instruction
704 Implementation of the HIPAA Version 5010 276/277 Claim Status Edit October 2010 Release
705 Version D.O Inbound National Council for Prescription Drug Programs (NCPDP) Medicare Secondary Prayer (MSP) Claims Processing
706 Extension for the Two Percent and Three Percent Add-On for the Ground Ambulance, Air Ambulance in Rural Areas and" Super Rural "Add-On
707 Health Insurance Portability and Accountability Act (HIPAA) 005010 837 Institutional (8371) Edits and 005010 837 Professional (837P) Edits–October 2010 Version
708 Issued to a specific audience, not posted to Internet/ Intranet due to Confidentiality Instruction
709 Additional Instruction for Implementation of Health Insurance Portability and Accountability Act of 1996 (HIIPAA) Version 5010 for Transaction 835 – Health Care Claim Payment/Advice and Updated Standard Paper Remit (SPR)
710 Guidance on Implementing System Edits for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)

711 Issued to a specific, audience not posted to Internet/Intranet due to Confidentiality of Instruction
712 One-Time Mailing of Solicitation Letter To All Physicians And Non-Physician Practitioners Who Are Currently Enrolled In Medicare But Who Do Not Have An Enrollment Record In The Provider Enrollment, Chain And Ownership System (PECOS
713 Hospital Provider Enrollment Revalidation
714 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality Instruction
715 Analysis for FISS, CWF and NCH for Physician and Non-Physician Practitioner Specialty Codes
716 HIPAA 5010 Activity – Testing of 5010 CRs
717 Clarification of the Date of Service for Maintenance and Servicing Payments for Certain Oxygen Equipment After July 1, 2010
718 Durable Medical Equipment National Competitive Bidding Implementation – Phase 10G: Paying for Oxygen Equipment when Grandfathered
719 Reprocessing of Claims for Certain Replacement Parts, Accessories, or Supplies for Prosthetic Implants and Surgically Implanted Durable Medical Equipment (DME) with Dates of Service of October 27th, 2008 through December 31, 2009
720 Additional Healthcare Common Procedure Coding System (HCPCS) Codes Subject to Clinical Laboratory Improvement Amendments (CLIA) Edits
721 Durable Medical Equipment National Competitive Bidding Implementation-Phase 10C: Exception for Medicare Beneficiaries Previously Enrolled in Medicare Advantage Plan
722 Requirement for Submission of Shared Systems Data to the Integrated Data Repository (IDR)
723 Issued to a specific audience, not posted to Internet/Intranet due to Confidentiality Instruction

Medicare Quality Reporting Incentive Programs
(Pub 100- 22)

01 Physician Quality Reporting Initiative (PQRI) and E-Prescribing (eRx) Medicare
Background
Quality Reporting Incentive Programs Manual
Eligible Professionals
Professionals Eligible to Participate But Not Able to Participate
Professionals Not Eligible to Participate in the PQRI and Not Able to Qualify to Earn an Incentive Payment
Payment for Reporting
Reporting Period
Form and Manner of Reporting
Claims-based Reporting Mechanism
Coding and Reporting Principles for Claims-based Reporting
Registry-based Reporting Mechanism
Electronic Health Record-based (EHR-based) Reporting Mechanism
PQRI Measures
Reporting of Individual Quality Measures
Reporting of Measures Groups
Criteria for Determination of Satisfactory Reporting
Criteria for Determination of Satisfactory Reporting for Individual Eligible Professionals
Criteria for Determination of Satisfactory Reporting for Claims-based Reporting
Criteria for Determination of Satisfactory Reporting for Registry-based Reporting
Criteria for Determination of Satisfactory Reporting for EHR-based Reporting
Criteria for Determination of Satisfactory Reporting for Group Practices and Process for Reporting by Group Practices
Limitations on Review
Confidential Feedback Reports
Background
Eligible Professionals
Professionals Eligible to Participate But Not Able to Participate
Professionals Not Eligible to Participate in the eRx Incentive Program and Not Able to Qualify to Earn an Incentive Payment
Professionals Not Eligible to Participate in the eRx Incentive Program and Not Able to Qualify to Earn an Incentive Payment
Participation by Group Practices
Payment for Reporting
Reporting Period
Form and Manner of Reporting
Claims-based Reporting Mechanism
Coding and Reporting Principles for Claims-based Reporting
Registry-based Reporting Mechanism
Electronic Health Record-based (EHR-based) Reporting Mechanism
Criteria for Determination of Successful Electronic Prescriber
Criteria for Determination of Successful Electronic Prescriber for Individual Eligible Professionals
Criteria for Determination of Successful Electronic Prescriber for Group Practices
Confidential Feedback Reports

ADDENDUM IV: Regulation Documents Published in the Federal Register July Through September 2010

Publication Date	FR Vol. 75 Page Number	42 CFR Parts Affected	File Code	Title of Regulation
July 1, 2010	38026	423	CMS-0023-IFC	Medicare Identification of Backward Compatible Version of Adopted Standard for the E-Prescribing and Medicare Prescription Drug Program (Version 10.6)
July 2, 2010	38533	----------	CMS-1571-N	Announcement of Semi-Annual Late 2010 Summer Meeting for Ambulatory Payment Classification (APC) Groups
July 6, 2010	38748	447, and 457	CMS-2244-CN	Medicaid Premiums and Cost Sharing--Correction
July 12, 2010	39641	488	CMS-2435-P	Medicare and Medicaid Civil Money Penalty Reduction for Self-Reporting
July 13, 2010	40040	405,409, 410,411, 414, 415, 424	CMS-1503-P	Medicare Revisions to Payment Policies Under the Physician Fee Schedule and Part B for CY 2011
July 16, 2010	41503	----------	CMS-2900-FN2	Medicaid and Medicare Approval of the Application by the Community Health Accreditation Program (CHAP) for Continued Deeming Authority for Hospices
July 19, 2010	41726	**45 CFR**, 147	CMS-9992-IFC	Private Health Insurance Preventive Services Under Group & Individual Insurance Market Reforms (Part 4)
July 22, 2010	42836	----------	CMS-1344-N	Medicare Prospective Payment System for Inpatient Rehabilitation Facilities for FY 2011
July 22, 2010	42886	----------	CMS-1338-NC	Medicare Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities—Update for FY 2011
July 22, 2010	42944	----------	CMS-1523-NC	Medicare Hospice Wage Index for FY 2011
July 23, 2010	43177	----------	CMS-1354-NC	Medicare and Medicaid Programs Announcement of Applications from Hospitals Requesting Waiver for Organ Procurement Service Area
July 23, 2010	43178	----------	CMS-5047-N	Medicare Advanced Medical Imaging Services Demonstration
July 23, 2010	43236	409,418, 424, 484, and 489	CMS-1510-P	Medicare Home Health Prospective Payment System Refinements and Rate Update for CY 2011
July 23, 2010	43330	**45 CFR**, 147	CMS-9993-IFC	Private Health Insurance Omnibus Group & Individual Insurance Market Reforms: Appeals
July 26, 2010	43531	----------	CMS-2336-N	Medicare/Medicaid Application by the Det Norske Veritas Healthcare, Inc. (DNVHC) for Deeming Authority for Critical Access Hospitals (CAHs)
July 26, 2010	43533	----------	CMS-3232-N	Medicare; Meeting of the Medicare Evidence Development and Coverage Advisory Committee—September 22, 2010
July 26, 2010	44314	412,413, 422, and 495	CMS-0033-F	Medicare/Medicaid Electronic Health Record (EHR) Incentive Program
July 30, 2010	45014	**45 CFR**, 152	CMS-9995-IFC	High Risk Pools: Pre-Existing Condition Insurance Plan Program
July 30, 2010	44971	----------	CMS-2480-NC	Medicaid/CHIP Medicaid Program; Request for Comments on Legislative Changes to Provide Quality Care to Children
July 30, 2010	44972	----------	CMS-1579-NC	Medicare & Medicaid Announcement of an Application from a Hospital seeking to enter into an agreement with a different Organ Procurement Organization
August 3, 2010	45584	**45 CFR**, 170	CMS-9989-NC	Planning and Establishment of State-Level Exchanges; Request for Comments Regarding Exchange-Related Provisions in Title I of the Patient Protection and Affordable Care Act

Publication Date	FR Vol. 75 Page Number	42 CFR Parts Affected	File Code	Title of Regulation
August 3, 2010	45699	410, 416, and 419	CMS-1414-CN2	Medicare Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Pyment System and CY 2010 Payment Rates--Correction
August 3, 2010	45769	----------	CMS-1504-N	Medicare Updates to the Outpatient Prospective Payment Market Basket Resulting from Health Care Reform.
August 3, 2010	46169	410, 411, 412, 413, 416, 419, 482, and 489	CMS-1504-P	Medicare Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2011
August 4, 2010	46948	----------	CMS-1578-N	Medicare Listening Session on Confidential Feedback Reports to Physicians and the Implementation of a Value Modifier for Physicians--September 24, 2010.
August 11, 2010	48698	----------	CMS-2363-N	Medicaid, Medicare, CLIA COLA's Voluntary Withdrawal from the Specialty of Pathology
August 11, 2010	48816	431, 447, and 457	CMS-6150-F	Medicaid Medicaid Program and Children's Health Insurance Program (CHIP); Revisions to the Medicaid Eligibility Quality Control and Payment Error Rate Measurement Programs (PERM)
August 12, 2010	49030	410, 413, and 414	CMS-1418-F	Medicare ESRD Prospective Payment System
August 12, 2010	49215	413	CMS-3206-P	Medicare Quality Incentives in the End Stage Renal Disease (ESRD) Program
August 16, 2010	50042	412, 413, 415, 424, 440, 441, 482, 485, and 489	CMS-1498-FC	Medicare Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and FY 2011 Rates and to the Long Term Care Hospital PPS and RY 2011 Rates
August 20, 2010	51464	----------	CMS-2476-FN2	Medicare and Medicaid Approval of Application by the American Association for Accreditation for Ambulatory Surgical Centers for Continued Deeming Authority for Ambulatory Surgical Centers
August 20, 2010	51465	----------	CMS-1572-N	Announcement of Five New Members - 2010 for Practicing Ambulatory Payment Classification (APC) Groups
August 26, 2010	52487	405, 409, 410, 411, 414, 415, and 424	CMS-1503-CN	Medicare Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2011; Corrections
August 27, 2010	52629	424	CMS-6036-F	Medicare Establishing Additional Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Supplier Enrollment Standards
August 27, 2010	52760	----------	CMS-0031-N	Medicare Listening Session on Availability of Medicare Data for Performance Measurement
August 30, 2010	52960	----------	CMS-5051-N	Medicare Rural Community Hospital Demonstration Program; Solicitation of Additional Participants
September 3, 2010	54073	447	CMS-2238-P2	Medicaid Removal of the Average Manufacturer Price (AMP) Determination
September 3, 2010	54162	----------	----------	CMS Computer Match No. 2010-01; HHS Computer Match No. 1006
September 14, 2010	55801	----------	CMS-1338-CN	Medicare Program Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY 2011; Correction
September 15, 2010	56015	411	----------	Exclusions from Medicare and Limitations on Medicare Payment
September 17, 2010	56946	431	CMS-2325-P	Medicaid Review and Approval Process for Section 1115 Medicaid Demonstrations

Publication Date	FR Vol. 75 Page Number	42 CFR Parts Affected	File Code	Title of Regulation
September 17, 2010	57039	----------	CMS-1356-N	Medicare; Medicare Program; Workshop Regarding Accountable Care Organizations, and Implications Regarding Anti-Trust, Physician Self-Referral, Anti-kickback, and Civil Monetary Penalty (CMP) Laws
September 17, 2010	57045	----------	CMS-3180-NC	Medicare; Parallel Review of Medical Products by FDA and CMS
September 23, 2010	58204	405, 424, 438, 447, 455, 457, 498, and 1007	CMS-6028-P	Medicare/Medicaid Additional Screening, Application Fees, and Temporary Moratoria for Providers and Suppliers
September 24, 2010	58405	----------	CMS-7019-N	Meeting of the Advisory Panel on Medicare Education; October 13, 2010
September 24, 2010	58407	----------	CMS-4143-N	Medicare Medicare Appeals; Adjustment to the Amount in Controversy Threshold Amounts for CY 2011
September 24, 2010	58411	----------	CMS-3233-N	Physician Compare Town Hall Meeting Sept/Oct 2010
September 24, 2010	58414	----------	CMS-3240-N	Medicare MEDCAC Meeting November 17, 2010 – Autologous Cellular Immunotherapy Treatment of Metastatic Prostate Cancer
September 24, 2010	58790	----------	CMS-9060-N	Medicare/Medicaid Quarterly Issuances Notice--April - June 2010
September 27, 2010	59272	----------	CMS-1820-NC	Medicare War Memorial Hospital Announcement of Application from Hospital Requesting Waiver for Organ Procurement Service Area
September 27, 2010	59274	----------	CMS-1820-NC	Medicare and Medicaid Program Announcement of Application from Hospital Requesting Waiver for Organ Procurement Service Area: Highland District Hospital

ADDENDUM V: National Coverage Determinations
July Through September 2010

A national coverage determination (NCD) is a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under Title XVIII of the Act, but does not include a determination of what code, if any, is assigned to a particular item or service covered under this title, or determination with respect to the amount of payment made for a particular item or service so covered. We include below all of the NCDs that were issued during the quarter covered by this notice. The entries below include information concerning completed decisions as well as sections on program and decision memoranda, which also announce pending decisions or, in some cases, explain why it was not appropriate to issue an NCD. We identify completed decisions by the section of the NCDM in which the decision appears, the title, the date the publication was issued, and the effective date of the decision. Information on completed decisions as well as pending decisions has also been posted on the CMS Web site at http://cms.hhs.gov/coverage.

Title	NCDM Section	TN #	Issue Date	Effective Date
Positron Emission Tomography (FDG PET) for Initial Treatment Strategy (PI) in Solid Tumors and Myeloma	220.6.17	R124NCD	09/24/2010	08/04/2010
Intensive Cardiac Rehabilitation (ICR) Programs—Dr. Ornish's Program for Reversing Heart Disease and the Pritikin Program	20.31	R125NCD	09/24/2010	08/12/2010
Counseling to Prevent Tobacco Use	210.4.1	R126NCD	09/30/2010	08/25/2010
Allogeneic Hematopoietic Stem Cell Transplantation (HSCT) for Myelodysplastic Syndrome (MDS)	260.11	R127NCD	10/08/2010	08/04/2010

ADDENDUM VI: FDA-Approved Category B IDEs
July Through September 2010

Under the Food, Drug, and Cosmetic Act (21 U.S.C. 360c) devices fall into one of three classes. To assist CMS under this categorization process, the FDA assigns one of two categories to each FDA-approved IDE. Category A refers to experimental IDEs, and Category B refers to non-experimental IDEs. To obtain more information about the classes or categories, please refer to the notice published in the April 21, 1997 **Federal Register** (62 FR 19328).

The following list includes all Category B IDEs approved by FDA during the third quarter, July through September 2010.

IDE	Category
G070120	B
G070241	B
G090144	B
G090203	B
G100004	B
G100025	B
G100054	B
G100057	B
G100058	B
G100099	B
G100107	B
G100110	B
G100111	B
G100112	B
G100116	B
G100117	B
G100118	B
G100123	B
G100133	B
G100141	B
G100153	B
G100156	B
G100168	B
G100199	B
G100212	B
G100228	B
G100229	B
G100236	B
G100241	B
G100244	B

ADDENDUM VII: Approval Numbers for Collections of Information

Below we list all approval numbers for collections of information in the referenced sections of CMS regulations in Title 42; Title 45, Subchapter C; and Title 20 of the Code of Federal Regulations, which have been approved by the Office of Management and Budget:

OMB Control Numbers — Approved CFR Sections in Title 42, Title 45, and Title 20 (Note: Sections in Title 45 are preceded by "45 CFR," and sections in Title 20 are preceded by "20 CFR")

OMB NUMBER	Approved CFR Sections
0938-0008	Part 424 Subpart C
0938-0022	413.20, 413.24, 413.106
0938-0023	424.103
0938-0025	406.28, 407.27
0938-0027	486.100 - 486.110
0938-0033	405.807
0938-0035	407.40
0938-0037	413.20, 413.24
0938-0041	408.6, 408.202
0938-0042	410.1, 410.40, 424.124, 424.601, 414.605, 414.610, 414.615, 414.620, 414.625, 424.32
0938-0045	405.711
0938-0046	405.2133
0938-0050	413.20, 413.24
0938-0062	431.151, 435.151, 435.1009, 440.220, 440.250, 442.1, 442.10 - 442.16, 442.30, 442.40, 442.42, 442.100 - 442.119, 483.400 - 483.480, 488.332, 488.400, 498.3 - 498.5
0938-0065	485.701 - 485.729
0938-0074	491.1 - 491.11
0938-0080	406.7, 406.13
0938-0086	420.200 - 420.206, 455.100 - 455.106
0938-0101	430.30
0938-0102	413.20, 413.24
0938-0107	413.20, 413.24
0938-0146	431.800 - 431.865
0938-0147	431.800 - 431.865
0938-0151	493.1 - 493.2001
0938-0155	405.2470
0938-0193	430.10 - 430.20, 440.167
0938-0202	413.17, 413.20
0938-0214	411.25, 489.2, 489.20
0938-0236	413.20, 413.24
0938-0242	488.26 and 442.30
0938-0245	407.10, 407.11
0938-0246	431.800-431.865
0938-0251	406.7
0938-0266	416.1-416.150
0938-0267	485.56, 485.58, 485.60, 485.64, 485.66
0938-0269	412.116, 412.632, 413.64, 413.350, 484.245
0938-0270	405.376
0938-0272	440.180, 441.300 - 441.310
0938-0273	485.701 - 485.729
0938-0279	424.5
0938-0287	447.31
0938-0296	413.170, 413.184
0938-0301	413.20, 413.24, 415.60
0938-0302	418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.74, 418.83, 418.96, 418.100
0938-0313	489.11, 489.20
0938-0328	482.12, 482.13, 482.21, 482.22, 482.27, 482.30, 482.41, 482.43, 482.45, 482.53, 482.56, 482.57, 482.60, 482.61, 482.62, 482.66, 485.618, 485.631
0938-0334	491.9, 491.10
0938-0338	486.104, 486.106, 486.110
0938-0354	441.50
0938-0355	442.30, 488.26
0938-0358	488.26
0938-0359	412.40 - 412.52
0938-0360	488.60
0938-0365	484.10, 484.12, 484.14, 484.16, 484.18, , 484.36, 484.48, 484.52
0938-0372	414.330
0938-0378	482.60 - 482.62
0938-0379	442.30, 488.26
0938-0386	405.2100 - 405.2171
0938-0391	488.18, 488.26, 488.28
0938-0426	480.104, 480.105, 480.116, 480.134
0938-0429	447.53
0938-0443	478.18, 478.34, 478.36, 478.42
0938-0444	1004.40, 1004.50, 1004.60, 1004.70
0938-0445	412.44, 412.46, 431.630, 476.71, 476.74, 476.78

OMB NUMBER	Approved CFR Sections
0938-0447	405.2133
0938-0448	405.2133, **45 CFR** 5, 5b; **20 CFR** Parts 401, 422E
0938-0449	440.180, 441.300 - 441.310
0938-0454	424.20
0938-0456	412.105
0938-0463	413.20, 413.24, 413.106
0938-0467	431.17, 431.306, 435.910, 435.920, 435.940 - 435.960
0938-0469	417.126, 422.502, 422.516
0938-0470	417.143, 422.6
0938-0477	412.92
0938-0484	424.123
0938-0501	406.15
0938-0502	433.138
0938-0512	486.301 - 486.348
0938-0526	475.102, 475.103, 475.104, 475.105, 475.106
0938-0534	410.38, 424.5
0938-0544	493.1 - 493.2001
0938-0564	411.32
0938-0565	411.20 - 411.206
0938-0566	411.404, 411.406, 411.408
0938-0573	412.256
0938-0578	447.534
0938-0581	493.1 - 493.2001
0938-0599	493.1 - 493.2001
0938-0600	405.371, 405.378, 413.20
0938-0610	417.436, 417.801, 422.128, 430.12, 431.20, 431.107, 483.10, 484.10, 489.102
0938-0612	493.801, 493.803, 493.1232, 493.1233, 493.1234, 493.1235, 493.1236, 493.1239, 493.1241, 493.1242, 493.1249, 493.1251, 493,1252, 493.1253, 493.1254, 493.1255, 493.1256, 493.1261, 493.1262, 493.1263, 493.1269, 493.1273, 493.1274, 493.1278, 493.1283, 493.1289, 493.1291, 493.1299
0938-0618	433.68, 433.74, 447.272
0938-0653	493.1771, 493.1773, 493.1777
0938-0657	405.2110, 405.2112
0938-0658	405.2110, 405.2112
0938-0667	482.12, 488.18, 489.20, 489.24
0938-0686	493.551 - 493.557
0938-0688	486.301 - 486.325
0938-0691	412.106

OMB NUMBER	Approved CFR Sections
0938-0692	466.78, 489.20, 489.27
0938-0701	422.152
0938-0702	**45 CFR** 146.111, 146.115, 146.117, 146.150, 146.152, 146.160, 146.180
0938-0703	**45 CFR** 148.120, 148.122, 148.124, 148.126, 148.128
0938-0714	411.370 - 411.389
0938-0717	424.57
0938-0721	410.33
0938-0723	421.300 - 421.316
0938-0730	405.410, 405.430, 405.435, 405.440, 405.445, 405.455, 410.61, 415.110, 424.24
0938-0732	417.126, 417.470
0938-0734	**45 CFR** 5b
0938-0739	413.337, 413.343, 424.32, 483.20
0938-0749	424.57
0938-0753	422.000 - 422.700
0938-0754	441.151, 441.152
0938-0758	413.20, 413.24
0938-0760	484.55, 484.205, 484.245, 484.250
0938-0761	484.11, 484.20
0938-0763	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350
0938-0770	410.2
0938-0778	422.111, 422.564
0938-0779	417.126, 417.470, 422.64, 422.210
0938-0781	411.404, 484.10
0938-0786	438.352, 438.360, 438.362, 438.364
0938-0790	460.12 - 460.210
0938-0792	491.8, 491.11
0938-0796	422.64
0938-0798	413.24, 413.65, 419.42
0938-0802	419.43
0938-0818	410.141 - 410.146, 414.63
0938-0829	422.568
0938-0832	Parts 489 and 491
0938-0833	483.350 - 483.376

OMB NUMBER	Approved CFR Sections
0938-0841	431.636, 457.50, 457.60, 457.70, 457.340, 457.350, 457.431, 457.440, 457.525, 457.560, 457.570, 457.740, 457.750, 457.810, 457.940, 457.945, 457.965, 457.985, 457.1005, 457.1015, 457.1180
0938-0842	412.23, 412.604, 412.606, 412.608, 412.610, 412.614, 412.618, 412.626, 413.64
0938-0846	411.352 - 411.361
0938-0857	Part 419
0938-0860	Part 419
0938-0866	**45 CFR** Part 162
0938-0872	413.337, 483.20
0938-0873	422.152
0938-0874	**45 CFR** Parts 160 and 162
0938-0878	Part 422 Subparts F and G
0938-0887	**45 CFR** 148.316, 148.318, 148.320
0938-0897	412.22, 412.533
0938-0907	412.230, 412.304, 413.65
0938-0910	422.620, 422.624, 422.626
0938-0911	426.400, 426.500
0938-0915	421.120, 421.122
0938-0916	483.160
0938-0920	438.6, 438.8, 438.10, 438.12, 438.50, 438.56, 438.102, 438.114, 438.202, 438.206, 438.207, 438.240, 438.242, 438.402, 438.404, 438.406, 438.408, 438.410, 438.414, 438.416, 438.604, 438.710, 438.722, 438.724, 438.810
0938-0921	414.804
0938-0931	**45 CFR** 142.408, 162.408, and 162.406
0938-0933	438.50
0938-0935	422 Subparts F and K
0938-0936	423
0938-0939	405.502
0938-0944	422.250, 422.252, 422.254, 422.256, 422.258, 422.262, 422.264, 422.266, 422.270, 422.300, 422.304, 422.306, 422.308, 422.310, 422.312, 422.314, 422.316, 422.318, 422.320, 422.322, 422.324, 423.251, 423.258, 423.265, 423.272, 423.279, 423.286, 423.293, 423.301, 423.308, 423.315, 423.322, 423.329, 423.336, 423.343, 423.346, 423.350
0938-0950	405.910
0938-0951	423.48
0938-0953	405.1200 and 405.1202
0938-0954	414.906, 414.908, 414.910, 414.914, 414.916

OMB NUMBER	Approved CFR Sections
0938-0957	Part 423 Subpart R
0938-0964	403.460, 411.47
0938-0969	421.405
0938-0975	423.562(a)
0938-0976	423.568
0938-0977	Part 423 Subpart R
0938-0978	423.464
0938-0982	422.310, 423.301, 423.322, 423.875, 423.888
0938-0986	412.20-412.30
0938-0990	423.56
0938-0992	423.505, 423.514
0938-0993	1396
0938-0997	424.5
0938-0999	Part 424 Subpart C
0938-1004	423.502
0938-1009	411.357(v), 411.357(w)
0938-1013	423.56(e)
0938-1019	405.1206, 422.622
0938-1020	412.525(a)(4), 412.529(c)(3), 412.84(i)(2)
0938-0123	422.152(a)(1), 422.152(a)(2)
0938-1024	1396
0938-1026	447.520
0938-1013	423.56e
0938-1019	405.1206, 422.622
0938-1023	422.152a
0938-1033	455
0938-1034	489.20
0938-1049	424.36(b)
0938-1098	ARRA Section 5006
0938-1108	

ADDENDUM VIII: Medicare-Approved Carotid Stent Facilities
July Through September 2010

On March 17, 2005, we issued our decision memorandum on carotid artery stenting. We determined that carotid artery stenting with embolic protection is reasonable and necessary only if performed in facilities that have been determined to be competent in performing the evaluation, procedure, and follow-up necessary to ensure optimal patient outcomes. We have created a list of minimum standards for facilities modeled in part on professional society statements on competency. All facilities must at least meet our standards in order to receive coverage for carotid artery stenting for high risk patients.

Facility	Provider Number	Effective Date	State	Additional Information
Desert Regional Medical Center 1150 N. Indian Canyon Drive P.O. Box 2739 Palm Springs, CA 92263	050243	07/13/2010	CA	
Elliot Hospital One Elliot Way Manchester, NH 03103	300012	07/13/2010	NH	
Marshall Medical Center South P.O. Box 758 Boaz, AL 35957	1306914882	07/13/2010	AL	
Uniontown Hospital 500 West Berkeley Street Uniontown, PA 15401-5596	390041	08/20/2010	PA	
Valley View Medical Center 5330 S. Highway 95 Fort Mohave, AZ 86426	30117	08/25/2010	AZ	
Shaw Heart and Vascular Specialists 2801 N W Mercy Drive #300 Roseburg, OR 97471	380027	09/10/2010	OR	
Paris Regional Medical Center 820 Clarksville Street Paris, TX 75460	450196	09/17/2010	TX	

ADDENDUM IX: American College of Cardiology's National Cardiovascular Data Registry Sites
July Through September 2010

In order to obtain reimbursement, Medicare national coverage policy requires that providers implanting ICDs for primary prevention clinical indications (that is, patients without a history of cardiac arrest or spontaneous arrhythmia) report data on each primary prevention ICD procedure. This policy became effective January 27, 2005. Details of the clinical indications that are covered by Medicare and their respective data reporting requirements are available in the Medicare National Coverage Determination (NCD) Manual, which is on the Centers for Medicare & Medicaid Services (CMS) Web site at http://www.cms.hhs.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=99&sortByDID=1&sortOrder=ascending&itemID=CMS014961 .

A provider can use either of two mechanisms to satisfy the data reporting requirement. Patients may be enrolled either in an Investigational Device Exemption trial studying ICDs as identified by the FDA or in the American College of Cardiology's National Cardiovascular Data Registry (ACC-NCDR) ICD registry. Therefore, in order for a beneficiary to receive a Medicare-covered ICD implantation for primary prevention, the beneficiary must receive the scan in a facility that participates in the ACC-NCDR ICD registry. We maintain a list of facilities that have been enrolled in this registry. Addendum IX includes the facilities that have been designated in the quarter covered by this notice.

Facility Name	Address 1	Address 2	City	State	Zip Code
Abbott Northwestern Hospital	800 East 28th Street (Internal Zip 33210)		Minneapolis	MN	55407
Abilene Regional Medical Center	6250 Highway 83-84 Antilley Road		Abilene	TX	79606
Abington Memorial Hospital	1200 Old York Road	5 Toll	Abington	PA	19001
Adena Regional Medical Center	272 Hospital Road		Chillicothe	OH	45601
Adventist Bolingbrook Hospital	500 Remington Boulevard		Bolingbrook	IL	60440
Adventist Glen Oaks Hospital	701 Winthrop Avenue		Glendale Heights	IL	60139
Adventist Hinsdale Hospital	120 North Oak Street		Hinsdale	IL	60521
Adventist LaGrange Memorial Hospital	120 North Oak Street		Hinsdale	IL	60521
Adventist Medical Center	10123 SE Market Street		Portland	OR	97216
Advocate BroMenn Medical Center	1304 Franklin Avenue		Normal	IL	61761
Advocate Christ Medical Center	4440 West 95th Street		Oak Lawn	IL	60453
Advocate Condell Medical Center	801 S. Milwaukee Avenue		Libertyville	IL	60048
Advocate Good Shepherd Hospital	450 W. Highway 22		Barrington	IL	60010

Facility Name	Address 1	Address 2	City	State	Zip Code
Advocate Illinos Masonic Medical Center	836 W. Wellington Avenue		Chicago	IL	60657
Advocate Lutheran General Hospital	1775 Dempster Street		Park Ridge	IL	60068
Advocate South Suburban Hospital	17800 South Kedzie		Hazel Crest	IL	60429
Affinity Medical Center	400 Austin Avenue		Massillon	OH	44646
AHMC Anaheim Regional Medical Center	1111 W. La Palma Avenue		Anaheim	CA	92801
Aiken Regional Medical Center	302 University Parkway		Aiken	SC	29802
Akron City Hospital	525 East Market Street		Akron	OH	44309-2090
Akron General Medical Center	400 Wabash Avenue	Heart & Vascular Center	Akron	OH	44307
Alamance Regional Medical Center	PO Box 202		Burlington	NC	27216
Alaska Regional Hospital	2801 Debarr Road		Anchorage	AK	99508
Albany Medical Center Hospital	43 New Scotland Avenue		Albany	NY	12208

Facility Name	Address 1	Address 2	City	State	Zip Code
Albert Einstein Medical Center	5501 Old York Road	Levy Bldg. 3rd floor	Philadelphia	PA	19141
Alegent Health Bergan Mercy Medical Center	6901 North 72nd Streeet		Omaha	NE	68122
Alegent Health Immanuel Medical Center	6901 North 72nd Street	Suite 3000 N	Omaha	NE	68122-1709
Alegent Health Lakeside Hospital	6901 North 72nd Street		Omaha	NE	68122
Alegent Health Midlands Hospital	6901 North 72nd Street		Omaha	NE	68122
Alegent Health Mercy Hospital	6901 North 72nd Street	Suite 3000	Omaha	NE	68122
Alexian Brothers Medical Center	800 Biesterfield Road		Elk Grove Village	IL	60007-3311
Allegheny General Hosptial	320 East North Avenue		Pittsburgh	PA	15212
Allegiance Health (W.A. Foote Memorial Hospital)	205 N. East Avenue	Heart Center 1st Floor	Jackson	MI	49201
Allen Memorial Hospital	1825 Logan Avenue		Waterloo	IA	50703
Alpena Regional Medical Center	1501 W. Chisholm Street		Alpena	MI	49707
Alta Bates Medical Center	2450 Ashby Avenue		Berkeley	CA	94705
Alta Bates Summit Medical Center	350 Hawthorne Avenue		Oakland	CA	94609

Facility Name	Address 1	Address 2	City	State	Zip Code
Alton Memorial Hospital	1 Memorial Drive		Alton	IL	62067
Altoona Hospital	620 Howard Avenue		Altoona	PA	16601
Altru Health System	1200 South Columbia Road		Grand Forks	ND	58201
Alvarado Hospital	6645 Alvarado Road		San Diego	CA	92120
Amarillo Endoscopy Center	6833 Plum Creek Drive		Amarillo	TX	79124
AnMed Health	800 North Fant Street		Anderson	SC	29621
Anna Jaques Hospital	25 Highland Avenue		Newburyport	MA	01950
Anne Arundel Medical Center	2001 Medical Parkway		Annapolis	MD	21404
Appleton Medical Center/ThedaClark Medical Center	1818 N. Meade Street	Quality Dept. Rm 165-B	Appleton	WI	54911
Aria Health	Knights and Red Lion Roads		Philadelphia	PA	19114
Arizona Heart Hospital	1930 East Thomas Road		Phoenix	AZ	85016
Arizona Regional Medical Center	4838 East Baseline Road	Suite 109-110	Mesa	AZ	85206
Arkansas Heart Hospital	1701 S. Shackelford Road		Little Rock	AR	72202
Arlington Memorial Hospital	800 W. Randol Mill Road		Arlington	TX	76012
Arnot-Ogden Medical Center	600 Roe Avenue		Elmira	NY	14905

Facility Name	Address 1	Address 2	City	State	Zip Code
Aroostock Medical Center	140 Academy Street		Presque Isle	ME	04769
Arrowhead Hospital	18701 N. 67th Avenue		Glendale	AZ	85308
Ashtabula County Medical Center	2420 Lake Avenue		Ashtabula	OH	44004
Aspirus Wausau Hospital	333 Pine Ridge Boulevard		Wausau	WI	54401
Athens Regional Medical Center	1199 Prince Avenue		Athens	GA	30606
Atlanta Medical Center	303 Parkway Drive NE		Atlanta	GA	30312
Atlanticare Regional Medical Center	2500 English Creek Avenue		Egg Habour Township	NJ	08234
Atrium Medical Center	One Medical Center		Middletown	OH	45005
Audrain Medical Center	620 E. Monroe Street		Mexico	MO	65265
Aultman Hospital	2600 Sixth Street SW		Canton	OH	44710
Aurora BayCare Medical Center	2845 Greenbrier Road		Green Bay	WI	54308
Aurora Medical Center – Kenosha	2900 W. Oklahoma Avenue		Milwaukee	WI	53125
Aurora Medical Center of Washington County	2900 W. Oklahoma Avenue		Milwaukee	WI	53215

Facility Name	Address 1	Address 2	City	State	Zip Code
Aurora Medical Center Oshkosh	855 N. Westhaven Street		Oshkosh	WI	53132
Aurora Medical Center Summit	2900 W. Oklahoma Avenue		Milwaukee	WI	53215
Aurora Memorial Hospital of Burlington	2900 W. Oklahoma Avenue		Milwaukee	WI	53215
Aurora Sheboygan Memorial Medical Center	2629 N. 7th Street		Sheboygan	WI	53083
Aurora Sinai Medical Center	945 N. 12th Street		Milwaukee	WI	53233
Aurora West Allis Memorial Hospital	2900 W. Oklahoma Avenue		Milwaukee	WI	53215
Auxilio Mutuo Hospital	Apartado 191227		San Juan	PR	00919-1227
Aventura Hospital and Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
Avera Heart Hospital of South Dakota	4500 West 69th Street		Sioux Falls	SD	57108
Avera Sacred Heart Hospital	501 Summit		Yankton	SD	57078
Avera St. Luke's	305 South State Street		Aberdeen	SD	57401
Bakersfield Heart Hospital	3001 Sillect Avenue		Bakersfield	CA	93308
Bakersfield Memorial Hospital	420 34th Street		Bakersfield	CA	93303-1888
Ball Memorial Hospital	2401 University Avenue		Muncie	IN	47303

Facility Name	Address 1	Address 2	City	State	Zip Code
Baltimore Washington Medical Center	301 Hospital Drive	2nd Floor Cardiac Cath Lab	Glen Burnie	MD	21061
Banner Boswell Medical Center	10401 W. Thunderbird Boulevard		Sun City	AZ	85351
Banner Desert Medical Center	Banner Desert Medical Center, Quality Management	1400 S. Dobson Road	Mesa	AZ	85202
Banner Estrella Medical Center	9201 W. Thomas Road		Phoenix	AZ	85037
Banner Good Samaritan Med Center	1111 East McDowell Road		Phoenix	AZ	85006-2612
Banner Heart Hospital	6750 E. Baywood Avenue		Mesa	AZ	85206
Banner Thunderbird Med Center	5555 W. Thunderbird Road		Glendale	AZ	85306
Baptist Health Medical Center	9601 Interstate 630 Exit 7		Little Rock	AR	72205-7299
Baptist Health Medical Center	3333 Springhill Drive		North Little Rock	AR	72117
Baptist Hospital	4220 Harding Road		Nashville	TN	37202
Baptist Hospital East	4000 Kresge Way		Louisville	KY	40207
Baptist Hospital of Miami	8900 SW 88th Street		Miami	FL	33176
Baptist Hospital of Southeast Texas	PO Box 1591	3080 College Street	Beaumont	TX	77704
Baptist Hospital	1000 W. Moreno Street		Pensacola	FL	32501
Baptist Medical Center	800 Prudential Drive		Jacksonville	FL	32207

Facility Name	Address 1	Address 2	City	State	Zip Code
Baptist Medical Center	730 North Main Avenue	Suite 424	San Antonio	TX	78205
Baptist Memorial Hospital	6019 Walnut Grove Road		Memphis	TN	38120
Baptist Memorial Hospital North Mississippi	2301 South Lamar Boulevard		Oxford	MS	38655
Baptist Memorial Hospital-Desoto	7601 Southcrest Parkway		Southaven	MS	38671
Baptist Memorial Hospital-Union City	1201 Bishop Street		Union City	TN	38261
Baptist St. Anthony's Health Systems	1600 Wallace Boulevard		Amarillo	TX	79106
Barberton Hospital	155 5th Street NE		Barberton	OH	44203
Barnes Jewish Hospital/Washington University	#1 Barnes Jewish Hospital Plaza	SW Tower-Main. Mailstop 90-59-315	Saint Louis	MO	63110-9930
Barstow Community Hospital	555 South Seventh Street		Barstow	CA	92311
Bartow Regional Medical Center	2200 Osprey Boulevard		Bartow	FL	33830
Bassett Healthcare-(Mary Imogene Bassett Hospital)	One Atwell Road		Cooperstown	NY	13326

Facility Name	Address 1	Address 2	City	State	Zip Code
Baton Rouge General Medical Center	3600 Florida Boulevard	8585 Picardy Avenue (Zip 70809)	Baton Rouge	LA	70806
Battle Creek Health System	300 North Avenue		Battle Creek	MI	49016
Baxter Regional Medical Center Attn: A/P	624 Hospital Drive		Mountain Home	AR	72653
Bay Medical Center	615 North Bonita Avenue		Panama City	FL	32401
Bay Regional Medical Center	1900 Columbus Avenue		Bay City	MI	48708
Bayfront Medical Center	701 Sixth Street South		St. Petersburg	FL	33701
Bayhealth Medical Center(KGH)	640 S. State Street		Dover	DE	19901
Baylor All Saints Medical Center at Fort Worth	1400 8th Avenue		Fort Worth	TX	76104
Baylor Jack and Jane Hamilton Heart and Vascular Hospital	621 North Hall Street		Dallas	TX	75226
Baylor Medical Center at Garland	2300 Marie Curie Drive		Garland	TX	75042
Baylor Medical Center at Irving	1901 North MacArthur Boulevard		Irving	TX	75061

Facility Name	Address 1	Address 2	City	State	Zip Code
Baylor Regional Medical Center at Grapevine	1650 West College Street		Grapevine	TX	76051
Bayshore Medical Center	4000 Spencer Highway		Pasadena	TX	77504
Baystate Medical Center	759 Chestnut Street	Springfield 4 4558	Springfield	MA	01199
Beaufort Memorial Hospital	955 Ribaut		Beaumont	SC	29902
Beaumont Hospital Gross Pointe	468 Cadieux Road		Gross Pointe	MI	48230
Beauregard Memorial Hospital	600 S. Pine Street		Deridder	LA	70634
Bellin Memorial Hospital	744 S. Webster Avenue	Cardiac Data Center 5th Floor	Green Bay	WI	54301
Benefis Healthcare	1101 26th Street South		Great Falls	MT	59405-5161
Berkshire Medical Center, Inc.	725 North Street		Pittsfield	MA	01201-4124
Bert Fish Medical Center	401 Palmetto Street		New Smyrna Beach	FL	32168
Beth Israel Deaconess Medical Center	185 Pilgrim Road, Baker 4		Boston	MA	02215
Bethesda Memorial Hospital	2815 S. Seacrest Boulevard		Boynton Beach	FL	33435

Facility Name	Address 1	Address 2	City	State	Zip Code
Bethesda North Hospitals	375 Dixmyth Avenue		Cincinnati	OH	45220-2489
Beverly Hospital	85 Herrick Street		Beverly	MA	01915
Bexar County Hospital District d.b.a. University Health	4502 Medical Drive	Stop 34-1	San Antonio	TX	78229
Billings Clinic (formerly Deaconess)	2800 9th Avenue, North		Billings	MT	59101
Biloxi Regional Medical Center	150 Reynoir Street		Biloxi	MS	39531
Blake Medical Center	2020 59th Street West		Bradenton	FL	34209
Blanchard Valley Hospital	1900 South Main Street	HeartCare Center	Findlay	OH	45840
Blessing Hospital	1005 Broadway	PO Box 7005	Quincy	IL	62305-7005
Bloomington Hospital	601 W. 2nd Street	PO Box 1149	Bloomington	IN	47403
Boca Raton Community Hospital	12201 NW Second Place		Coral Springs	FL	33071
Bon Secours DePaul Medical Center	150 Kingsley Lane		Norfolk	VA	23505
Bon Secours Hospital	2000 W. Baltimore Street		Baltimore	MD	21223
Bon Secours – Maryview Medical Center	3636 High Street		Portsmouth	VA	23707

Facility Name	Address 1	Address 2	City	State	Zip Code
Bon Secours- Memorial Regional Medical Center	8260 Atlee Road		Mechanicsville	VA	23116
Bon Secours St Francis Medical Center	13710 St. Francis Boulevard		Midlothian	VA	23114
Bon Secours St. Marys Hospital	5801 Bremo Road	Cardiac Cath Lab	Richmond	VA	23226
Boone Hospital Center	1600 E. Broadway		Columbia	MO	65201-5897
Borgess Medical Center	1521 Gull Road		Kalamazoo	MI	49048
Boston Medical Center	One Boston Medical Place		Boston	MA	02118
Bothwell Regional Health Center	601 East 14th Street		Sedalia	MO	65301
Botsford Hospital	28050 Grand River Avenue		Farmington Hills	MI	48336
Boulder Community Hospital	1100 Balsam Avenue		Boulder	CO	80304
Brandon Regional Hospital	119 Oakfield Drive		Brandon	FL	33511
Brandywine Hospital	201 Reeceville Road		Coatesville	PA	19320
Bridgeport Hospital	267 Grant Street		Bridgeport	CT	06610
Brigham & Womens Hospital	75 Francis Street	L258A	Boston	MA	02115

Facility Name	Address 1	Address 2	City	State	Zip Code
Bronson Methodist Hospital	601 John Street		Kalamazoo	MI	49007-5348
Brookdale Hospital & Medical Center	1 Brookdale Plaza		Brooklyn	NY	11212
Brooklyn Hospital Center	121 DeKalb Avenue		Brooklyn	NY	11201
Brooksville Regional Hospital	17240 Cortez Boulevard		Brooksville	FL	34601
Brookwood Medical Center	2010 Brookwood Medical Center		Birmingham	AL	35209
Broward General Medical Center	1600 S. Andrews Avenue		Ft. Lauderdale	FL	33316
Brownsville Doctors Hospital	4750 N. Expressway		Brownsville	TX	78526
Bryan LGH Medical Center	1600 South 48th Street		Lincoln	NE	68526
Bryn Mawr Hospital	Suite 557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
Buffalo General Hospital	3 Gates Circle		Buffalo	NY	14209
Cabell Huntington Hospital	1340 Hal Greer Boulevard		Huntington	WV	25701
California Pacific Medical Center	2330 Clay Street, Stern Building, Room #103	Stern Building, Room #103	San Francisco	CA	94115
CAMC Teays Valley Hospital	1400 Hospital Drive		Hurricane	WI	25526

Facility Name	Address 1	Address 2	City	State	Zip Code
Camden-Clark Memorial Hospital	800 Garfield Avenue		Parkersburg	WV	26101
Cape Canaveral Hospital	701 West Cocoa Beach Causeway		Cocoa Beach	FL	32931
Cape Cod Hospital	40 Quinlan Way		Hyannis	MA	02601
Cape Fear Valley Health System	303 Wagoner Drive		Fayetteville	NC	28303-4646
Capital Medical Center	3900 Capital Mall Drive		Olympia	WA	98502
Capital Regional Medical Center	2626 Capital Medical Blvd		Tallahassee	FL	32308
Capital Regional Medical Center	1125 Madison Street (PO Box 1128)		Jefferson City	MO	65102-1128
Cardiovascular Center of Puerto Rico	PO Box 366528		San Juan	PR	00936-6528
Carilion Roanoke Memorial Hosp	Att: Cardiac Cath Lab	PO Box 13367	Roanoke	VA	24033-3367
Caritas Good Samaritan Medical Center	235 North Pearl Street		Brockton	MA	02301
Caritas Norwood Hospital	800 Washington Street		Norwood	MA	02062
Carle Foundation Hospital	611 W. Park Street		Urbana	IL	61801
Carolina Pines Regional Medical Center	1304 W. BoBo Newsom Highway		Hartsville	SC	29550
Carolina East Medical Center	2000 Neuse Blvd	PO Box 12157	New Bern	NC	28560

Facility Name	Address 1	Address 2	City	State	Zip Code
Carolinas Hospital System	805 Pamplico Highway		Florence	SC	29505
Carolinas Medical Center	1001 Blythe Boulevard		Charlotte	NC	28227
Carolinas Medical Center – Mercy	720 E. Morehead Street	Cath Lab	Charlotte	NC	28202
Carondelet Heart Institute at St. Joseph Medical Center	1000 Carondelet Drive		Kansas City	MO	64114
Carroll Hospital Center	200 Memorial Avenue		Westminster	MD	21157
Carson Tahoe Regional Medical Center	1600 Medical Parkway		Carson City	NV	89706
Cartersville Medical Center	960 Joe Frank Harris Parkway		Cartersville	GA	30120
Casa Grande Regional Medical Center	1800 E. Florence Boulevard		Casa Grande	AZ	85222
Castleview Hospital	300 North Hospital Drive		Price	UT	84501
Catawba Valley Medical Center	810 Fairgrove Church Road		Hickory	NC	28602
Catholic Medical Center	100 McGregor Street	Level C Room 248	Manchester	NH	03102-3770
Cayuga Medical Center at Ithaca	101 Dates Drive		Ithaca	NY	14850

Facility Name	Address 1	Address 2	City	State	Zip Code
Cedars-Sinai Health Systems	8700 Beverly Boulevard	MGB 901	Los Angeles	CA	90048
Centennial Hills Hospital Medical Center	6900 N. Durango Drive		Las Vegas	NV	89149-4409
Centennial Medical Center	12505 Lebanon Boulevard		Frisco	TX	75035
Centennial Medical Center	2300 Patterson Street		Nashville	TN	37203
Centerpoint Medical Center	19600 E. 39th Street		Independence	MO	64057
Centinela Hospital Medical Center	555 E. Hardy Street		Inglewood	CA	90301
Central Baptist Hospital	1800 Nicholasville Road Suite 401		Lexington	KY	40503
Central DuPage Hospital	25 N. Winfield Road		Winfield	IL	60190
Central Florida Regional Hospital	1401W. Seminole Boulevard		Sanford	FL	32771
Central Maine Medical Center	CMHVI 60 High Street		Lewiston	ME	04240
Central Minnesota Heart Center at St. Cloud Hospital	1406 Sixth Avenue North		St. Cloud	MN	56303
Central Mississippi Medical Center	1850 Chadwick Drive		Jackson	MS	39204

Facility Name	Address 1	Address 2	City	State	Zip Code
Central Washington Hospital	1201 South Miller Street		Wenatchee	WA	98801
Chandler Regional Medical Center	475 S. Dobson Road		Chandler	AZ	85224
Charleston Area Medical Center	501 Morris Street		Charleston	WV	25301
Charlotte Regional Medical Center	809 East Marion Avenue		Punta Gorda	FL	33950
Charlton Memorial Hospital	363 Highland Avenue		Fall River	MA	02720-3700
Chattanooga-Hamilton County Hospital Authority/ER	975 E. Third Street		Chattanooga	TN	37403
Chesapeake General Hospital	736 Battlefield Boulevard North		Chesapeake	VA	23320
Cheshire Medical Center	580 Court Street		Keene	NH	03431
Chester County Hospital	701 E. Marshall Street		West Chester	PA	19380
Chester River Hospital Center	100 Brown Street		Chestertown	MD	21620
Cheyenne Regional Medical Center	214 E. 23rd Street		Cheyenne	WY	82001
Children's National Medical Center	111 Michigan Ave NW		Washington	DC	20010
Christian Hospital	11133 Dunn Road		St Louis	MO	63136

Facility Name	Address 1	Address 2	City	State	Zip Code
Christiana Care Health System	4755 Ogletown-Stanton Road		Newark	DE	19718
Christus Saint Elizabeth Hospital	2830 Calder Street		Beaumont	TX	77702
Christus Hospital-St. Mary	3600 Gates Boulevard		Port Arthur	TX	77642
Christus Santa Rosa Hospital City Center	333 N. Santa Rosa Street		San Antonio	TX	78207
Christus Santa Rosa Hospital Medical Center	333 N. Santa Rosa Street		San Antonio	TX	78207-3198
Christus Santa Rosa Hospital New Braunfels	333 N. Santa Rosa Street		San Antonio	TX	78207-3198
Christus Spohn Hospital Corpus Christi – Shoreline	600 Elizabeth Street		Corpus Christi	TX	78404
Christus St. Catherine	701 S.Fry Road	Cath Lab	Katy	TX	77450
Christus St. John Hospital	18300 St. John Drive	Cath Lab	Nassau Bay	TX	77058
Christus St. Michael Health System	2600 St. Michael Drive		Texarkana	TX	75503
Christus St. Patrick Hospital	524 South Ryan Street		Lake Charles	LA	70602-3401
Christus – Schumpert Highland Hospital	One St. Mary Place		Shreveport	LA	71101
Christus – St. Frances Cabrini Hospital	3330 Masonic Drive	Cath Lab	Alexandria	LA	71301

Facility Name	Address 1	Address 2	City	State	Zip Code
Citrus Memorial Health System	502 W. Highland Boulevard		Inverness	FL	34452
Citrus Valley Medical Center	1115 South Sunset Avenue		West Covina	CA	91790
CJW Medical Center	7101 Jahnke Road		Richmond	VA	23225-4044
Claremore Regional Hospital	1202 N Muskogee Place		Claremore	OK	74017
Clarian Arnett	1701 North Senate Boulevard		Indianapolis	IN	46202
Clarian Health Partners-Methodist Hospital Campus	1701 N. Senate Boulevard	Room A1082	Indianapolis	IN	46202
Clarian North Medical Center	11725 Illinois Street B-178		Carmel	IN	46032
Clark Memorial Hospital	1220 Missouri Avenue		Jeffersonville	IN	47130
Clear Lake Regional Medical Center	500 Medical Center Boulevard		Webster	TX	77598
Cleveland Clinic Florida	3100 Weston Road		Weston	FL	33331
Cleveland Clinic Foundation	9500 Euclid Avenue		Cleveland	OH	44195
Coliseum Medical Centers	350 Hospital Drive		Macon	GA	31217
College Station Medical Center	1604 Rock Prairie Road		College Station	TX	77845

Facility Name	Address 1	Address 2	City	State	Zip Code
Columbia Hospital	4425 North Port Washington Road		Glendale	WI	53212
Columbia Regional Hospital	404 Keene Street		Columbia	MO	65201
Columbia St. Mary's Hospital Ozaukee	13111 N. Port Washington Road		Mequon	WI	53097
Columbus Cardiovascular Care, PLLC	2520 5th Street North PO Box 1307		Columbus	MS	39703
Columbus Regional Hospital	2400 17th Street		Columbus	IN	47201
Comanche County Memorial Hospital	3401 W. Gore Boulevard	PO Box 129	Lawton	OK	73505
Community Health Partners	3700 Kolbe Road		Lorain	OH	44053
Community Hospital	5637 Marine Parkway		New Port Richey	FL	34652
Community Hospital	The Community Hospital	901 MacArthur Boulevard	Munster	IN	46321
Community Hospital and Wellness Center	433 West High Street		Bryan	OH	43506
Community Hospital East	Cardiovascular Services	1500 North Ritter Avenue	Indianapolis	IN	46219
Community Hospital of the Monterey Peninsula	PO Box HH		Monterey	CA	93942-1085
Community Hospital South	1500 N. Ritter Avenue		Indianapolis	IN	46219-3027

Facility Name	Address 1	Address 2	City	State	Zip Code
Community Medical Center	2827 Fort Missoula Road		Missola	MT	59804
Community Medical Center	99 Highway 37 West		Toms River	NJ	08775
Community Medical Center	1800 Mulberry Street		Scranton	PA	18510
Community Medical Center – Clovis	2755 Herndon Avenue		Clovis	CA	96311
Community Memorial Hospital	147 N. Brent Street		Ventura	CA	93003
Community Memorial Hospital	W180 N8085 Town Hall Road		Menomonee Falls	WI	53052
CommunityMercy AKA Springfield Regional Medical Center	2615 E. High Street		Springfield	OH	45525
Concord Hospital	250 Pleasant Street		Concord	NH	03301
Conroe Regional Medical Center	504 Medical Center Boulevard		Conroe	TX	77304
Covenant Heart Institute	3615 19th Street		Lubbock	TX	79410
Conway Regional Medical Center	2302 College Avenue		Conway	AR	72034-6226
Cookeville Regional Medical Center	1 Medical Center Boulevard		Cookeville	TN	38501
Cooley Dickinson Hospital	30 Locust Street		Northampton	MA	01060

Facility Name	Address 1	Address 2	City	State	Zip Code
Cooper University Hospital	One Cooper Plaza	D386B	Camden	NJ	08103
Coral Gables Hospital	3100 Douglass Road		Coral Gables	FL	33134
Corpus Christi Medical Center	7101 SPID		Corpus Christi	TX	78412
Covenant Healthcare	1447 N. Harrison Street		Saginaw	MI	48602
Covenant Medical Center	3421 West Ninth Street		Waterloo	IA	50702
Cox Medical Center South	3801 S. National Avenue		Springfield	MO	65807
Creighton University Medical Center	601 N. 30th Street		Omaha	NE	68131
Crestwood Medical CenterTriad Hospitals, Inc.	One Hospital Drive		Huntsville	AL	35801-3495
Crittenton Hospital Medical Center	1101 W. University Drive		Rochester	MI	48307-1831
Crouse Hospital	736 Irving Avenue		Syracuse	NY	13210
Crozer Chester Medical Center	1 Medical Center Boulevard		Chester	PA	19013-3995
Cumberland Cardiology	5000 US Route 321		Prestonsburg	KY	41653
CVPH Medical Center	75 Beekman Street		Plattsburgh	NY	12901-1493

Facility Name	Address 1	Address 2	City	State	Zip Code
Cypress Fairbanks Medical Center	10655 Steepletop Drive		Houston	TX	77065
Dallas Regional Medical Center	1011 N. Galloway Avenue		Mesquite	TX	75149
Dameron Hospital	525 W. Acacia Street		Stockton	CA	95203
Danbury Hospital	24 Hospital Avenue	Cardiology 2 South	Danbury	CT	06810
Danville Regional Medical Center	142 South Main Street		Danville	VA	24541
Dauterive Hospital	600 N. Lewis Street		New Iberia	LA	70563
Davis Hospital	1600 West Antelope Drive		Layton	UT	84041
DCH Regional Medical Center	809 University Boulevard E		Tuscaloosa	AL	35401-2029
Deaconess Hospital	5501 N. Portland Avenue		Oklahoma City	OK	73112
Deaconess Hospital	311 Straight Street		Cincinnati	OH	45129
Deaconess Hospital	600 Mary Street		Evansville	IN	47747
Deaconess Medical Center	W. 800 Fifth Avenue		Spokane	WA	99204
Deborah Heart & Lung Center	200 Trenton Road		Browns Mills	NJ	08015
Decatur General Hospital	1201 7th Street		Decatur	AL	35601
Decatur Memorial Hospital	2300 N. Edward Street		Decatur	IL	62526
Dekalb Medical Center	2701 N. Decatur Road		Decatur	GA	30033

Facility Name	Address 1	Address 2	City	State	Zip Code
Dekalb Regional Medical Center	200 Medical Center Drive		Fort Payne	AL	35968
Del Sol Medical Center	10301 Gateway West		El Pasoq	TX	79925
Delray Medical Center	5352 Linton Boulevard		Delray Beach	FL	33484
Denton Regional Medical Center	3535 South I-35E		Denton	TX	76205
Denver Health Medical Center	777 Bannock Street		Denver	CO	80204
DePaul Health Center	12303 DePaul Drive		Bridgeton	MO	63044
Des Peres Hospital	2345 Dougherty Ferry Road		St. Louis	MO	63122
Desert Regional Medical Center	1150 N. Indian Canyon		Palm Springs	CA	92262
Desert Springs Hospital	2075 E. Flamingo Road		Las Vegas	NV	89119
Desert Valley Hospital	16850 Bear Valley Road		Victorville	CA	92392
DeTar Hospital	506 E. San Antonio Street		Victoria	TX	77902
Dixie Regional Medical Center	1380 E. Medical Drive		St. George	UT	84790
Doctors Hospital	5000 University Drive		Miami	FL	33146
Doctors Hospital	5100 West Broad Street		Columbus	OH	43228

Facility Name	Address 1	Address 2	City	State	Zip Code
Doctors Hospital	9440 Poppy Drive		Dallas	TX	75218
Doctors Hospital at Renaissance	5501 S. McColl Road		Edinburg	TX	78539
Doctors Hospital – Augusta	3651 Wheeler Drive		Augusta	GA	30909
Doctors Hospital of Laredo	10700 McPherson Rd		Laredo	TX	78045
Doctors Hospital of Sarasota	5731 Bee Ridge Road		Sarasota	FL	34233
Doctors Hospital-Tidwell	510 West Tidwell		Houston	TX	77091
Doctors Medical Center	2000 Vale Road		San Pablo	CA	94806
Doctors Medical Center	1441 Florida Avenue		Modesto	CA	95350
Dominican Santa Cruz Hospital	1555 Soquel Drive		Santa Cruz	CA	95065
Downey Regional Medical Center	11500 Brookshire Avenue		Downey	CA	90241
Doylestown Hospital	595 West State Street		Doylestown	PA	18901
Dr. P. Phillips Hospital	1414 Kuhl Avenue		Orlando	FL	32806
DuBois Regional Medical Center	100 Hospital Avenue		DuBois	PA	15801
Duke Raleigh Hospital	3400 Wake Forest Road		Raleigh	NC	27609

Facility Name	Address 1	Address 2	City	State	Zip Code
Duke University Hospital	Erwin Road DUMC 3943		Durham	NC	27710
Dunn Memorial Hospital	1600 23rd Street		Bedford	ID	47421
Durham Regional Hospital	3643 N. Roxboro Road		Durham	NC	27704
East Alabama Medical Center	2000 Pepperell Parkway		Opelika	AL	36830
East Georgia Regional Medical Center	1499 Fair Road (PO Box 1048)		Statesboro	GA	30459
East Jefferson General Hospital	4200 Houma Boulevard	Quality Management Department	Metairie	LA	70006
East Ohio Regional Hospital	90 N. 4th Street		Martins Ferry	OH	43935
East Texas Medical Center	1000 S. Beckham Avenue		Tyler	TX	75711
Eastern Idaho RMC	3100 Channing Way		Idaho Falls	ID	83404
Eastern Maine Medical Center	489 State Street	PO Box 404	Bangor	ME	04402-0404
Easton Hospital (Northampton Hospital Corp.)	250 South 21st Street		Easton	PA	18042
Edward Hospital	801 S. Washington Street	3rd floor Heart Hospital	Naperville	IL	60540

Facility Name	Address 1	Address 2	City	State	Zip Code
Eisenhower Medical Center	39000 Bob Hope Drive		Rancho Mirage	CA	92270
El Camino Hospital	2500 Grant Road		Mountain View	CA	94040
Eliza Coffee Memorial Hospital	603 West College Street		Florence	AL	35630
Elkhart General Hospital	600 East Boulevard	3 South Suites	Elkhart	IN	46514-2499
Elliot Hospital	1 Elliot Way		Manchester	NH	03103
Ellis Hospital	1101 Nott Street		Schenectady	NY	12308
Elmhurst Hospital Center	79-01 Broadway	Dept of Cardiology, Suite D-54	Elmhurst	NY	11373
Elmhurst Memorial Hospital Marquardt Memorial Lib	200 Berteau Avenue		Elmhurst	IL	60126
EMH Regional Medical Center	630 East River Street		Elyria	OH	44035
Emory Crawford Long Hospital	1364 Clifton Rd NE		Atlanta	GA	30322
Emory Dunwoody Medical Center	4575 North Shallowford Road		Atlanta	GA	30338
Emory Eastside Medical Center	1700 Medical Way		Snellville	GA	30078
Emory Johns Creek	6325 Hospital Parkway		Johns Creek	GA	30097

Facility Name	Address 1	Address 2	City	State	Zip Code
Emory University Hospital	1364 Clifton Road NE	Office C430	Atlanta	GA	30322
Englewood Community Hospital (HCA)	700 Medical Boulevard		Englewood	FL	34223
Englewood Hospital & Medical Center	350 Engle Street		Englewood	NJ	07631
Enloe Medical Center	1600 Esplanade		Chico	CA	95926
Erie County Medical Center	462 Grider Street		Buffalo	NY	14215
Evergreen Healthcare	12040 NE 128th St., MS 21		Kirkland	WA	98034
Excela Health Westmoreland Hospital	532 West Pittsburgh Street		Greensburg	PA	15601
Exempla Good Samaritan Medical Center	2420 W. 26th Avenue Building D Suite 100		Denver	CO	80211
Exempla Lutheran Medical Center	2420 W. 26th Avenue Building D Suite 140		Denver	CO	80211
Exempla Saint Joseph Hospital	2420 W. 26th Avenue Building D Suite 140		Denver	CO	80211
Exeter Hospital	5 Alumni Drive		Exeter	NH	03833
F.E. Lajam, MD PC	140-04 58th Road		Flushing	NY	11355
Fairfield Cardiac Cath Labs	3000 Mack Road	Suite 200	Fairfield	OH	45014

Facility Name	Address 1	Address 2	City	State	Zip Code
Fairfield Medical Center	401 N. Ewing Street		Lancaster	OH	43130
Fairview Hospital	18101 Lorain Road #329		Cleveland	OH	44111
Fairview Park Hospital	PO Box 1408		Dublin	GA	31021
Fairview Southdale Hospital	6401 France Avenue South		Edina	MN	55435
Faith Regional Health Services	2700 W. Norfolk Avenue		Norfolk	NE	68701
Fawcett Memorial Hospital	21298 Olean Boulevard		Port Charlotte	FL	33949-4960
Faxton – St. Luke's Campus	1656 Champlin Avenue		New Hartford	NY	13413
FirstHealth Moore Regional Hospital	155 Memorial Drive		Pinehurst	NC	28374
Fisher-Titus Medical Center	272 Benedict Avenue		Norwalk	OH	44857
Flagler Hospital	400 Health Park Blvd.		St. Augustine	FL	32086
Flagstaff Medical Center	1200 N. Beaver Street		Flagstaff	AZ	86001-3198
Fletcher Allen Health Care	111 Colchester Avenue		Burlington	VT	05401
Florida Hospital	601 East Rollins Street	Box 99	Orlando	FL	32803
Florida Hospital Deland	701 West Plymouth Avenue		Deland	FL	32720

Facility Name	Address 1	Address 2	City	State	Zip Code
Florida Hospital Fish Memorial	1055 Saxon Boulevard		Orange City	FL	32763
Florida Hospital Memorial Medical Center	875 Sterthaus Avenue		Ormond Beach	FL	32174
Florida Hospital Waterman, Inc.	1000 Waterman Way		Tavares	FL	32778
Florida Hospital Zephyrhills	5631 Glencrest Boulevard		Tampa	FL	33625-1008
Flowers Hospital	4370 West Main Street		Dothan	AL	36305
Floyd Medical Center	304 Turner McCall Boulevard		Rome	GA	30165
Floyd Memorial Hospital and Health Services	1850 State Street		New Albany	IN	47150
Forrest General Hospital	6051 Highway 49 South		Hattiesburg	MS	39404-6389
Forsyth Medical Center	3333 Silas Creek Parkway	Clinical Improvement Box 102	Winston-Salem	NC	27103
Fort Sanders Regional Medical Center	1901 Clinch Avenue		Knoxville	TN	37916-2307
Fort Walton Beach Medical Center	1000 Mar Walt Drive		Fort Walton Beach	FL	32547
Forum Health – Northside Medical Center	500 Gypsy Lane		Youngstown	OH	44501-0240

Facility Name	Address 1	Address 2	City	State	Zip Code
Fountain Valley Regional Hosp	17100 Euclid Street		Fountain Valley	CA	92708-4004
Frankfort Regional Medical Center	299 Kings Daughter Drive		Frankfort	KY	40601
Franklin Square Hospital	9000 Franklin Square Drive		Baltimore	MD	21237
Frederick Memorial Hospital	400 W. Seventh Street		Frederick	MD	21710
Freeman Hospital	1102 W. 32nd Street	1102 W. 32nd Street	Joplin	MO	64804
Fremont Area Medical Center	450 East 23rd Street		Fremont	NE	68025
French Hospital Medical Center	1911 Johnson Avenue		San Luis Obispo	CA	93401
Fresno Community Hospital and Medical Center	2823 Fresno Street		Fresno	CA	93721
Fresno Heart Hospital	15 East Audubon Drive		Fresno	CA	93720
Froedtert Hospital	9200 W. Wisconsin Avenue		Milwaukee	WI	53226
Frye Regional Medical Center	420 N. Center Street		Hickory	NC	28601
Gadsden Regional Medical Center	1007 Goodyear Avenue		Gadsden	AL	35903
Galichia Heart Hospital	2610 N. Woodlawn Boulevard		Wichita	KS	67220
Garden City Hospital	6245 Inkster Road		Garden City	MI	48135-4001

Facility Name	Address 1	Address 2	City	State	Zip Code
Garden Grove Hospital	12601 Garden Grove Boulevard		Garden Grove	CA	92843
Gaston Memorial Hospital	2525 Court Drive		Gastonia	NC	28054
Gateway Medical Center Gateway Health System	651 Dunlop Lane		Clarksville	TN	37043
Gateway Regional Medical Center	2100 Madison Avenue		Granite City	IL	62040
Geisinger Medical Center	100 North Academy Avenue		Danville	PA	17822-2160
Geisinger Wyoming Valley Medical Center	100 North Academy Avenue		Danville	PA	17822-2160
Genesis Healthcare System	800 Forest Avenue		Zanesville	OH	43701
Genesis Medical Center	1236 East Rusholme Street	Suite 190	Davenport	IA	52803-2459
Genesis Medical Center, Illini Campus	1236 East Rusholme Street	Suite 190	Davenport	IA	52803-2459
Genesys Regional Medical Center	One Genesys Parkway		Grand Blanc	MI	48439
Georgetown University Hospital	3800 Reservoir Road NW		Washington	DC	20007
Gerald Champion Reginal Medical	2669 North Scenic Drive		Alamogordo	NM	88310
Gettysburg Hospital	147 Gettys Street		Gettysburg	PA	17325

Facility Name	Address 1	Address 2	City	State	Zip Code
Glenbrook Hospital	2100 Pfingsten Road		Evanston	IL	60026
Glendale Adventist Medical Center	1509 Wilson Terrace		Glendale	CA	91206
Glendale Memorial Hospital and Health Center	1420 S. Central Avenue		Glendale	CA	91204
Glens Falls Hospital	100 Park Street		Glens Falls	NY	12801
Glenwood Regional Medical Center	503 McMillan Road		Monroe	LA	71291
Good Samaritan	407 14th Avenue SE		Puyallup	WA	98371
Good Samaritan Heart Center	520 South 7th Street		Vincennes	IN	47591
Good Samaritan Hospital and Health Center	2222 Philadelphia Drive		Dayton	OH	45406
Good Samaritan Hospital	1225 Wilshire Boulevard		Los Angeles	CA	90017
Good Samaritan Hospital	2425 Samaritan Drive	2425 Samaritan Drive	San Jose	CA	95124
Good Samaritan Hospital	605 N. 12th Street		Mount Vernon	IL	62864
Good Samaritan Hospital	3815 Highland Avenue		Downers Grove	IL	60515
Good Samaritan Hospital	10 East 31st Street		Kearney	NE	68847
Good Samaritan Hospital	255 Lafayette Avenue		Suffern	NY	10901

Facility Name	Address 1	Address 2	City	State	Zip Code
Good Samaritan Hospital	375 Dixmyth Avenue		Cincinnati	OH	45220-2489
Good Samaritan Hospital Cardiology	1000 Montauk Highway		West Islip	NY	11795
Good Samaritan Hospital of Maryland	5601 Loch Raven Boulevard		Baltimore	MD	21239
Good Samaritan Medical Center	1309 North Flagler Drive		West Palm Beach	FL	33401
Good Samaritan Regional Medical Center	3600 NW Samaritan Drive		Corvallis	OR	97330
Good Shepherd Medical Center	700 E Marshall		Longview	TX	75601
Goshen General Hospital	200 High Park Avenue		Goshen	IN	46526
Governor Juan F. Luis Hospital & Medical Center	4007 Estate Diamond Ruby		Christiansted	VI	00820
Graduate Hospital	1800 Lombard Street		Philadelphia	PA	19146
Grady Health System	80 Jessie Hill Jr. Drive SE		Atlanta	GA	30303
Grady Memorial Hospital	561 West Central Avenue		Delaware	OH	43015-1489

Facility Name	Address 1	Address 2	City	State	Zip Code
Grand Strand Regional Medical Center	809 82nd Parkway		Myrtle Beach	SC	29572
Grandview Medical Center	405 W. Grand Avenue		Dayton	OH	45405
Grant Medical Center	111 S. Grant Avenue		Columbus	OH	43215
Gratiot Medical Center	4401 Campus Ridge Drive		Midland	MI	48670
Great Plains Regional Medical Center	Box 2339		Elk City	OK	73648
Great River Medical Center	1221 S. Gear Avenue		West Burlington	IA	52655
Greater Baltimore Medical Center	GBMC – Cardiac Cath Lab	6701 N. Charles Street	Towson	MD	21204
Greene Memorial Hospital	1141 N. Monroe Drive		Xenia	OH	45385
Greenview Regional Hospital	1801 Ashley Circle		Bowling Green	KY	42104
Greenville Memorial Hospital	701 Grove Road		Greenville	SC	29605
Greenwich Hospital	5 Perryridge Road		Greenwich	CT	06830
Gulf Coast Medical Center	449 W. 23rd Street		Panama City	FL	32406-5309
Gulf Coast Medical Center	1400 Highway 59 Bypass		Wharton	TX	77488
Gulf Coast Medical Center (formerly Southwest Regional)	9981 S. Healthpark Drive		Fort Meyers	FL	33908

Facility Name	Address 1	Address 2	City	State	Zip Code
Gundersen Lutheran Medical Center, Inc.	1900 South Avenue	H06-004	LaCrosse	WI	54601
Gwinnett Hospital System	1000 Medical Center Boulevard		Lawrenceville	GA	30045
Hackensack University Medical Center	30 Prospect Avenue		Hackensack	NJ	07601
Hahnemann University Hospital	230 N. Broad Street		Philadelphia	PA	19102
Halifax Medical Center	303 N. Clyde Morris Boulevard		Daytona Beach	FL	32114-2732
Halifax Regional Hospital	2204 Wilborn Avenue		South Boston	VA	24592
Hamilton Medical Center	1200 Memorial Drive		Dalton	GA	30720
Hamot Medical Center	201 State Street		Erie	PA	16550
Hanford Community Medical Center	450 N. Greenfield Avenue		Handford	CA	93230
Hannibal Regional Hospital	6000 Hospital Drive	PO Box 551	Hannibal	MO	63401
Harbor Hospital Center	3001 S. Hanover Street		Baltimore	MD	21225
Hardin Memorial Hospital	913 N Dixie Avenue		Elizabethtown	KY	42701
Harlingen Medical Center	5501 South Expressway 77		Harlingen	TX	78550
Harper University Hospital	3990 John R. Street		Detroit	MI	48201

Facility Name	Address 1	Address 2	City	State	Zip Code
Harris County Hospitals	1504 Taub Loop		Houston	TX	77030
Harris Methodist Fort Worth	1301 Pennsylvania Avenue		Fort Worth	TX	76104
Harris Methodist HEB	1600 Hospital Parkway		Bedford	TX	76022
Harrison Medical Center	2520 Cherry Avenue		Bremerton	WA	98310
Hartford Hospital	80 Seymour Street		Hartford	CT	06102-8000
Harton Regional Medical Center	1801 N. Jackson Street		Tullahoma	TN	37388
Havasu Regional Medical Center	101 Civic Center Lane		Lake Havasu City	AZ	86403
Hawaii Medical Center East, LLC	2230 Liliha Street		Honolulu	HI	96817
Hawaii Medical Center West	91-2141 Fort Weaver Road		Ewa Beach	HI	96706
Hays Medical Center	2220 Canterbury Road		Hays	KS	67601
Hazard ARH Regional Medical Center	100 Medical Center Drive		Hazard	KY	41701
Health Care Authority for Baptist Health	2105 East South Boulevard		Montgomery	AL	36116
Heart and Lung Clinic	900 East Broadway Box 5510		Bismark	ND	58502
Heart Center of Indiana	8333 Nabb Road Suite 330	Suite 330	Indianapolis	IN	46290

Facility Name	Address 1	Address 2	City	State	Zip Code
Heart Hospital of Austin	3801 N. Lamar Boulevard		Austin	TX	78756
Heart Hospital of Lafayette	1105 Kaliste Saloom Road		Lafayette	LA	70508
Heart Hospital of New Mexico	8719 Springhill Drive NW		Albuqerque	NM	87114
Heart of Florida Regional Medical Center	40100 Highway 27		Davenport	FL	33837
Heart of Lancaster Regional Medical Center	250 College Avenue		Lancaster	PA	17604
Heartland Regional Medical Center	3333 W. Deyoung Street		Marion	IL	62959
Heartland Regional Medical Center	The Heart Center – Cardiac Cath Lab	5325 Faraon Street	Saint Joseph	MO	64506-3373
Helen Ellis Memorial	1395 South Pinella Avenue		Tarpon Springs	FL	34689
Helen Keller Hospital	1300 South Montgomery Avenue		Sheffield	AL	35660
Hemet Valley Medical Center	1117 E. Devonshire Avenue		Hemet	CA	92543
Hendersonville Medical Center	355 New Shackle Island Road		Hendersonville	TN	37075
Hendrick Medical Center	1900 Pine Street		Abilene	TX	79601
Hennepin County Medical Center	701 Park Avenue		Minneapolis	MN	55415-1829

Facility Name	Address 1	Address 2	City	State	Zip Code
Henrico Doctors Hospital	1602 Skipwith Road	Cardiac Cath Lab	Richmond	VA	23229
Henry Ford Heart and Vascular Institute	2799 W. Grand Boulevard	K-14	Detroit	MI	48202
Henry Ford Macomb	15855 Nineteen Mile Road		Clinton Township	MI	48038
Henry Ford Macomb-Warren	13355 East Ten Mile Road		Warren	MI	48089
Henry Mayo Newhall Memorial Hospital	23845 McBean Parkway		Valencia	CA	91350
Henry Medical Center, Inc.	1133 Eagles Landing Parkway		Stockbridge	GA	30281
Hialeah Hospital	651 East 25th Street		Hialeah	FL	33013
High Point Regional Hospital	601 N. Elm Street		High Point	NC	27261
Highland Park Hospital	718 Glenview Avenue		Highland Park	IL	60035
Hillcrest Baptist Medical Center	100 Hillcrest Medical Boulevard		Waco	TX	76708
Hillcrest Hospital	6780 Mayfield Road		Mayfield Heights	OH	44124
Hillcrest Medical Center	1120 S. Utica Avenue	3 West	Tulsa	OK	74104
Hilton Head Hospital	25 Hospital Center Boulevard		Hilton Head	SC	29926

Facility Name	Address 1	Address 2	City	State	Zip Code
HMA-Physician Management Region 25 Disb. Acct. (Physician's Regional)	6101 Pine Ridge Road		Naples	FL	34119
Hoag Memorial Hospital Presbyterian	One Hoag Drive	PO Box 6100	Newport Beach	CA	92658
Holland Hospital	602 Michigan Avenue		Holland	MI	49423
Holmes Regional Medical Center	1350 South Hickory Street		Melbourne	FL	32901
Holy Cross Hospital	4795 N. Federal Highway		Ft. Lauderdale	FL	33308
Holy Cross Hospital Medical Library	1500 Forest Glen Road		Silver Spring	MD	20910
Holy Spirit Health System	503 N 21st Street	Heart Center Admin.	Camp Hill	PA	17011-2204
Holzer Cardiovascular Institute	90 Jackson Pike		Gallipolis	OH	45631
Hopkins County Memorial Hospital	115 Airport Road		Sulphur Springs	TX	75482
Hospital of St. Raphael	Cardiac Cath Lab, 1450 Chapel Street		New Haven	CT	06511
Hospital of the University of Pennsylvania	9011 E. Gates 3400 Spruce Street		Philadelphia	PA	19104

Facility Name	Address 1	Address 2	City	State	Zip Code
Houston Northwest Medical Center Accounts Payable	710 FM 1960 Road West		Houston	TX	77090
Howard County General Hospital	5755 Cedar Lane		Columbia	MD	21044
Howard Regional Health System	3500 South LaFountain Street		Kokomo	IN	46904-9011
Howard University Hospital	2041 Georgia Avenue		Washington	DC	20060
Hualapai Mountain Medical Center	3801 Santa Rosa Drive		Kingman	AZ	86401
Huguley Memorial Medical Center	11801 South Freeway		Ft. Worth	TX	76115
Huntington Hospital	100 W. California Boulevard		Pasadena	CA	91109
Huntington Hospital	270 Park Avenue	Arrhyyhmia Services, Huntington Hospital	Huntington	NY	11743
Huntsville Hospital	101 Sivley Road		Huntsville	AL	35801
Hurley Medical Center	1 Hurley Plaza		Flint	MI	48503
Huron Valley Sinai Hospital	1 William Carls Drive		Commerce Township	MI	48382
Iberia Medical Center	2315 East Main Street		New Iberia	LA	70560
Immanuel-St. Joseph's Hospital	1025 Marsh Street		Mankato	MN	56001

Facility Name	Address 1	Address 2	City	State	Zip Code
Indian Path Medical Center(Mountain States Health)	400 N. State of Franklin Road		Johnson City	TN	24210
Indian River Medical Center	1000 36th Street		Vero Beach	FL	32960
Indiana Heart Institute	8333 Naab Rd	Suite 330	Indianapolis	IN	46260
Indiana Regional Medical Center Cardiology Department	835 Hospital Road		Indiana	PA	15701
Ingalls Hospital	One Ingalls Drive		Harvey	IL	60426
Ingham Regional Medical Center	401 W. Greenlawn Avenue		Lansing	MI	48910
Innovis Health	3000 32nd Avenue SW		Fargo	ND	58104
Inova Alexandria Hospital	3289 Woodburn Road		Falls Church	VA	22042
Inova Fairfax Hospital/Inova Heart & Vascular Institute	3300 Gallows Road		Falls Church	VA	22042
Inova Loudoun Hospital	3289 Woodburn Road	Suite 235	Falls Church	VA	22042
Integris Baptist Medical Center	3433 NW 56th Street, Suite 805		Oklahoma City	OK	73112
Integris Health	600 South Monroe Street		Enid	OK	73701

Facility Name	Address 1	Address 2	City	State	Zip Code
Integris Southwest Medical Center	4401 South Western Avenue		Oklahoma City	OK	73109
Interfaith Medical Center	1545 Atlantic Avenue		Brooklyn	NY	11213
Intermountain Medical Center	5121 Cottonwood Street		Murray	UT	84157-7000
Iowa Lutheran Hospital	700 E. University Avenue		Des Moines	IA	50316
Iowa Methodist Medical Center	700 E. University Avenue		Des Moines	IA	50316
Iredell Memorial Hospital	557 Brookdale Drive		Statesville	NC	28687
Iroquois Memorial Hospital	200 Fairman Avenue		Watseka	IL	60970
Jackson Hospital and Clinic	1725 Pine Street		Montgomery	AL	36106
Jackson Madison General Hospital	620 Skyline Drive		Jackson	TN	38301
Jackson North Medical Center	1611 NW 12th Avenue		Miami	FL	33136
Jacobi Medical Center	1400 Pelham Parkway		Bronx	NY	10461-1101
Jamaica Hospital Medical Center	8900 Van Wyck Expressway		Jamaica	NY	11418
Jane Phillips Memorial Medical Center	3500 Frank Phillips Boulevard		Bartlesville	OK	74006
Jeanes Hospital	7600 Central Avenue		Philadelphia	PA	19111
Jeff Anderson Regional Medical Center	2124 14th Street		Meridian	MS	39301

Facility Name	Address 1	Address 2	City	State	Zip Code
Jefferson Memorial Hospital	PO BOX 350		Crystal City	MO	63019
Jefferson Regional Medical Center	1600 West 40th Avenue		Pine Bluff	AR	71603
Jefferson Regional Medical Center	PO Box 18119 565 Coal Valley Road		Pittsburgh	PA	15236-0119
Jennie Edmundson Memorial Hospital	933 E. Pierce Street		Council Bluffs	IA	51503
Jersey City Medical Center	355 Grand Street		Jersey City	NJ	07302
Jersey Shore University Medical Center	1945 State Route 33		Neptune	NJ	07753
Jewish Hospital	4777 East Galbraith Road		Cincinnati	OH	45236
Jewish Hospital	200 Abraham Flexner Way		Louisville	KY	40202
JFK Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
John C. Lincoln Hospital – Deer Valley	19829 N. 27th Ave.		Phoenix	AZ	85027-4002
John C. Lincoln Hospital – North Mountain	250 E. Dunlap Avenue		Phoenix	AZ	85020-2871
John Muir Medical Center – Concord Campus	1601 Ygnacio Valley Road		Walnut Creek	CA	94550
John Muir – Walnut Creek	1601 Ygnacio Valley Road		Walnut Creek	CA	94550

Facility Name	Address 1	Address 2	City	State	Zip Code
Johns Hopkins Bayview Medical Center	4940 Eastern Avenue		Baltimore	MD	21224
Johns Hopkins Hospital	600 N. Wolfe Street		Baltimore	MD	21287
Johnson City Medical Center Hosp	400 N State of Franklin		Johnson City	TN	37604
Jordan Valley Hospital	3590 W. 9000 S		West Jordan	UT	84088
Kadlec Medical Center	888 Swift Boulevard		Richland	WA	99352
Kaiser Foundation Hospital	1526 Edgemont Street		Los Angeles	CA	90027
Kaiser Foundation Hospital	6600 Bruceville Road		Sacramento	CA	95823
Kaiser Permanente – Moanalua Medical Center	3288 Moanalua Road		Honolulu	HI	96819
Kaiser Permanente – Panorama City	13652 Cantara Street		Panorama City	CA	91402
Kaiser Permanente – San Diego Medical Center	4647 Zion Avenue		San Diego	CA	92120
Kaiser Permanente Medical Center	2350 Geary Boulevard	1st Floor – CV Surgery	San Francisco	CA	94115
Kaiser Permanente Medical Center – Health Sciences Library	9400 E. Rosencrans Avenue		Bellflower	CA	90706

Facility Name	Address 1	Address 2	City	State	Zip Code
Kaiser Permanente Medical Center – Santa Clara	700 Lawrence Expressway	Department 212	Santa Clara	CA	95051
Kaiser Sunnyside Medical Center	10180 SE Sunnyside Road		Clackamas	OR	97015
Kansas Heart Hospital	3601 N Webb Road		Wichita	KS	67226
Kansas Heart Hospital	3601 N Webb Road		Wichita	KS	67226
Kansas Medical Center	1124 West 21st Street		Andover	KS	67002
Kansas University Hospital Authority	3901 Rainbow Boulevard		Kansas City	KS	66160
Kapi'olani Medical Center Pali Momi	98-1079 Moanalua Road		Aiea	HI	96701
Katherine Shaw Bethea Hospital	403 E. First Street		Dixon	IL	61021
Kaweah Delta Hospital District	Kaweah Delta Hospital District	400 W. Mineral King Avenue	Visalia	CA	93291
Kendall Regional Medical Center	5631 Glencrest Boulevard		Tampa	FL	33625-1008
Kershaw County Medical Center	1315 Roberts Street		Camden	SC	29020
Kettering Medical Center	3535 Southern Boulevard		Kettering	OH	45429
Kingman Regional Medical Center	3269 Stockton Hill Road		Kingman	AZ	86401

Facility Name	Address 1	Address 2	City	State	Zip Code
Kings Daughters Hospital	1901 Southwest H.K. Dodgen Loop		Temple	TX	76502
Kings Daughters Medical Center	2201 Lexington Avenue		Ashland	KY	41101
Kingwood Medical Center	22999 Highway 59 N		Kingwood	TX	77339
Kishwaukee Community Hospital	One Kish Hospital Drive		Dekalb	IL	60115
Knox Community Hospital	1330 Coshocton Road		Mount Vernon	OH	43050
Kootenai Medical Center	2003 Kootenai Health Way		Coeur d' Alene	ID	83814
Kuakini Medical Center	347 N. Kuakini Street		Honolulu	HI	96817
La Paz Regional Hospital	1200 W. Mohave Road		Parker	AZ	85344
Lafayette General Medical Center	1214 Coolidge Avenue		Lafayette	LA	70505
Lahey Clinic	41 Mall Road		Burlington	MA	01805
Lake Charles Memorial Hospital	1701 Oak Park Boulevard		Lake Charles	LA	70601
Lake City Medical Center	340 NW Commerce Boulevard		Lake City	FL	32055
Lake Cumberland Regional Hospital	305 Langdon Street		Somerset	KY	42503
Lake Hospital System	36000 Euclid Avenue		Willoughby	OH	44094
Lake Pointe Medical Center	6800 Scenic Drive		Rowlett	TX	75088

Facility Name	Address 1	Address 2	City	State	Zip Code
Lake Regional Health System	54 Hospital Drive		Osage Beach	MO	65065
Lakeland Hospital	1234 Napier Avenue		Saint Joseph	MI	49085-2112
Lakeland Regional Medical Center	1324 Lakeland Hills Boulevard		Lakeland	FL	33804
Lakeview Regional Medical Center	95 East Fairway Drive		Covington	LA	70433-7500
Lakeway Regional Hospital	726 McFarland Street		Morristown	TN	37814
Lakewood Hospital	14519 Detroit Avenue		Lakewood	OH	44107
Lakewood Ranch Medical Center	8330 Lakewood Ranch Boulevard		Bradenton	FL	34202
Lakewood Regional Medical Center	3700 East South Street		Lakewood	CA	90712
Lancaster Community Hosp	43830 North 10th Sreet West		Lancaster	CA	93534
Lancaster General Hospital	555 N. Duke Street PO Box 3555		Lancaster	PA	17604-3555
Lancaster Regional Medical Center	250 College Avenue		Lancaster	PA	17604
Landmark Medical Center	115 Cass Avenue		Woonsocket	RI	02895
Lane Regional Medical Center	6300 Main Street		Zachary	LA	70791

Facility Name	Address 1	Address 2	City	State	Zip Code
Lankenau Hospital	Suite 557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
La Porte Hospital	1007 Lincolnway		La Porte	IN	46352
Laredo Medical Center	1720 Bustamante Street		Laredo	TX	78044
Largo Medical Center	201 14th Street SW		Largo	FL	33770
Las Colinas Medical Center	6800 North MacArthur Boulevard		Irving	TX	75039
Las Palmas Medical Center	1801 N. Oregon Street		El Paso	TX	79902
Latrobe Hospital	One Mellon Way		Latrobe	PA	15601
Lawnwood Medical Center	1700 S. 23rd Street		Fort Pierce	FL	34950
Lawrence & Memorial Hospital	365 Montauk Avenue		New London	CT	06375
Lawrence Hospital	55 Palmer Avenue		Broxville	NY	10708-3491
Lee Memorial Health System-Cape Coral Hospital	9981 S. Healthpark Drive		Fort Myers	FL	33908
Lee Memorial Health System-Health Park Med Center	9981 S. Healthpark Drive		Fort Myers	FL	33908
Lee's Summit Medical Center	2100 SE Blue Parkway		Lee's Summit	MO	64063
Leesburg Regional Medical Center	600 East Dixie Avenue		Leesburg	FL	34748

Facility Name	Address 1	Address 2	City	State	Zip Code
Legacy Emanuel Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Good Samaritan Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Meridian Park Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Legacy Salmon Creek Hospital	1919 NW Lovejoy Street		Portland	OR	97209
Lehigh Regional Medical Center	1500 Lee Boulevard		Lehigh Acres	FL	33963
Lehigh Valley Hospital	1200 S. Cedar Crest Boulevard	Jaindl Pavilion 1st Floor	Allentown	PA	18103
Lehigh Valley Hospital – Muhlenberg	2545 Schoenersville Road	Invasive Cardiology 3rd Floor	Bethlehem	PA	18017-7330
Lenoir Memorial Hospital	100 Airport Road		Kinston	NC	28501
Lenox Hill Heart and Vascular Institute of New York	100 East 77th Street		New York	NY	10021
Lewis Gale Medical Center	1900 Electric Road		Salem	VA	24153
Lexington Medical Center	2720 Sunset Boulevard		West Columbia	SC	29169
Liberty Hospital	2525 Glenn Hendren Drive		Liberty	MO	64068

Facility Name	Address 1	Address 2	City	State	Zip Code
Licking Memorial Hospital	1320 W. Main Street		Newark	OH	43055
Lima Memorial Hospital	1001 Bellefontaine Avenue		Lima	OH	45804
Little Company of Mary Hospital	4101 Torrance Boulevard		Torrance	CA	90503
Little Company of Mary Hospital	2800 W. 95th Street		Evergreen Park	IL	60805
Logan General Hospital, LLC	20 Hospital Drive		Logan	WV	25601
Loma Linda University Medical Center	11234 Anderson Street Room 2431		Loma Linda	CA	92354
Long Beach Memorial Medical Center	2801 Atlantic Avenue		Long Beach	CA	90806
Long Island College Hospital	339 Hicks Street		Brooklyn	NY	11201
Long Island Jewish Medical Center	270-05 76th Avenue		New Hyde Park	NY	11040
Longmont United Hospital	1950 Mountain View Avenue		Longmont	CO	80501
Longview Regional Medical Center	PO Box 14000		Longview	TX	75607
Los Alamitos Medical Center	3751 Katella Avenue		Los Alamitos	CA	90720
Los Robles Hospital & Medical Center	215 W. Janss Road		Thousand Oaks	CA	91360-1899
Louisiana Medical Center and Heart Hospital	64030 Louisiana Highway 434		Lacombe	LA	70445

Facility Name	Address 1	Address 2	City	State	Zip Code
Lourdes Hospital	1530 Lone Oak Road		Paducah	KY	42003
Lovelace Medical Center	601 Martin Luther King Jr. Avenue NE		Albuquerque	NM	87102
Lowell General Hospital	295 Varnum Avenue		Lowell	MA	01854
Lower Bucks Hospital	501 Bath Road		Bristol	PA	19007
Lower Keys Medical Center	5900 College Road		Key West	FL	33040
Loyola University Medical Center	2160 S. First Avenue	Rm. 1318 Bldg. 104 Att: Mike	Maywood	IL	60153
LSU Bogalusa Medical Center	433 Plaza Street		Bogalusa	LA	70427
Lubbock Heart Hospital	4810 N. Loop 289		Lubbock	LA	79416
Luther Hospital	1221 Whipple Street		Eau Claire	WI	54702-4105
Lutheran Hospital of Indiana	7950 W. Jefferson Boulevard		Fort Wayne	IN	46804
Lutheran Medical Center	150 55th Street		Brooklyn	NY	11220
Lynchburg General Hospital	1901 Tate Springs Road	Cardiac Cath Lab	Lynchburg	VA	24501-1167
MacNeal Hospital	3249 S. Oak Park Avenue		Berwyn	IL	60402
Magnolia Regional Health Center	611 Alcorn Drive		Corinth	MS	38834

Facility Name	Address 1	Address 2	City	State	Zip Code
Maimonides Medical Center Division of Cardiology	4802 10th Avenue		Brooklyn	NY	11219
Maine Medical Center	22 Bramhall Street		Portland	ME	04102
Mainland Medical Center	6801 Emmett F. Lowry Expressway		Texas City	TX	77591
Manatee Memorial Hospital	206 Second Street East		Bradenton	FL	34208
Marian Medical Center	1400 East Church Street		Santa Maria	CA	93454
Maricopa Integrated Health System	2601 E. Roosevelt Street		Phoenix	AZ	85008
Marin General Hospital	250 Bon Air Road		Greenbrae	CA	94904
Marion General Hospital	441 N. Wabash Avenue		Marion	IN	46952
Marion General Hospital	1000 McKinley Park Drive		Marion	OH	43302-6397
Marquette General Hospital	580 W. College Avenue		Marquette	MI	85724
Marshall Medical Center	2505 US Highway 431		Boaz	AL	35957
Marshall University School of Medicine	420 West Magnetic Street		Huntington	WV	25701
Martha Jefferson Hospital	459 Locust Avenue		Charlottesville	VA	22902
Martin Memorial Medical Center	PO Box 9010		Stuart	FL	34995
Mary Black Hospital	1700 Skylyn Drive		Spatanburg	SC	29307

Facility Name	Address 1	Address 2	City	State	Zip Code
Mary Greeley Medical Center	1111 Duff Avenue		Ames	IA	50010
Mary Hitchcock Memorial Hospital	One Medical Center Drive		Lebanon	NH	03756
Mary Immaculate Hospital	2 Bernadine Drive		Newport News	VA	23602-4499
Mary Rutan Hospital	205 Palmer Avenue		Bellefontaine	OH	43311
Mary Washington Hospital	1001 Sam Perry Boulevard		Fredericksburg	VA	22401
Massachusetts General Hospital	55 Fruit Street		Boston	MA	02114
Mat-Su Regional Medical Center	2500 S. Woodworth Loop		Palmer	AK	99645
Maui Memorial Medical Center	221 Mahalani Street		Wailuku	HI	96793
Maury Regional Hospital	1224 Trotwood Avenue		Columbia	TN	38401
Mayo Clinic	4500 San Pablo Road		Jacksonville	FL	32216
Mayo Clinic Arizona	5777 E. Mayo Boulevard		Phoenix	AZ	85054
Mayo Clinic – St. Mary's Hospital	1216 2nd Street SW		Rochester	MN	55902
McAlester Regional Health Center	1 Clark Bass Boulevard		McAlester	OK	74501

Facility Name	Address 1	Address 2	City	State	Zip Code
McAllen Medical Center	301 W. Expressway 83		McAllen	TX	78503
MCG Health Inc.	1120 15th Street BBR-8521		Augusta	GA	30912
McKay-Dee Hospital Center	4401 Harrison Boulevard		Ogden	UT	84405
McKee Medical Center	2000 Boise Avenue		Loveland	CO	80538
Mclaren Regional Medical Center	401 S. Ballenger Highway		Flint	MI	48532
McLeod Regional Medical Center	555 E. Chaves Street		Florence	SC	29501
Mease Countryside Hospital	300 Pinellas Street		Clearwater	FL	33756
Mease Dunedin Hospital	300 Pinellas Street	MS 73	Clearwater	FL	33756
Med Central Mansfield	335 Glessner Avenue		Mansfield	OH	44903
Medcenter One	300 N. 7th Street		Bismarck	ND	58501
Medical Center at Bowling Green	250 Park Street		Bowling Green	KY	42101
Medical Center Hospital	500 W. 4th Street		Odessa	TX	79760
Medical Center of Arlington	3301 Matlock Road		Arlington	TX	76015
Medical Center of Aurora	1501 S. Potomac Street		Aurora	CO	80012
Medical Center of Central Georgia	777 Hemlock Street		Macon	GA	31208

Facility Name	Address 1	Address 2	City	State	Zip Code
Medical Center of Louisiana at UMOB	2025 Gravier Suite # 708		New Orleans	LA	70112
Medical Center of McKinney	4500 Medical Center Drive		McKinney	TX	75069
Medical Center of Plano	3901 W. 15th Street		Plano	TX	75075-7738
Medical Center of South Arkansas, L.L.C.	700 W. Grove		El Dorado	AR	71730
Medical Center of Southeastern Oklahoma	1800 University Boulevard		Durant	OK	74701
Medical Center of the Rockies	2500 Rocky Mountain Avenue		Loveland	CO	80538
Medical City Dallas Hospital	7777 Forest Lane		Dallas	TX	75230
Medical University of South Carolina	25 Countenay Drive		Charleston	SC	29425-2110
Melbourne Same Day Surgery	1035 S. Apollo Boulevard		Melbourne	FL	32901
Memorial Health System	1400 E. Boulder Street		Colorado Springs	CO	80909-5599
Memorial Health University Medical Center	Cardiac Cath Lab Memorial Health University Medical Center	4700 Waters Avenue	Savannah	GA	31404
Memorial Hermann Hospital	6411 Fanin Street		Houston	TX	77030
Memorial Hermann HVI South West	7787 Southwest Freeway		Houston	TX	77074

Facility Name	Address 1	Address 2	City	State	Zip Code
Memorial Hermann Memorial City Hospital	921 Gessner Road		Houston	TX	77024
Memorial Hermann Northeast	18951 Memorial North		Humble	TX	77338
Memorial Hermann Northwest Hospital	9401 SW Freeway		Houston	TX	77074
Memorial Hermann Southeast Hospital	11800 Astoria Boulevard		Houston	TX	77089-6049
Memorial Hermann The Woodlands Hospital	9250 Pinecroft Drive		Spring	TX	77380
Memorial Hospital	800 West 9th Street		Jasper	IN	47546
Memorial Hospital	325 South Belmont Street		York	PA	17405
Memorial Hospital	2525 Desales Avenue		Chattanooga	TN	37404-1102
Memorial Hospital at Gulfport	4500 13th Street	PO Box 1810	Gulfport	MS	39502
Memorial Hospital Carbondale	405 W. Jackson Street		Carbondale	IL	65902
Memorial Hospital Miramar	1901 SW 172 Avenue		Miramar	FL	33029
Memorial Hospital of Martinsville	320 Hospital Drive		Martinsville	VA	24112
Memorial Hospital of Rhode Island Brown University	111 Brewster Street		Pawtucket	RI	02860

Facility Name	Address 1	Address 2	City	State	Zip Code
Memorial Hospital of South Bend	615 N. Michigan Street		South Bend	IN	46601-1033
Memorial Hospital Pembroke/ South Broward Hospital	7800 Sheridan Street		Pembroke Pines	FL	33024
Memorial Hospital West/South Broward Hospital District	703 North Flamingo Road		Pembroke Pines	FL	33028
Memorial Hospital – Jacksonville	3625 University Boulevard South		Jacksonville	FL	32215
Memorial Medical Center	701 N. First Street		Springfield	IL	62781
Memorial Medical Center	2450 S. Telshor Boulevard		Las Cruces	NM	88011
Memorial Medical Center	1086 Franklin Street		Johnstown	PA	15905-4398
Memorial Medical Center Modesto	1700 Coffee Road		Modesto	CA	95355
Memorial Regional Hospital/South Broward Hospital	3501 Johnson Street		Hollywood	FL	33021
Menifee Valley Medical Center	28400 McCall Boulevard		SunCity	CA	92585
Menorah Medical Center	5721 West 119th Street		Overland Park	KS	66209
Mercy Fitzgerald Hospital	1500 Lansdowne Avenue		Darby	PA	19023

Facility Name	Address 1	Address 2	City	State	Zip Code
Mercy General Hospital – Sacramento	3939 J Street		Sacremento	Ca	95819
Mercy Gilbert Medical Center	3555 S. Val Vista Drive		Gilbert	AZ	85296
Mercy Health Partners	1500 E. Sherman Boulevard	Suite 334	Muskegon	MI	49444
Mercy Health Partners Hackley Campus	Westshore Professional Building	Suite 334	Muskegon	MI	49443
Mercy Health System of Northwestern Arkansas	2710 Rife Medical Lane		Rogers	AR	72758
Mercy Hospital	144 State Street		Portland	ME	04101
Mercy Hospital	2925 Chicago Avenue		Minneapolis	MN	55407
Mercy Hospital – Scranton	746 Jefferson Avenue		Scranton	PA	18501
Mercy Hospital & Medical Center	2525 South Michigan Avenue		Chicago	IL	60616-2477
Mercy Hospital Anderson	7500 State Road		Cincinnati	OH	45255
Mercy Hospital Attn.: Accounts Payable	3663 South Miami Avenue		Miami	FL	33133
Mercy Hospital of Buffalo	515 Abbott Road	Marion Building Suite 306	Buffalo	NY	14220

Facility Name	Address 1	Address 2	City	State	Zip Code
Mercy Hospital of Janesville	1000 Mineral Point Avenue		Janesville	WI	53548
Mercy Hospital Attn: A/P	271 Carew Street PO Box 9012		Springfield	MA	01102
Mercy Iowa City	500 East Market Street		Iowa City	IA	52245
Mercy Medical Center	2700 Steward Parkway		Roseburg	OR	97470
Mercy Medical Center	801 5th Street		Sioux City	IA	51101
Mercy Medical Center	1111 6th Avenue		Des Moines	IA	51101
Mercy Medical Center	1320 Mercy Drive	Cardiology Management and Support 3C	Canton	OH	44708
Mercy Medical Center	301 St. Paul Place		Baltimore	MD	21202
Mercy Medical Center	2900 W. 9th Avenue	Suite 107	Oshkosh	WI	54904
Mercy Medical Center	701 10th Street SE		Cedar Rapids	IA	52403
Mercy Medical Center	1000 North Village Ave		Rockville Centre	NY	11571
Mercy Medical Center Redding	2175 Rosaline Avenue	PO Box 496009	Redding	CA	96049-6009
Mercy Medical Center St. Mary's	900 E. Oak Hill Avenue		Knoxville	TN	37917
Mercy Medical Center West	900 E. Oak Hill Avenue		Knoxville	TN	37917
Mercy Medical Center – North Iowa	1000 4th Street SW		Mason City	IA	50401

Facility Name	Address 1	Address 2	City	State	Zip Code
Mercy Memorial Health Center Sisters of Mercy	1011 14th Avenue NW		Ardmore	OK	73401
Mercy Regional Health Center	1823 College Avenue		Manhattan	KS	67218
Mercy Regional Medical Center	1010 Three Springs Boulevard		Durango	CO	81301
Mercy Regional Medical Center	800 East Main Street		Ville Platte	LA	70586
Mercy San Juan Hospital	3941 J Street		Sacremento	CA	95819
Mercy St. Vincent Medical Center	2222 Cherry Street	MOB #2 Suite 1250	Toledo	OH	43608
Meriter Hospital	202 South Park Street	10 Tower – Heart Center	Madison	WI	53715
Methodist Charlton Medical Center (Methodist Health System)	MHS Sam & Anne Kesner Heart Center	1441 N. Beckley Avenue	Dallas	TX	75203
Methodist Dallas Medical Center	MHS Sam & Anne Kesner Heart Center	122 West Colorado Boulevard	Dallas	TX	75203
Methodist Hospital	7700 Floyd Curl Drive		San Antonio	TX	78229
Methodist Hospital (Germantown Campus)	1265 Union Avenue		Memphis	TN	38104
Methodist Hospital (North Campus)	1265 Union Avenue		Memphis	TN	38104

Facility Name	Address 1	Address 2	City	State	Zip Code
Methodist Hospital	6500 Excelsior Boulevard 2nd Floor HVC		St. Louis Park	MN	55426
Methodist Hospital of South CA	300 W Huntington Drive		Arcadia	CA	91007-3402
Methodist Hospital Southlake Campus	8701 Broadway		Merrillville	IN	46410-7035
Methodist Lebonheur Health Care University Hospital (University Campus)	1265 Union Avenue		Memphis	TN	38104-3499
Methodist Medical Center of Illinois	221 NE Glen Oak Avenue		Peoria	IL	61636
Methodist Medical Center of Oak Ridge	990 Oak Ridge Turnpike		Oak Ridge	TN	37830
Methodist Speciality and Transplant Hospital	7700 Floyd Curl Drive		San Antonio	TX	78229
Methodist Stone Oak Hospital	1139 E. Sonterra Boulevard		San Antonio	TX	78258
Methodist Sugar Land Hospital	16655 Southwest Freeway		Sugar Land	TX	77479
Methodist Willowbrook Hospital	18220 Tomball Parkway		Houston	TX	77070
Metro Health Hospital	5900 Byron Center Road		Wyoming	MI	49519
MetroHealth Medical Center	2500 MetroHealth Drive		Cleveland	OH	44109
Metroplex Hospital	2201 S. Clear Creek Road		Killeen	TN	76549

Facility Name	Address 1	Address 2	City	State	Zip Code
MetroSouth Medical Center	12935 Gregory Street		Blue Island	IL	60406-2470
Metropolitan Methodist Hospital	1310 McCullough Avenue		San Antonio	TX	78212
MetroWest Medical Center	115 Lincoln Street	Cardiac Cath Lab	Framingham	MA	01702-6327
Miami Valley Hospital	One Wyoming Street		Dayton	OH	45409
Michael Reese Hospital	2929 S. Ellis Avenue		Chicago	IL	60616
Middle Tennessee Medical Center	4220 Harding Road		Nashville	TN	37205
Midland Memorial Hospital	2200 W. Illinois Avenue c/o Heart Institute		Midland	TX	79701
MidMichigan Medical Center-Midland	4005 Orchard Drive		Midland	MI	48670
Midwest Regional Medical Center	2825 Parklawn Drive		Midwest City	OK	73110
Milford Regional Medical Center	14 Prospect Street		Milford	MA	01568
Millard Fillmore Hospital	3 Gates Circle	Room 4-EB-13	Buffalo	NY	14203
Millard Filmore Suburban	100 High Street		Buffalo	NY	14203
Mills-Peninsula Hospital	1783 Elcamino Real		Burlingame	CA	94010
Miriam Hospital	164 Summit Avenue		Providence	RI	02906

Facility Name	Address 1	Address 2	City	State	Zip Code
Mission Hospital Regional Medical Center	27700 Medical Center Road		Mission Viejo	CA	92691-6426
Mission Hospitals, Inc.	509 Biltmore Avenue		Asheville	NC	28801-4690
Mississippi Baptist Medical Center	1225 N State Street		Jackson	MS	39202-2097
Missouri Baptist Medical Center	3015 N. Ballas Road	3105 North Ballas Road	Saint Louis	MO	63131-2374
Moberly Regional Medical Center	1515 Union Avenue		Moberly	MO	65270
Mobile Infirmary Medical Center	5 Mobile Infirmary Circle		Mobile	AL	36607
Monongalia Genera; Hospital	1200 JD Anderson Drive		Morgantown	WV	26505
Monroe Hospital	4011 South Medical Park Boulevard		Bloomington	IN	47403
Montefiore Medical Center	111 E. 210th Street		Bronx	NY	10467
Montgomery General Hospital	18101 Prince Philip Drive		Olney	MD	20832
Morris Hospital	150 West High Street		Morris	IL	60450
Morristown Hamblem Hospital	908 West Fourth North Street	PO Box 1178	Morristown	TN	37816-1178
Morristown Memorial Hospital	100 Madison Avenue		Morristown	NJ	07962
Morton Plant Hospital	300 Pinellas Street	MS 73	Clearwater	FL	33756

Facility Name	Address 1	Address 2	City	State	Zip Code
Morton Plant North Bay Hospital	300 Pinellas Street	MS 73	Clearwater	FL	33756
Moses Cone Health System	1200 N. Elm Street		Greensboro	NC	27401
Mother Frances Hospital	800 E. Dawson Street		Tyler	TX	75701
Mount Auburn Hospital	330 Mount Auburn Street	South 2 – Administration	Cambridge	MA	02138
Mount Carmel East	6150 East Broad Street	Office EB 148	Columbus	OH	42313
Mount Carmel St. Ann's Hospital	6150 East Broad Street	Office EB 148	Columbus	OH	42313
Mount Carmel West	6150 East Broad Street	Office EB 148	Columbus	OH	42313
Mount Clemens Regional Medical Center	1000 Harrington Street		Mount Clemens	MI	48043-2992
Mount Sinai Medical Center	4300 Alton Road		Miami Beach	FL	33140
Mountain View Regional Center	4311 E. Lohman Avenue		Las Cruces	NM	88011
Mountain Vista Medical Center	1301 S. Crismon Road		Mesa	AZ	85209
Mountainview Hospital	3100 N. Tenaya Way		Las Vegas	NV	89128

Facility Name	Address 1	Address 2	City	State	Zip Code
Munroe Regional Medical Center	1500 SW 1st Avenue PO Box 6000		Ocala	FL	34478
Munson Medical Center	1105 Sixth Street		Traverse City	MI	49684-2386
Muskogee Regional Medical Center	300 Rockefeller Drive		Muskogee	OK	74401
Nacogdoches Medical Center	4920 NE Stallings Drive		Nacogdoches	TX	75965
Naples Community Hospital	350 7th Street South		Naples	FL	34102
Nashoba Valley Medical Center	200 Groton Road		Ayer	MA	01432
National Park Medical Center	1910 Malvern Avenue		Hot Springs	AR	71901
NEA Baptist Memorial Hospital	3024 Stadium Boulevard		Jonesboro	AR	72401
Nebraska Heart Hospital	7500 South 91st Street		Lincoln	NE	68526
Nebraska Methodist Hospital	8303 Dodge Street		Omaha	NE	68114
New Hanover Regional Medical Center	2131 S. 17th Street		Wilmington	NC	28402
New York Community Hospital	2525 Kings Highway		Brooklyn	NY	11229
New York Hospital Medical Center of Queens Health Education Library	5645 Main Street	Floor 1	Flushing	NY	11355

Facility Name	Address 1	Address 2	City	State	Zip Code
New York Methodist Hospital	506 6th Street Brooklyn		New York City	NY	11215
New York Presbyterian Hospital	622West 168th Street	PH-2	New York City	NY	10032
Newark Beth Israel Medical Center	201 Lyons Avenue at Osborne Terrace		Newark	NJ	07112
Newton Medical Center	600 Medical Center Drive		Newton	KS	67114
Niagara Falls Memorial Medical Center	571 10th Street		Niagara Falls	NY	14302
Nicholas H. Noyes Memorial Hospital	111 Clara Barton Street		Dansville	NY	14437
NIX Healthcare System	414 Navarro Street		San Antonio	TX	78205
Norman Regional Health System	PO Box 1308		Norman	OK	73070-1308
North Austin Medical Center	5103 Hereford Way		Austin	TX	78727
North Bay Medical Center	1200 B. Gale Wilson Boulevard		Fairfield	CA	94533
North Carolina Baptist Hospital	Medical Center Boulevard		Winston-Salem	NC	27157
North Central Baptist Hospital	730 North Main Avenue	Suite 424	San Antonio	TX	78205
North Colorado Medical Center	1801 16th Street		Greeley	CO	80631

Facility Name	Address 1	Address 2	City	State	Zip Code
North Cypress Medical Center	21214 Northwest Freeway		Cypress	TX	77429
North Florida Regional Medical Center	6500 Newberry Road		Gainesville	FL	32605
North Hills Hospital	4401 Booth Calloway Road		North Richland Hills	TX	76180
North Kansas City Hospital	2800 Clay Edward Drive		North Kansas City	MO	64116
North Memorial Medical Center	3300 Oakdale Avenue, N		Robbinsdale	MN	55422
North Mississippi Medical Center	830 S. Gloster Street		Tupelo	MS	38801
North Oaks Medical Center	15790 Paul Vega MD Drive		Hammond	LA	70403
North Shore Medical Center FMC Campus	5000 W. Oakland Park Boulevard		Ft. Lauderdale	FL	33313
North Shore Medical Center – Salem Hospital	81 Highland Avenue	Davenport 5	Salem	MA	01970
North Shore University Hospital	300 Community Drive		Manhasset	NY	11030
North Suburban Medical Center	9191 Grant Street		Denver	CO	80229
North Vista Hospital	1409 E. Lake Mead Boulevard		North Las vegas	NV	89030
Northeast Alabama Regional Medical Center	400 East 10th Street		Anniston	AL	36202

Facility Name	Address 1	Address 2	City	State	Zip Code
Northeast Baptist Hospital	730 N. Main Avenue	Suite 424	San Antonio	TX	78205
Northeast Georgia Medical Center	743 Spring Street		Gainesville	GA	30501
NorthEast Medical Center	920 Church Street North		Concord	NC	28025
Northeast Methodist Hospital	12412 Judson Road		San Antonio	TX	78233
Northeast Regional Medical Center	315 S. Osteopathy		Kirksville	MO	63501
Northern Illinois Medical Center	4201 Medical Center Drive		McHenry	IL	60050
Northern Michigan Regional Hospital	416 Connable Avenue		Petoskey	MI	49770
Northern Nevada Medical Center	2375 E. Prater Way		Sparks	NV	89434
Northlake Medical Center	1455 Montreal Road		Tucker	GA	30084
Northridge Hospital Medical Center	18300 Roscoe Avenue		Northridge	CA	91325
Northshore Regional Medical Center	100 Medical Center Drive		Slidell	LA	70461
Northside Hospital-Atlanta	1000 Johnson Ferry Road		Atlanta	GA	30342
Northside Hospital-Cherokee	1000 Johnson Ferry Road		Atlanta	GA	30342
Northside Hospital	6000 49th Street, N		Pinellas Park	FL	33709
Northside Hospital – Forsyth	1200 Northside Forsyth Drive		Cumming	GA	30041

Facility Name	Address 1	Address 2	City	State	Zip Code
Northwest Community Hospital	800 W. Central Road		Arlington Heights	IL	60005
Northwest Hospital	1550 North 115th Street		Seattle	WA	98113
Northwest Hospital Center	5401 Old Court Road		Randallstown	MD	21133
Northwest Medical Center	2801 N. State Road 7		Margate	FL	33063
Northwest Medical Center	Northwest Medical Center	6200 N. La Cholla Boulevard	Tucson	AZ	85741
Northwest Medical Center – Bentonville	609 West Maple Street		Springdale	AR	72764
Northwest Medical Center-Washington	609 West Maple Street		Springdale	AR	72764
Northwest Mississippi Regional Medical Center	1970 Hospital Drive		Clarksdale	MS	38614
Northwestern Memorial Hospital	676 N. St. Clair Street	Suite 1700	Chicago	IL	60611
Norton Audubon	PO Box 35070		Louisville	KY	40232
Norton Hospital	PO Box 35070		Louisville	KY	40232
Norwalk Hospital	24 Stevens Street		Norwalk	CT	06856
NYU Medical Center	545 First Avenue		New York	NY	10016
Oak Hill Hospital	11375 Cortez Boulevard		Brooksville	FL	34613
Oakwood Hospital & Medical Center	18101 Oakwood Boulevard		Dearborn	MI	48124

Facility Name	Address 1	Address 2	City	State	Zip Code
Obici Hospital	600 Gresham Road		Norfolk	VA	23507
Ocala Regional Mecical Center	1431 SW First Avenue		Ocala	FL	34474
Ocean Springs Hospital	2809 Denny Avenue		Pascagoula	MS	39581
Ochsner Baptist Medical Center Ochsner Health System	2700 Napolean Avenue		New Orleans	LA	70115
Ochsner Medical Center – Baton Rouge	17000 Medical Center Drive		Baton Rouge	LA	70816
Ochsner Medical Center – West Bank	2500 Belle Chasse Highway		Gretna	LA	70056
Ochsner Medical Center – Kenner (Kenner Regional Medical Center)	180 West Esplanade Avenue		Kenner	LA	70065
Ochsner Medical Foundation	1516 Jefferson Highway		Jefferson	LA	70003
Ochsner North Shore Covington	1000 Ochsner Boulevard		Covington	LA	70433
Oconee Regional Medical Center	812 N. Cobb Street		Milledgeville	GA	31061
O'Connor Hospital	2105 Forest Avenue		San Jose	CA	95128
Odessa Regional Hospital	520 East 6th Street		Odessa	TX	79760

Facility Name	Address 1	Address 2	City	State	Zip Code
Ogden Regional Medical Center	5475 South 500 East		Ogden	UT	84403
Ohio Valley Medical Center	2000 Eoff Street		Wheeling	WV	26003
Oklahoma Heart Hospital	4050 W. Memorial Road		Oklahoma City	OK	73120
Oklahoma Heart Hospital-South	4050 W. Memorial Road		Oklahoma City	OK	73120
Oklahoma State University Medical Center	744 W. 9th Street	Mail Drop-H440	Tulsa	OK	74127
Olathe Medical Center	20333 W. 151st Street		Olathe	KS	66061-7211
Orange Coast Memorial Medical Center	9920 Talbert Ave.		Fountain Valley	CA	92708
Orange Regional Medical Center	60 Prospect Avenue		Middletown	NY	10940
Oregon Health & Science University	3181 SW Sam Jackson Road	UHS 32	Portland	OR	97239
Orlando Regional Medical Center	1414 Kuhl Avenue	MP 196	Orlando	FL	32806
Osceola Regional Medical Center	700 W. Oak Street		Kissimmee	FL	34745
OSF Saint Anthony Medical Center	5666 East State Street		Rockford	IL	61108

Facility Name	Address 1	Address 2	City	State	Zip Code
OSF Saint Joseph Medical Center	2200 E. Washington Street		Bloomington	IL	61701
OSF Saint Francis Medical Center	530 N.E. Glen Oak Avenue		Peoria	IL	61637
OU Medical Center	700 NE 13th Street		Oklahoma City	OK	73104
Our Lady of Bellefonte Hospital	1000 St. Christopher Drive		Ashland	KY	41101
Our Lady of Lourdes Medical Center	1600 Haddon Avenue		Camden	NJ	08103
Our Lady of Lourdes Regional Medical Center	611 Saint Landry Street PO Box 4027		Lafayette	LA	70506
Our Lady of The Lake Regional	5000 Hennessy Boulevard		Baton Rouge	LA	70808-4350
Our Lady of the Resurrection Medical Center	5645 W. Addison Street		Chicago	IL	60634
Overlake Hospital Medical Center	1035 116th Avenue NE		Bellevue	WA	98004
Overland Park Regional Medical Center/ Health Midwest	10500 Quivira Road		Overland Park	KS	66215
Owensboro Medical Health System	811 E. Parrish Avenue		Owensboro	KY	42303
Ozarks Medical Center	1100 Kentucky Avenue	PO Box 1100	West Plains	MO	65775

Facility Name	Address 1	Address 2	City	State	Zip Code
P and S Surgical Hospital	312 Grammont Street		Monroe	LA	71201
Palm Beach Gardens Medical Center	3360 Burns Road		Palm Beach Gardens	FL	33410
Palmetto General Hospital	2001 West 68th Street		Hialeah	FL	33016
Palmetto Health Heart Hospital	6 Richland Medical Park Drive	Suite 4525	Columbia	SC	29203
Palomar Medical Center	555 East Valley Parkway		Escondido	CA	92025
Palos Community Hospital	12251 S. 80th Avenue	Cardiovascular Services	Palos Heights	IL	60463-0930
Paoli Hospital	557 Lankenau MOB East	100 Lancaster Avenue	Wynnewood	PA	19096
Paradise Valley Hospital	3929 E. Bell Road		Phoenix	AZ	85032
Paradise Valley Hospital	2400 E. Fourth Street		National City	CA	91950
Paris Regional Medical Center	865 DeShong Drive		Powderly	TX	75432
Park Plaza Hospital	1313 Hermann Drive		Houston	TX	77004
Parkland Health and Hospital Systems	5201 Harry Hines Boulevard		Dallas	TX	75235
Parkridge Medical Center	2333 McCallie Avenue		Chattanooga	TN	37404
Parkview Hospital	2200 Randallia Drive		Fort Wayne	IN	46805

Facility Name	Address 1	Address 2	City	State	Zip Code
Parkview Medical Center	400 W. 16th Street		Pueblo	CO	81003
Parkway Regional Medical Center	160 NW 170th Street		North Miami	FL	33169
Parkwest Medical Center	9352 Parkwest Boulevard		Knoxville	TN	37923
Parma Community General Hospital	7007 Powers Boulevard		Parma	OH	44129
Parrish Medical Center	951 N. Washington Avenue		Titusville	FL	32796
Pasco Regional Medical Center	13000 100 Fort King Road		Dade City	FL	33525
PBI Regional Medical Center	350 Boulevard		Passaic	NJ	07055
Peace River Regional Medical	2500 Harbor Boulevard		Port Charlotte	FL	33952
Peninsula Regional Medical Center	100 East Carroll Street		Salisbury	MD	21801
Penn Presbyterian Medical Center	39th & Market Streets		Philadelphia	PA	19104
Penn State Hershey Medical Center	PO Box 850 MC H047		Hershey	PA	17033-0850
Pennsylvania Hospital	800 Spruce Street		Philadelphia	PA	19107-6192
Penrose – St. Francis Health Services	2222 North Nevada, #3000		Colorado Springs	CO	80907

Facility Name	Address 1	Address 2	City	State	Zip Code
Phelps County Regional Medical Center	1000 W. 10th Street		Rolla	MO	65401
Phoebe Putney Memorial Hospital	417 Third Avenue		Albany	GA	31701
Phoenix Baptist Hospital	2000 W. Bethany Home Road		Phoenix	AZ	85015
Phoenixville Hospital	140 Nutt Road		Phoenixville	PA	19460-3906
Piedmont Hospital	95 Collier Road Suite 2075		Atlanta	GA	30309
Piedmont Medical Center	222 S. Herlong Avenue		Rock Hill	SC	29732
Pikesville Medical Center	911 Bypass Road		Pikesville	KY	41501
Pinnacle Health Invasive Cardiology	111 South Front Street		Harrisburg	PA	17101-2099
Pioneer Valley Hospital	3590 West 9000 South, Suite 315		West Jordan	UT	84088
Pitt County Memorial Hospital	2100 Statonsburg Road	PCMH Heart Center	Greenville	NC	27835
Plantation General Hospital	401 NW 42nd Avenue		Plantation	FL	33317
Plaza Medical Center of Fort Worth	7921 Daystar Drive		Fort Worth	TX	76123

Facility Name	Address 1	Address 2	City	State	Zip Code
Pocono Medical Center	206 East Brown Street		East Stroudsburg	PA	18301
Pomona Valley Hospital Med Center	1798 N. Garey Avenue		Pomona	CA	91768
Poplar Bluff Regional Medical Center	2620 N. Westwood Boulevard		Poplar Bluff	MO	63901
Port Huron Hospital	1221 Pine Grove Avenue		Port Huron	MI	48060
Porter Adventist Hospital	2525 S. Downing Street		Denver	CO	80210-5817
Porter Valparaiso Hospital Campus	814 Laporte Avenue		Valparaiso	IN	46383
Portneuf Medical Center	651 Memorial Drive		Pocatello	ID	83201
Portsmouth Regional Hospital	333 Borthwick Avenue		Portsmouth	NH	03801
Prairie Lakes Healthcare	401 9th Avenue		Watertown	SD	57201
Presbyterian Healthcare Services	PO Box 26666		Albuquerque	NM	87125
Presbyterian Hospital	200 Hawthorne Lane		Charlotte	NC	28233
Presbyterian Hospital – Denton	3000 I-35 N		Denton	TX	76201
Presbyterian Hospital (Matthews)	1500 Matthews Township Parkway		Matthews	NC	28105
Presbyterian Hospital of Dallas	Presbyterian Hospital	8200 Walnut Hill Lane	Dallas	TX	75231

Facility Name	Address 1	Address 2	City	State	Zip Code
Presbyterian Intercommunity Hospital	12401 Washington Boulevard		Whittier	CA	90602
Presbyterian/ St.Luke's Medical Center	1719 E. 19th Avenue		Denver	CO	80218-1235
Prince George's Hospital Center	3001 Hospital Drive		Cheverly	MD	20785
Princeton Baptist Medical Center	701 Princeton Avenue, SW		Birmingham	AL	35211-1399
Proctor Hospital	5409 N. Knoxville Avenue		Peoria	IL	61614
Promise Regional Medical Center – Hutchinson	1701 E. 23rd Avenue		Hutchinson	KS	67502
Protestant Memorial Medical Center	4500 Memorial Drive		Belleville	IL	62226
Provena Covenant Medical Center	1400 West Park Street		Urbana	IL	61801-9901
Provena Mercy Medical Center	1325 North Highland Avenue		Aurora	IL	60506
Provena Saint Joseph Medical Center	333 North Madison Street		Joliet	IL	60435-6595
Provena Saint Marys Hospital	500 West Court Street		Kankakee	IL	60901
Provena St. Joseph Hospital	77 N. Airlite Street		Elgin	IL	60123
Provena United Samaritans Medical Center	812 North Logan Avenue		Danville	IL	61832

Facility Name	Address 1	Address 2	City	State	Zip Code
Providence Alaska Medical Center	3200 Providence Drive		Anchorage	AK	99508-4662
Providence Health Center	6901 Medical Parkway		Waco	TX	76712
Providence Holy Cross Medical Center	501 South Buena Vista Street		Burbank	CA	91505
Providence Hospital	6801 Airport Boulevard		Mobile	AL	36608
Providence Hospital	2435 Forest Drive		Columbia	SC	29204
Providence Medford Medical Center	1111 Crater Lake Avenue		Medford	OR	97527
Providence Medical Center	8929 Parallel Parkway		Kansas City	KS	66112-1689
Providence Memorial Hospital	2001 North Oregon Street		El Paso	TX	79902
Providence Park Hosptial	16001 W. Nine Mile Road		Novi	MI	48374
Providence Portland Medical Center	9205 SW Barnes Road	9205 South West. Barnes Road	Portland	OR	97225
Providence Regional Medical Center Everett	1321 Coby Avenue		Everett	WA	98206-1147
Providence Saint Joseph Medical Center	501 South Buena Vista Street		Burbank	CA	91505
Providence Saint Vincent Medical Center	Regional Heart Data Services	9205 South West Barnes Road #33	Portland	OR	97225

Facility Name	Address 1	Address 2	City	State	Zip Code
Providence St. Peter Hospital	413 N. Lilly Road		Olympia	WA	98506
Providence Tarzana Medical Center	18321 Clark Street		Tarzana	CA	91356-3501
Queen of the Valley Medical Center	1000 Trancas Street		Napa	CA	94558
Queens Medical Center	1301 Punchbowl Street		Honolulu	HI	96813
Raleigh General Hospital	1710 Harper Road		Beckley	WV	25801
Rankin Medical Center	350 Crossgates Boulevard		Brandon	MS	39042
Rapid City Regional Hospital	353 Fairmont Boulevard		Rapid City	SD	57702
Rapides Regional Medical Center	211 4th Street Box 30101		Alexandria	LA	71301
Raulerson Hospital (HCA)	1796 Highway 441 North		Okeechobee	LA	34972
Redmond Regional Medical Center	501 Redmond Road		Rome	GA	30165
Reedsburg Area Medical Center	2000 N. Dewey Avenue		Reedsburg	WI	53959
Regents of the University of Michigan	2101 Commonwealth Boulevard		Ann Arbor	MI	48105
Regional Hospital of Jackson	367 Hospital Boulevard		Jackson	TN	38305

Facility Name	Address 1	Address 2	City	State	Zip Code
Regional Medical Center	225 N. Jackson Avenue		San Jose	CA	95116
Regional Medical Center	3000 St. Matthews Road		Orangeburg	SC	29118
Regional Medical Center	900 Hospital Drive		Madisonville	KY	42431-1644
Regional Medical Center Bayonet Point	14000 Fivay Road		Hudson	FL	34667
Regional Medical Center Of Acadiana	2810 Ambassador Caffrey Pkwy.		Lafayette	LA	70506
Regions Hospital	640 Jackson Street	Mail Stop 11102-M	St. Paul	MN	55101
Reid Hospital & Healthcare Services	1100 Reid Parkway		Richmond	IN	47374
Renown Regional Medical Center	1155 Mill Street	R 11	Reno	NV	89502
Research Medical Center	2316 East Meyer Boulevard	Cardiology Services	Kansas City	MO	64132
Reston Hospital Center	1850 Town Center Parkway		Reston	VA	20190
Resurrection Medical Center	7435 W. Talcott Avenue		Chicago	IL	60631
Rex Hospital	4420 Lake Boone Trail		Raleigh	NC	27607
Rhode Island Hospital	593 Eddy Street		Providence	RI	02903
Richardson Regional Medical Center	401 W. Campbell Road		Richardson	TX	75080
Richmond University Medical Center	355 Bard Avenue		Staten Island	NY	10310

Facility Name	Address 1	Address 2	City	State	Zip Code
Riddle Memorial Hospital	1068 W. Baltimore Pike		Media	PA	19063-5177
Rideout Memorial Hospital	726 Fourth Street		Marysville	CA	95901
Ridgecrest Regional Hospital	1081 N. China Lake Boulevard		Ridgecrest	CA	93555
Rio Grande Regional Hospital	101 E. Ridge Road		McAllen	TX	78503
River Oaks Hospital	1030 River Oaks Drive		Flowood	MS	39232
River Park Hospital	1559 Spata Road		McMinnville	TN	37110
River Region Medical Center	2100 Highway 61 North		Vicksburg	MS	39183
Riverside Community Hospital	4445 Magnolia Avenue		Riverside	CA	92501
Riverside Medical Center	350 N. Wall Street		Kankakee	IL	60901
Riverside Methodist Hospital	3535 Olentangy River Road		Columbus	OH	43214
Riverside Regional Medical Center	500 J Clyde Morris Boulevard		Newport News	VA	23601
Riverview Hospital	395 Westfield Road		Noblesville	IN	46060
Riverview Regional Medical Center	600 South Third Street	PO Box 268	Gadsden	AL	35901

Facility Name	Address 1	Address 2	City	State	Zip Code
Robert Packer Hospital	1 Guthrie Square		Gadsden	AL	18840
Robert Wood Johnson University Hospital	1 Robert Wood Johnson Place		New Brunswick	NJ	08901
Robinson Memorial Hospital	6847 N. Chestnut Street		Ravenna	OH	44266
Rochester General Hospital	1425 Portland Avenue		Rochester	NY	14621
Rockford Memorial Hospital	2400 North Rockton Avenue		Rockford	IL	61103
Rogue Valley Medical Cent	2825 E. Barnett Road	Performance Improvement Dept.	Medford	OR	97504
Rome Memorial Hospital	1500 North James Street		Rome	NY	13440
Roper Hospital	316 Calhoun Street		Charleston	SC	29401
Rose Medical Center	4567 E. 9th Avenue		Denver	CO	80220-3941
Roswell Regional Hospital	117 East 19th Street		Roswell	NM	88201
Round Rock Medical Center	2400 Round Rock Medical Center		Round Rock	TX	78681
Rowan Regional Medical Center	612 Mocksville Avenue		Salisbury	NC	28144
Rush Hospital	1314 19th Avenue		Meridian	MS	39301
Rush Oak Park Hospital	520 South Maple Avenue		Oak Park	IL	60304-1097

Facility Name	Address 1	Address 2	City	State	Zip Code
Rush University Medical Center	1653 West Congress Parkway		Chicago	IL	60612
Rush-Copley Medical Center	2000 Ogden Avenue		Aurora	IL	60504
Russell Medical Center	3316 Highway 280 PO Box 939		Alexander City	AL	35011
Russellville Hospital	15155 Highway 43		Russellville	AL	35653
Rutland Regional Medical Center	160 Allen Street		Rutland	VT	05701
Sacred Heart Hospital of Pensacola	5151 North 9th Avenue		Pensacola	FL	32504-8721
Sacred Heart Hospital Attn: A/P	900 W. Clairemont Avenue		Eau Claire	WI	54701
Sacred Heart Medical Center	770 E. 11th Avenue		Eugene	OR	97401
Sacred Heart Medical Center	101 W. Eighth Avenue		Spokane	WA	99204
Saddleback Memorial Medical Center	24451 Health Center Drive		Laguna Hills	CA	92653
Saint Agnes Medical Center	1303 E. Herndon Avenue		Fresno	CA	93720
Saint Anthony Medical Center	1201 S. Main Street		Crown Point	IN	46307
Saint Bernadine Medical Center	2101 N. Waterman Avenue		San Bernadino	CA	92404-4836
Saint Clare's Hospital	611 St. Joseph's Avenue		Marshfield	WI	54449

Facility Name	Address 1	Address 2	City	State	Zip Code
Saint Elizabeth Health Center	1044 Belmont Avenue		Youngstown	OH	44511
Saint Elizabeth Hospital	2700 W. 9th Avenue Suite 107		Oshkosh	WI	54904
Saint Elizabeth Healthcare-Edgewood	1 Medical Village Drive		Edgewood	KY	41017-3403
Saint Elizabeth Regional Medical Center	555 S. 70th Street		Lincoln	NE	68510-2462
Saint Elizabeth's Hospital	211 South 3rd Street		Belleville	IL	62220-1915
Saint Francis Hospital	2122 Manchester Expressway		Columbus	GA	31904
Saint Francis Hospital	5959 Park Avenue		Memphis	TN	38119
Saint Francis Hospital	6161 S. Yale Avenue		Tulsa	OK	74136
Saint Francis Hospital & Health Center	8111 S. Emerson Avenue		Indianapolis	IN	46237
Saint Francis Hospital & Medical Center	114 Woodland Street		Hartford	CT	06105
Saint Francis Hospital of Evanston	355 Ridge Avenue		Evanston	IL	60202
Saint John Hospital & Medical Center	22151 Moross Road	Professional Bldg #1, #126	Detroit	MI	48236-2148
Saint John Macomb-Oakland Hospital	11800 E. 12 Mile Road	Room # 2510	Warren	MI	48093

Facility Name	Address 1	Address 2	City	State	Zip Code
Saint Johns Health Center	1328 Twenty-Second Street		Santa Monica	CA	90404
Saint Johns Mercy Medical Center	615 S. New Ballas Road		St. Louis	MO	63141
Saint Joseph – London	310 East 9th Street		London	KY	40741
Saint Joseph Hospital	350 West Thomas Road		Phoenix	AZ	85013
Saint Joseph Hospital	1100 W. Steward Drive		Orange	CA	92868
Saint Joseph Hospital	3001 W. Martin Luther King Boulevard		Tampa	FL	33607
Saint Joseph Hospital	2900 N. Lake Shore Drive		Chicago	IL	60657
Saint Joseph Regional Health Center	2801 Franciscan Street		Bryan	TX	77802-2544
Saint Joseph's Hospital	1824 Murdoch Avenue		Parkersburg	WV	26102-0327
Saint Joseph's Hospital and Medical Center	350 West Thomas Road		Phoenix	AZ	85013
Saint Josephs Hospital / Marshfield Clinic	611 St. Joseph Avenue		Marshfield	WI	54449-1832
Saint Joseph's Hospital of Atlanta	5665 Peachtree Dunwoody Road		Atlanta	GA	30342
Saint Josephs Regional Medical Center – SB	801 East LaSalle Avenue		South Bend	IN	46617

Facility Name	Address 1	Address 2	City	State	Zip Code
Saint Louis University Hospital	3635 Vista at Grand		Saint Louis	MO	63110
Saint Luke's East – Lee's Summit	100 NE Saint Luke's Boulevard		Lee's Summit	MO	64086
Saint Luke's Hospital	1026 A Avenue, NE		Cedar Rapids	IA	52406-3026
Saint Luke's Hospital	4401 Wornall Road (MAHI 5th Floor)		Kansas City	MO	64111
Saint Luke's Northland Hospital	Saint Luke's Hospital	4401 Wornall Road	Kansas City	MO	64111
Saint Luke's Hospital	232 S. Woods Mill Road		Chesterfield	MO	63017-3417
Saint Luke's Regional Medical Center	190 E. Bannock Street		Boise	ID	83712-6241
Saint Margaret Mercy	5454 Hohman Avenue		Hammond	IN	46320
Saint Mary Corwin Medical Center	1008 Minnequa Avenue		Pueblo	CO	81004-3798
Saint Mary Mercy Hospital	36475 West Five Mile Road		Livonia	MI	48154
Saint Mary's Hospital	56 Franklin Street		Waterbury	CT	06706
Saint Mary's Hospital and Regional Medical Center	2635 N. 7th Street		Grand Junction	CO	81501-8209
Saint Mary's Medical Center	2900 First Avenue		Huntington	WV	25702

Facility Name	Address 1	Address 2	City	State	Zip Code
Saint Mary's Regional Medical Center	235 W. Sixth Street		Reno	NV	89503
Saint Mary's Medical Center	3700 Washington Avenue		Evansville	IN	47750
Saint Peter's Hospital	315 South Manning Boulevard		Albany	NY	12208
Saint Rita's Medical Center	730 West Market Street		Lima	OH	45801-4602
Saint Rose Dominican – Siena Campus	3001 St. Rose Parkway		Henderson	NV	89052
Saint Thomas Health Care Services	4220 Harding Road		Nashville	TN	37236
Saint Vincent Health Center	252 West 25th Street		Erie	PA	16544
Saint Vincent Hospital	123 Summer Street	Suite 270	Worcester	MA	01608
Saint Vincent Medical Center/Health Center	2 St. Vincent Circle		Little Rock	AR	72205
Salem Hospital (Regional Health Services)	665 Winter Street SE		Salem	OR	97301-3919
Salina Regional Health Center	400 S. Santa Fe Avenue		Salina	KS	67401
Salinas Valley Memorial Hospital	450 E. Romie Lane		Salinas	CA	93901-4098
Salt Lake Regional Medical Center	1050 E South Temple		Salt Lake City	UT	84102

Facility Name	Address 1	Address 2	City	State	Zip Code
San Antonio Community Hospital	999 San Bernardino Road		Upland	CA	91786
San Francisco Heart and Vascular Institute	1900 Sullivan Avenue		Daly City	CA	94015
San Jacinto Methodist Hospital	4401 Garth Road		Baytown	TX	77521
San Joaquin Community Hospital	2615 Eye Street		Bakersfield	CA	93301
San Joaquin General Hospital	500 W. Hospital Road		French Camp	CA	95231
San Juan Regional Medical Center	801 W. Maple Street		Farmington	NM	87401
San Ramon Regional Medical Center	6001 Norris Canyon Road		San Ramon	CA	94583
Sanford Health	801 Broadway North		Fargo	ND	58122
Sanford USD Medical Center	900 East 54th Street		Sioux Falls	SD	57104
Santa Barbara Cottage Hospital	PO Box 689		Santa Barbara	CA	93102-0689
Santa Rosa Memorial Hospital	1165 Montgomery Drive		Santa Rosa	CA	95402
Sarasota Memorial Hospital	1700 S. Tamiami Trail		Sarasota	FL	34239
Satilla Heart Center	410 Darling Avenue		Waycross	GA	31501
Savoy Medical Center	801 Poincianna Street		Mamou	LA	70554

Facility Name	Address 1	Address 2	City	State	Zip Code
Scott and White Hospital	2401 South 31st Street		Temple	TX	76508
Scottsdale Healthcare Osborn	7400 E. Osborn Road		Scottsdale	AZ	85260
Scottsdale Healthcare Shea	9003 E. Shea Boulevard – Administration		Scottsdale	AZ	85260
Scottsdale Healthcare Thompson Peak	7400 E. Osborn Road		Scottsdale	AZ	85251
Scripps Green Hospital – La Jolla	10666 North Torrey Pines Road		La Jolla	CA	92037
Scripps Memorial Hospital Encinitas	354 Santa Fe Drive		Encinitas	CA	92024
Scripps Memorial Hospital – La Jolla	9888 Genesee Avenue	Mailstop LJ101	La Jolla	CA	92037
Scripps Mercy Hospital – San Diego	4077 5th Avenue	MER 74	San Diego	CA	92103
Scripps Mercy Hospital – Chula Vista	435 H Street	CV-101	Chula Vista	CA	91910
Sebastian River Medical Center	13695 S. US Highway 1		Sebastian	FL	32958
Self Regional Healthcare	1325 Spring Street		Greenwood	SC	29646
Sentara Careplex Hospital	600 Gresham Drive		Norfolk	VA	23507
Sentara Leigh Hospital	600 Gresham Road		Norfolk	VA	23507

Facility Name	Address 1	Address 2	City	State	Zip Code
Sentara Norfolk General Hospital	600 Gresham Road		Norfolk	VA	23507
Sentara Obici Hospital	2800 Goodwin Boulevard		Suffolk	VA	23434
Sentara Virginia Beach General Hospital	600 Gresham Road		Norfolk	VA	23507
Sentara Williamsburg Regional Medical Center	600 Gresham Road		Norfolk	VA	23188
Sequoia Hospital	Whipple & Alameda Avenues		Redwood City	CA	94062
Seton Medical Center	1201 W. 38th Street		Austin	TX	78705
Seton Medical Center Williamson	201 Seton Parkway		Round Rock	TX	78665
Shady Grove Adventist Hospital	9901 Medical Center Drive		Rockville	MD	20850
Shands Jacksonville Medical Center	655 West 8th Street		Jacksonville	FL	32209
Shannon Medical Center	120 E. Harris Avenue		San Angelo	TX	76903
Sharon Regional Health System	740 E. State Street		Sharon	PA	16146
Sharp Chula Vista Medical Center	8695 Spectrum Center Court		San Diego	CA	92123
Sharp Grossmont	5555 Grossmont Center Drive		La Mesa	CA	91942

Facility Name	Address 1	Address 2	City	State	Zip Code
Sharp Memorial Hospital	7901 Frost Street		San Diego	CA	92123
Shasta Regional Medical Center	1100 Butte Street		Redding	CA	96001
Shawnee Mission Medical Center	9100 West 74th Street		Shawnee Mission	KS	66204-4004
Shelby Baptist Medical Center	1000 First Street North		Alabaster	AL	35007
Sherman Hospital	1425 N. Randall Road		Elgin	IL	60123
Shore Health System of Maryland	219 South Washington Street		Easton	MD	21601
Sierra Medical Center	1625 Medical Center Drive		El Paso	TX	79902
Sierra Providence East Medical Center	1625 Medical Center Drive		El Paso	TX	79902
Sierra Vista Regional Medical Center	1010 S. Murray Avenue		San Luis Obispo	CA	93405
Silver Cross Hospital	1200 Maple Road		Joliet	IL	60432
Simi Valley Hospital & Health Care Services	2975 North Sycamore Drive		Simi Valley	CA	93065
Sinai – Grace Hospital	6071 W. Outer Drive		Detroit	MI	48235
Sinai Hospital of Baltimore	2401 West Belvedere Avenue		Baltimore	MD	21215-5271
Singing River Hospital	2809 Denny Avenue		Pascagoula	MS	39581
Sisters of Charity Hospital	515 Abbott Road		Buffalo	NY	14220

Facility Name	Address 1	Address 2	City	State	Zip Code
Skaggs Community Health Center	PO Box 650		Branson	MO	65615-0650
Skagit Valley Hospital Cardiac Cath Lab	1415 E. Kincade Street		Mount Vernon	WA	98273
Skokie Hospital	9600 Gross Point Road	Cardiac Cath Lab	Skokie	IL	60076-1214
Sky Ridge Medical Center	10101 Ridgegate Parkway		Lone Tree	CO	80124
Skyline Medical Center/ HTI Memorial Hospital Corp.	3441 Dickerson Pike		Nashville	TN	37207
Skyridge Medical Center	2305 Chambliss Avenue		Cleveland	TN	37311
Somerset Hospital	225 South Center Avenue		Somerset	PA	15501-2088
South Baldwin Regional Medical Center	1613 N. McKenzie Street		Foley	AL	36535
South Bay Hospital	4016 Sun City Center Boulevard		Sun City Center	FL	33570
South Central Regional Medical Center	PO Box 607		Laurel	MS	39440
South Crest Hospital	8801 S. 101st Avenue E		Tulsa	OK	74133
South Fulton Medical Center	1170 Cleveland Avenue		East Point	GA	30344
South GA Medical Center	PO Box 1727		Valdosta	GA	31603-1727
South Lake Hospital	1099 Citrus Tower Boulevard		Clermont	FL	34711

Facility Name	Address 1	Address 2	City	State	Zip Code
South Miami Hospital	6200 SW 73rd Street		Miami	FL	33143
South Nassau Communities Hospital	One Healthy Way		Oceanside	NY	11572
South Shore Hospital	55 Fogg Road`		South Weymouth	MA	02190-2432
Southeast Alabama Medical Center	1108 Ross Clark Circle		Dothan	AL	36301
Southeast Baptist Hospital	730 North Main Avenue	Suite 424	San Antonio	TX	78205
Southeast Missouri Hospital	1701 Lacey Street		Cape Girardeau	MO	63701
Southeastern Regional Medical Center	300 West 27th Street		Lumberton	NC	28358
Southern Hills Hospital	9300 West Sunset Road		Las Vegas	NV	89148
Southern Hills Medical Center	391 Wallace Road		Nashville	TN	37211
Southern New Hampshire Medical Center	8 Prospect Street		Nashua	NH	03060
Southern Ohio Medical Center	1805 27th Street		Portsmouth	OH	45662
Southern Regional Medical Center	11 Upper Riverdale Road SW		Riverdale	GA	30274
Southside Hospital	301 East Main Street		Bayshore	NY	11706
SouthView Hospital	1997 Miamisburg-Centerville Road		Dayton	OH	45459

Facility Name	Address 1	Address 2	City	State	Zip Code
Southwest General Health Center	18697 Bagley Road		Middleburg Heights	OH	44130-3417
Southwest General Hospital	7400 Barlite Boulevard		San Antonio	TX	78224
Southwest MS Regional Medical Center	303 Marion Avenue		McComb	MS	39648
Southwest Washington Medical Center	600 NE 92nd Avenue		Vancouver	WA	98664
Southwestern Medical Center	5602 SW Lee Boulevard		Lawton	OK	73505
Spalding Regional Medical Center	601 South 8th Street		Griffin	GA	30224
Sparks Regional Medical Center	1001 Towson Avenue		Fort Smith	AR	72917-7006
Sparrow Health System	1215 East Michigan Avenue		Lansing	MI	48909-7980
Spartanburg Regional Medical Center	101 East Wood Street	Cardiac Cath Lab / 3rd Floor Heart Center	Spartanburg	SC	29303
Spectrum Health	100 Michigan Street NE	MC 037, Rm 3825A	Grand Rapids	MI	49503-2560
Spotsylvania Regional Medical Health Center	4600 Spotsylvania County Parkway		Fredericksburg	VA	22408
Spring Branch Medical Center	8850 Long Point Road		Houston	TX	77055
Spring Valley Hospital	5400 S. Rainbow Boulevard		Las Vegas	NV	89118

Facility Name	Address 1	Address 2	City	State	Zip Code
Springhill Memorial Hospital	3719 Dauphin Street		Mobile	AL	36608
Springs Memorial Hospital	800 West Meeting Street		Lancaster	SC	29720
SSM St. Clare Health Center	1015 Corporate Square Drive	Suite 130	St. Louis	MO	63132
SSM St. Joseph Health Center	300 First Capitol Drive		St. Charles	MO	63301
St. Anthony Central Hospital	4231 W. 16th Avenue		Denver	CO	80204-1335
St. Anthony North Hospital	4231 W. 16th Avenue		Denver	CO	80204
St. James Hospital and Health Centers	3800 West 203rd Street Suite 207		Olympia Fields	IL	60461
St. Joseph Hospital	700 Broadway		Fort Wayne	IN	46802
St. Joseph Hospital-Oakland	44405 Woodward Avenue		Pontiac	MI	48341-5023
St. Joseph Medical Center	1717 South J Street		Tacoma	WA	98405-4933
St. Josephs Hospital	45 W. 10th Street		St Paul	MN	55102
St. Joseph Hospital Health Center	301 Prospect Avenue		Syracuse	NY	13203
St. Luke's Cornwall Hospital	70 DuBois Street		Newburgh	NY	12550
St. Mary's Health Care Systems	1230 Baxter Street		Athens	GA	30606

Facility Name	Address 1	Address 2	City	State	Zip Code
St. Mary's Hospital	400 North Pleasant		Centralia	IL	62801
St. Mary's Regional Medical Center	305 S. 5th Street		Enid	OK	73701
St. Agnes Hospital	900 S. Caton Avenue		Baltimore	MD	21229
St. Agnes Hospital	430 E. Division Street		Fond du lac	WI	54935
St. Alexius Medical Center	1555 Barrington Road		Hoffman Estates	IL	60194-1018
St. Alphonsus Regional Medical Center	1055 N. Curtis Road		Boise	ID	83706
St. Anthony Hospital	1000 N. Lee Avenue		Oklahoma City	OK	73102
St. Anthony Memorial Health Centers	301 W. Homer Street	Cath Lab	Michigan City	IN	46360
St. Anthony's Health Care	1200 7th Avenue North	MS 2019	St. Petersburg	FL	33705
St. Anthony's Health Center	One Saint Anthony Way		Alton	Il	62002
St. Anthony's Medical Center	10010 Kennerly Road		St. Loius	MO	63128-2106
St. Barnabas Medical Center	94 Old Short Hills Road		Livingston	NJ	07039
St. Bernards Medical Center	225 E. Jackson Avenue		Jonesboro	AR	72401
St. Catherine Hospital East Chicago	1500 South Lake Park Avenue		Hobart	IN	46342

Facility Name	Address 1	Address 2	City	State	Zip Code
St. Catherine of Siena	50 Route 25A		Smithtown	NY	11787
St. Charles Hospital	200 Belle Terre Road		Port Jefferson	NY	11777
St. Charles Medical Center	2500 North East Neff Road		Bend	OR	97701-6015
St. Clair Hospital	St. Clair Hospital	1000 Bower Hill Road	Pittsburgh	PA	15243
St. Cloud Regional Medical Center	2906 17th Street		St. Cloud	FL	34769
St. David's Medical Center	919 East 32nd Street		Austin	TX	78765
St. David's South Austin Hospital	901 W. Ben White Boulevard		Austin	TX	78704
St. Dominic-Jackson Memorial Hospital	969 Lakeland Drive		Jackson	MS	39216
St. Edwards Mercy Medical Center	7301 Rogers Avenue		Ft. Smith	AR	72917-7000
St. Elizabeth Boardman	8401 Market Street		Boardman	OH	44512
St. Elizabeth Healthcare Florence	7380 Turfway Road		Florence	KY	41042
St. Elizabeth Medical Center	1701 S. Creasy Lane		Lafayette	IN	47905
St. Elizabeth Medical Center	2209 Genesee Street		Utica	NY	13501

Facility Name	Address 1	Address 2	City	State	Zip Code
St. Elizabeths Medical Center	736 Cambridge Street		Brighton	MA	02135
St. Francis Health Center	1700 SW 7th Street		Topeka	KS	66605
St. Francis Hospital	7th & Clayton		Wilmington	DE	19805
St. Francis Hospital	One St. Francis Drive		Greenville	SC	29601
St. Francis Hospital	333 Laidley Street	PO Box 44 Culloden, WV 25510	Charleston	WV	25322
St. Francis Medical Center	2706 Anita Lane		Monroe	LA	71201
St. Francis Hospital	100 Port Washington Boulevard		Roslyn	NY	11576
St. Francis Medical Center	211 Saint Francis Drive		Cape Girardeau	MO	63703-5049
St. Francis Medical Center	601 Hamilton Avenue		Trenton	NJ	08629
St. Helena Hospital	10 Woodland Road		St. Helena	CA	94574
St. John Medical Center	1923 S. Utica Avenue	Heart Institute Education/ Research	Tulsa	OK	74104
St. John Medical Center	1615 Delaware Street		Longview	WA	98632

Facility Name	Address 1	Address 2	City	State	Zip Code
St. John Providence Hospital	16001 W. Nine Mile Road		Southfield	MI	48075
St. John West Shore Hospital	29000 Center Ridge Road		Westlake	OH	44145
St. John's Hospital	800 E. Carpenter Street		Springfield	IL	62769
St. John's Hospital	1235 East Cherokee Street		Springfield	MO	65804
St. Johns Regional Medical Center	2727 McClelland Boulevard		Joplin	MO	64804
St. Johns Regional Medical Center	1600 N. Rose Avenue		Oxnard	CA	93030-3722
St. Joseph Hospital	2700 Dolbeer Street		Eureka	CA	95501
St. Joseph Hospital	1 Saint Joseph Drive		Lexington	KY	40504
St. Joseph Hospital	172 Kinsley Street		Nashua	NH	03060
St. Jospeh Hospital	2901 Squalicum Parkway		Bellingham	WA	98225
St. Joseph Hospital	360 Broadway		Bangor	ME	04401
St. Joseph Medical Center	2200 E. Washington Street		Bloomington	IL	61701
St. Joseph Medical Center	12th & Walnut Streets		Reading	PA	19603
St. Joseph Medical Center	1401 St. Joseph Parkway		Houston	TX	77002

Facility Name	Address 1	Address 2	City	State	Zip Code
St. Joseph Medical Center	7601 Olser Drive		Towson	MD	21204
St. Joseph Mercy Hospital	5325 Elliot Drive		Ann Arbor	MI	48106
St. Joseph Regional Medical Center	801 E. Lasalle Avenue		South Bend	IN	46617
St. Joseph Regional Medical Center	703 Main Street		Paterson	NJ	07503
St. Joseph's Hospital	11705 Mercy Boulevard		Savannah	GA	31419
St. Joseph's Hospital – North (Baycare Health	4211 Van Dyke Road		Lutz	FL	33558
St. Joseph's Hospital	350 N. Wilmot Road		Tucson	AZ	85711
St. Joseph's Medical Center	127 S. Broadway		Yonkers	NY	10701
St. Josephs Medical Center of Stockton	1800 North California Street		Stockton	CA	95204
St. Josephs Mercy Health Center	300 Werner Drive		Hot Springs	AR	71913
St. Jude Medical Center	101 East Valencia Mesa		Fullerton	CA	92835
St. Luke's Baptist Hospital	730 North Main Avenue	Suite 409	San Antonio	TX	78205
St. Luke's Community Medical Center (The Woodlands)	17200 St. Luke's Way		The Woodlands	TX	77384
St. Luke's Episcopal Hospital	3100 Main Street	MC5-313	Houston	TX	77030
St. Lukes Hospital	363 Highland Avenue		Falls River	MA	02720

Facility Name	Address 1	Address 2	City	State	Zip Code
St. Lukes Hospital	5901 Monclova Road		Maumee	OH	43537
St. Luke's Hospital	915 E. First Street		Duluth	MN	55805
St. Luke's Hospital & Health Network	801 Ostrum Street	St. Luke's Hospital & Health Network	Bethlehem	PA	18015
St. Luke's Hospital and Health Network (Allentown Campus)	801 Ostrum Street	St. Luke's Hospital & Health Network	Bethlehem	PA	18015
St. Luke's Lakeside Hospital	3100 Main Street 647D	MC 5-313	Houston	TX	77002
St. Luke's Medical Center	2900 West Oklahoma Avenue		Milwaukee	WI	53215-4330
St. Luke's Medical Center	1800 E. Van Buren Street		Phoenix	AZ	85006
St. Luke's Regional Medical Center	2720 Stone Park Boulevard		Sioux City	IA	51104
St. Luke's South Hospital	Saint Luke's Hospital	4401 Wornal Road	Kansas City	MO	64111
St. Luke's Sugar Land Hospital	3100 Main Street Suite 647D		Houston	TX	77002
St. Luke's-Roosevelt Hospital Center	1111 Amsterdam Avenue		New York City	NY	10025
St. Mark's Hospital/ Northern Utah Healthcare Corporation	1200 East 3900 South		Salt Lake City	UT	84124

Facility Name	Address 1	Address 2	City	State	Zip Code
St. Mary Hospital	1201 Langhorne Newton Road		Langhorne	PA	19047
St. Mary Medical Center	18300 Highway 18		Apple Valley	CA	92307
St. Mary Medical Center	1050 Linden Avenue		Long Beach	CA	90813-3321
St. Mary Medical Center	1500 South Lake Park Avenue		Hobart	ID	46342
St. Mary of Nazareth Hospital Center	2233 W. Division Street		Chicago	IL	60622
St. Mary's Health Center	6420 Clayton Road		St. Louis	MO	63117
St. Mary's Hospital	1800 East Lake Shore Drive		Decatur	IL	62521
St. Mary's Hospital	1726 Shawano Avenue		Green Bay	WI	54303-3282
St. Mary's Hospital	700 S. Park Street		Madison	WI	53715-1849
St. Mary's Hospital (Passaic)	350 Boulevard		Passaic	NJ	07055
St. Mary's Medical Center	450 Stanyan Street		San Francisco	CA	94117
St. Mary's Medical Center	901 45th Street		West Palm Beach	FL	33407
St. Mary's Medical Center	400 East Third Street		Duluth	MN	55805
St. Mary's of Michigan	800 S. Washington Avenue		Saginaw	MI	48601

Facility Name	Address 1	Address 2	City	State	Zip Code
St. Mary's Regional Medical Center	PO Box 291 Campus Avenue		Lewiston	ME	04243-0291
St. Michael's Medical Center	111 Central Avenue		Newark	NJ	07102
St. Patrick Hospital and Health Sciences Center	500 W. Broadway		Missoula	MT	59802
St. Rose Dominican – De Lima Campus	102 E. Lake Mead Boulevard		Henderson	NV	89015
St. Rose Dominican – San Martin	8280 W. Warm Springs Road		Las Vegas	NV	89113
St. Rose Hospital	27200 Calaroga Avenue		Hayward	CA	94539
St. Tammany Parish Hospital	1202 S. Tyler Street		Covington	LA	70433
St. Vincent Charity Hospital	2351 East 22nd Street		Cleveland	OH	44115
St. Vincent Healthcare	1233 North 30th Street		Billings	MT	59101
St. Vincent Hospital	2660 10th Avenue South #738		Birmingham	AL	35205
St. Vincent Hospital	835 S. Van Buren Street		Green Bay	WI	54301
St. Vincent Medical Center	2131 W. 3rd Street		Los Angeles	CA	90703
St. Vincent's Medical Center	1800 Barrs Street		Jacksonville	FL	32204
St. Vincent's Medical Center	2800 Main Street		Bridgeport	CT	06606
St.Vincent's East	50 Medical Park East Drive		Birmingham	AL	35235-3499
Stamford Hospital Health Sciences Library	30 Shelbourne Road PO Box 9317		Stamford	CT	06904-9317

Facility Name	Address 1	Address 2	City	State	Zip Code
Stanford Hospital and Clinics	Falk Bldg. 2nd flr. 300 Pasteur Drive		Stanford	CA	94305
Staten Island University Hospital	475 Seaview Avenue		Staten Island	NY	10305
Stone Crest Medical Center	200 Stonecrest Boulevard		Smyrna	TN	37167
Stony Brook University Medical Center	3 Technology Drive		East Setauket	NY	11733-4073
Stormont-Vail Regional Medical Center	929 SW Mulvane Street		Topeka	KS	66606
Straub Clinic & Hospital: Cath Lab	888 S. King Street		Honolulu	HI	96813
Stringfellow Memorial Hospital	301 East 18th Street		Anniston	AL	36202
Suburban Hospital	8600 Old Georgetown Road		Bethesda	MD	20814
Summerlin Hospital Medical Center	657 Town Center Drive		Las Vegas	NV	89144
Summit Medical Center	5655 Frist Boulevard		Hermitage	TN	37076
Sunrise Hospital and Medical Center	3186 S. Maryland Parkway		Las Vegas	NV	89109
Surgery Center of Temple	1909 SW MK Dodgen Loop		Temple	TX	76502
Sutter Delta Medical Center	3901 Lone Tree Way		Antioch	CA	94509
Sutter Medical Center – Sacramento	3528 Eisenhower Drive		Sacramento	CA	95826

Facility Name	Address 1	Address 2	City	State	Zip Code
Sutter Medical Center of Santa Rosa	3325 Chanate Road		Santa Rosa	CA	95404
Sutter Roseville Medical Center	One Medical Plaza		Roseville	CA	95661
Swedish American Hospital	1401 E. State Street		Rockford	IL	61104
Swedish Covenant Hospital	5145 N. California Avenue		Chicago	IL	60625
Swedish Health Services	500 17th Avenue #A85C		Seattle	WA	98104
Swedish Medical Center	501 East Hampden Avenue		Englewood	CO	80113
T. J. Samson Community Hospital	1301 North Race Street		Glasgow	KY	42141
Tacoma General Hospital	315 Martin Luther King, Jr. Way		Tacoma	WA	98415
Tahlequah City Hospital	1400 East Downing Street		Tahlequah	OK	74465-1008
Tallahassee Memorial Hospital	1300 Miccosukee Road	Attn: Performance Improvement	Tallahassee	FL	32308
Tampa General Hospital	1 Tampa General Circle		Tampa	FL	33601-1289
Temple University Hospital	3401 North Broad Street	1 PP Cardiology	Philadelphia	PA	19140
Terre Haute Regional Hospital	3901 South 7th Street		Terre Haute	IN	47802

Facility Name	Address 1	Address 2	City	State	Zip Code
Terrebonne General Medical Center	8166 Main Street		Houma	LA	70360
Texas Health Presbyterian Hospital Plano	6200 West Parker Road		Plano	TX	75093-7914
Texoma Medical Center	1000 Memorial Drive		Denison	TX	75020
TexSAn Heart Hospital	6700 IH-10 West		San Antonio	TX	78201-2009
The Christ Hospital	2139 Auburn Avenue		Cincinnati	OH	45219
The George Washington University Hospital	900 23rd Street, NW		Washington	DC	20037
The Good Samaritan Hospital	PO Box 1281	4th and Walnut Streets	Lebanon	PA	17042
The Heart Hospital at Deaconess Gateway, LLC	600 Mary Street		Evansville	IN	47747
The Heart Hospital Baylor Plano	1100 Allied Drive		Plano	TX	75093
The Heart Hospital of Northwest Texas	1501 S. Coulter Street	PO Box 1110	Amarillo	TX	79175
The Hospital at Westlake Medical Center	5656 Bee Caves Road M-302		Austin	TX	78746

Facility Name	Address 1	Address 2	City	State	Zip Code
The Hospital of West Central Connecticut	100 Grand Street PO Box 100		New Britain	CT	06050
The Indiana Heart Hospital	8075 North Shadeland Avenue		Indianapolis	IN	46250
The Medical Center (TMC)	1000 Dutch Ridge Road		Beaver	PA	15009
The Medical Center of Southeast Texas	2555 Jimmy Johnson Boulevard		Port Arthur	TX	77640
The Methodist DeBakey Heart Center	6565 Fannin Street		Houston	TX	77030
The Monroe Clinic	515 22nd Avenue		Monroe	WI	53566
The Mount Sinai Medical Center	1 Gustave L Levy Place		New York	NY	10029
The Nebraska Medical Center	987551 Nebraska Medical Center		Omaha	NE	68198-7551
The Ohio State University Medical Center	410 W. 10th Avenue	142 Doan Hall	Columbus	OH	43210
The Reading Hospital and Medical Center	6th Avenue and Spruce Street		West Reading	PA	19611
The Surgery Center on Soncy	3501 Soncy Road Suite 118		Amarillo	TX	79119
The Toledo Hospital	2142 North Cove Boulevard	Jobst Tower Suite 200	Toledo	OH	43606
The Uniontown Hospital	500 West Berkeley Street		Uniontown	PA	15401

Facility Name	Address 1	Address 2	City	State	Zip Code
The Valley Hospital	223 North Van Dien Avenue		Ridgewood	NJ	07450
The Village Regional Hospital	600 East Dixie Avenue		Leesburg	FL	34748
The Washington Hospital	155 Wilson Avenue		Washington	PA	15301-3398
The Western Pennsylvania Hospital	4800 Friendship Avenue	CVI	Pittsburgh	PA	15224
Thomas Hospital	750 Morphy Avenue		Fairhope	AL	36532
Thomas Jefferson University Hospital	TJUH	111 S. 11th Street Gibbon Building	Philadelphia	PA	19107
Thomas Memorialo Hospital	4605 MacCorkle Avenue SW		South Charleston	WV	25309
Tift Regional Medical Center	PO Box 747	901 E. 18th Street	Tifton	GA	31794
Timpanogos Regional Hospital	750 W. 800 S.		Orem	UT	84057
Tobey Hospital	363 Highland Avenue		Fall River	MA	
Tomball Regional Hospital	605 Holderrieth Boulevard		Tomball	TX	77375
Torrance Memorial Medical Center	3330 Lomita Boulevard		Torrance	CA	90505
Touro Infirmary Medical Center	1401 Foucher Street		New Orleans	LA	70115

Facility Name	Address 1	Address 2	City	State	Zip Code
Tri-City Medical Center	3909 Waring Road		Oceanside	CA	92056
Trident Regional Medical Center	9330 Medical Plaza Drive		Charleston	SC	29406
Trinity Hospitals	PO Box 5020		Minot	ND	58702
Trinity Medical Center	Attn: Cardiovascular Services	800 Montclair Road	Birmingham	AL	35213
Trinity Medical Center	4500 Utica Ridge Road		Bettendorf	IA	52722
Trinity Medical Center West	4000 Johnson Road		Steubenville	OH	43952
Trinity Regional Medical Center	4500 Utica Ridge Road		Bettendorf	IA	52722
Trinity Regional Medical Center	802 Kenyon Road		Ft. Dodge	IA	50501
Trinity Regional Medical Center	2701 17th Street		Rock Island	IL	61201
Truman Medical Centers	2301 Holmes Street		Kansas City	MO	64108
Tucson Heart Hospital	4888 North Stone Avenue		Tucson	AZ	85704
Tucson Medical Center	5301 E. Grant Road		Tucson	AZ	85712
Tufts Medical Center	750 Washington Street		Boston	MA	02111
Tulane Medical Center	1415 Tulane Avenue		New Orleans	LA	70112
Tuomey Healthcare System Tuomey Regional Medical Center	129 N. Washington Street		Sumter	SC	29150

Facility Name	Address 1	Address 2	City	State	Zip Code
UC San Diego Medical Center	200 W. Arbor Drive		San Diego	CA	92103
UMASS Memorial Medical Center	55 Lake Ave North		Worcester	MA	01655-0002
Union Hospital	1606 N. 7th Street		Terre Haute	IN	47804
Union Hospital	106 Bow Street		Elkton	MD	21921
Union Memorial Hospital	201 E. University Parkway		Baltimore	MD	21218-2891
United Health Services Hospitals/Wilson Regional Medical Center	33 – 57 Harrison Street	Decker 4 Lobby	Johnson City	NY	13790
United Hospital	333 N. Smith Avenue		St. Paul	MN	55102
United Hospital Center, Inc.	327 Medical Park Drive		Bridgeport	WV	26330
United Hospital System	6308 8th Avenue		Kenosha	WI	53143
United Regional Healthcare System	1600 11th Street		Wichita Falls	TX	76301
Unity Health Center	1102 West MacArthur		Shawnee	OK	74804
Unity Hospital	550 Osbourne Road NE		Minneapolis	MN	55432
Unity Hospital	1555 Long Pond Road		Rochester	NY	14626
University Community Hospital	3100 East Fletcher Avenue		Tampa	FL	33613
University Community Hospital Carrollwood Campus	3100 East Fletcher Avenue		Tampa	FL	33613
University General Hospital	7501 Fannin Street		Houston	TX	77054

Facility Name	Address 1	Address 2	City	State	Zip Code
University of Alabama Hospital	620 19th Street South		Birmingham	AL	35249
University Hospital	234 Goodman Street		Cincinnati	OH	45219
University Hospitals Bedford Medical Center	44 Blaine Avenue		Bedford	OH	44146
University Hospital	1350 Walton Way		Augusta	GA	30901
University Hospitals Case Medical Center	11100 Euclid Avenue		Cleveland	OH	44106
University Hospitals Geauga Medical Center	13207 Ravenna Road		Chardon	OH	44024
University Hospitals Richmond Medical Center	27100 Chardon Road		Richmond Heights	OH	44143
University Hospital UMDNJ	150 Bergen Street		Newark	NJ	07101
University Medical Center	1501 N. Campbell Avenue		Tucson	AZ	85724
University Medical Center	1411 Baddour Parkway		Lebanon	TN	37087
University Medical Center	602 Indiana Avenue		Lubbock	TX	79410
University Medical Center LSU	2390 W. Congress Street		Lafayette	IA	70506
University Medical Center Southern Nevada	1800 W. Charleston Boulevard		Las Vegas	NV	89102
University Medical Center of El Paso	4815 Alameda Avenue		El Paso	TX	79905

Facility Name	Address 1	Address 2	City	State	Zip Code
University of Arkansas Medical Sciences	4301 West Markham Street Suite 532		Little Rock	AR	72205
University of California, Irvine	101 The City Drive		Orange	CA	92868
University of California (Santa Monica)	1250 16th Street		Santa Monica	CA	90404
University of California (UCLA)	757 Westwood Boulevard	Room 2412	Los Angeles	CA	90095
University Of California Davis Medical Center	2315 Stockton Boulevard Main Hospital, Rm 6312		Sacramento	CA	95817
University of California San Francisco Medical Center	350 Parnassus Avenue Suite 404 Box 0447		San Franciso	CA	94143-0447
University of Chicago Hospitals	5841 South Maryland Avenue	University of Chicago Medical Center	Chicago	IL	60637
University of Colorado Hospital Authority	12401 E. 17th Avenue	Mailstop B-132	Aurora	CO	80045
University of CT Health Center/John Dempsey Hospital	263 Farmington Avenue		Farmington	CT	06030
University of Florida (Shands)College of Medicine	1600 SW Archer Road		Gainesville	FL	32610
University of Illinois Medical Center at Chicago	1740 W. Taylor Street	Building 949 Room 2181	Chicago	IL	60610

Facility Name	Address 1	Address 2	City	State	Zip Code
University of Iowa Hospitals and Clinics	200 Hawkins Drive	UIHC UI Heart	Iowa City	IA	52242
University of Kentucky	800 Rose Street		Lexington	KY	40536
University of Louisville Hospital	530 S. Jackson Street		Loiusville	KY	40202
University of Maryland Medical Center Cardiology	22 S. Greene Street		Baltimore	MD	21201-1544
University of Miami	1400 NW 12th Street		Miami	FL	33136
University of Minnesota Medical Center Fairview	420 Delaware Street SE MMC 815		Minneapolis	MN	55455
University of Mississippi Medical Center	2500 N. State Street		Jackson	MS	39216
University of Missouri Hospital and Clinics	1 Hospital Drive C4003		Columbia	MO	65212
University of New Mexico Hospital	2211 Lomas Boulevard		Albuquerque	NM	87106
University of North Carolina Hospitals	UNC Hospitals	101 Manning Drive CB#7075	Chapel Hill	NC	27514
University of Rochester Medical Center	601 Elmwood Avenue		Rochester	NY	14642
University of South Alabama Cardiology Dept.	2451 Fillingim Street		Mobile	AL	36617
University of Tennessee Medical Center	1924 Alcoa Highway	Box 95	Knoxville	TN	37920-6999

Facility Name	Address 1	Address 2	City	State	Zip Code
University of Texas Medical Branch at Galveston	301 University Boulevard		Galveston	TX	77555-0294
University of Texas Southwestern-University Hospital	5323 Harry Hines Boulevard		Dallas	TX	75390-9013
University of Toledo Medical Center	3065 Arlington Avenue	DH2261	Toledo	OH	43614
University of Utah Hospitals and Clinics	50 North Medical Drive	4040b	Salt Lake City	UT	84132
University of Virginia Medical Center	2441 Barringer West Complex	PO Box 800134	Charlottesville	VA	22908-0679
University of Washington Medical Center	1959 NE Pacific Street		Seattle	WA	98195-6422
University of Wisconsin Hospital & Clinics	600 Highland Avenue MC 3204		Madison	WI	53792
University Physicians HealthCare	2800 E. Ajo Way		Tucson	AZ	85713
UPMC Mercy	1400 Locust Street		Pittsburgh	PA	15219
UPMC Passavant Hospital	9100 Babcock Boulevard		Pittsburgh	PA	15237
UPMC Presbyterian Hospital	4601 Baum Road	2nd Floor	Pittsburgh	PA	15213
UPMC Shadyside Hospital	4601 Baum Road	2nd Floor	Pittsburgh	PA	15213

Facility Name	Address 1	Address 2	City	State	Zip Code
Upper Chesapeake Medical Center, Inc.	500 Upper Chesapeake Drive		Bel Air	MD	21014
Upstate Medical University (SUNY)	750 East Adams Street		Syracuse	NY	13120
USC University Hospital	1500 San Pablo Street		Los Angeles	CA	90033
Utah Valley Regional Medical Center	1034 S. 500 W		Provo	UT	84605
Val Verde Regional Medical Center	801 Bedell Avenue		Del Rio	TX	78840
Valley Baptist Medical Center	2101 Pease Street		Harlingen	TX	78550
Valley Care Medical Center	1111 East Stanley Boulevard		Livermore	CA	94550
Valley Hospital Medical Center	620 Shadow Lane		Las Vegas	NV	89106
Valley Medical Center	400 South 43rd Street		Renton	WA	98058
Valley Presbyterian Hospital	15107 Vanowen Street		Van Nuys	CA	91405
Valley Regional Medical Center	Valley Regional Medical Center	100A East Alton Gloor Boulevard	Brownsville	TX	78526
Valley ViewMedical Center	5330 S Highway 95		Fort Mohave	AZ	86426
Valley View Regional Hospital	430 N. Monte Vista		Ada	OK	74820

Facility Name	Address 1	Address 2	City	State	Zip Code
Vanderbilt Heart Institute	1215 21st Avenue	MCE 5th floor	Nashville	TN	37232
Vassar Brothers Medical Center	45 Reade Place		Poughkeepsie	NY	12601
Vaughan Regional Medical Center	1015 Medical Center Parkway		Selma	AL	36701
VCU-Medical College of Virginia	PO Box 980036		Richmond	VA	23298
Venice Regional Medical Center	540 The Rialto		Venice	FL	34285
Verde Valley Medical Center	269 South Candy Lane		Cotttonwood	AZ	86326
Verdugo Hills Hospital	1812 Verdugo Boulevard		Glendale	CA	91208
Via Christi Wichita Health Network	929 N. St. Francis Street		Wichita	KS	67214
Virginia Hospital Center	1701 N. George Mason Drive		Arlington	VA	22205-3698
Virginia Mason Medical Center	1100 Ninth Avenue	X3-CVL	Seattle	WA	98111
Vista Medical Center	1324 North Sheridan Road		Waukegan	IL	60085
WakeMed Cary Hospital	3128 Smoketree Court		Raleigh	NC	27604
WakeMed Raleigh Campus	3128 Smoketree Court		Raleigh	NC	27604

Facility Name	Address 1	Address 2	City	State	Zip Code
Walker Regional Medical Center	3400 Highway 78 E		Jasper	AL	35501
Washington Adventist Hospital	7600 Carroll Avenue		Takoma Park	MD	20912
Washington County Hospital	251 East Antietam Street		Hagerstown	MD	21740
Washington Hospital	2000 Mowry Avenue		Fremont	CA	94538
Washington Regional Medical Center	3215 N. Northhills Boulevard		Fayetteville	AR	72703-1994
Waterbury Hospital	PO Box 2153		Waterbury	CT	06722-2153
Watsonville Community Hospital	75 Nielson Street		Watsonville	CA	75076
Waukesha Memorial Hospital	N-17 W24100 Riverwood Drive		Waukesha	WI	53188-1187
Wayne Memorial Hospital	PO Box 8001		Goldsboro	NC	27533
Weatherford Regional Medical Center	713 East Anderson Street		Weatherford	TX	76086
Weiss Memorial Hospital	4646 N. Marine Drive		Chicago	IL	60640
Wellmont Holston Valley Medical Center	130 W Ravine Road		Kingsport	TN	37660
Wellstar Cobb Hospital	677 Church Street		Marietta	GA	30066
Wellstar Kennestone Hospital	677 Church Street		Marietta	GA	30066
Wesley Medical Center	550 N. Hillside Street		Wichita	KS	67214

Facility Name	Address 1	Address 2	City	State	Zip Code
Wesley Medical Center	5001 Hardy Street		Hattiesburg	MS	39402
West Anaheim Medical Center	3033 West Orange Avenue		Anaheim	CA	92084
West Chester Medical Center	7700 University Drive		West Chester	OH	45069
West Florida Hospital	8383 North Davis Highway		Pensacola	FL	32514
West Georgia Medical Center	1514 Vernon Road		LaGrange	GA	30240
West Hills Hospital	7300 Medical Center Drive		West Hills	CA	91307
West Houston Medical Center	12141Richmond Avenue		Houston	TX	77082
West Jefferson Medical Center	1101 Medical Center Boulevard		Marrero	LA	70072
West Penn Hospital Forbes Regional Campus	2570 Haymaker Road		Monroeville	PA	15146
West Suburban Medical Center	3 Erie Court		Oak Park	Il	60302
West Valley Hospital	13677 W. McDowell Road		Goodyear	AZ	85338
West Virginia University Hospitals, Inc.	PO Box 8003	Medical Center Drive	Morgantown	WV	26506-8003
Westchester County Medical Center	95 Grasslands Road Suite 114		Valhalla	NY	10595
Western Baptist Hospital	2501 Kentucky Avenue		Paducah	KY	42003
Western Maryland Health System Regional Medical Center	12500 Willowbrook Road	Third Floor Interventional Cardiology	Cumberland	MD	21502-1850
Western Medical Center Santa Ana	1001 North Tustin Avenue		Santa Ana	CA	92705

Facility Name	Address 1	Address 2	City	State	Zip Code
Western Plains Medical Center	3001 Avenue A		Dodge City	KS	67801
Westside Regional Medical Center	8201 West Broward Boulevard		Plantation	FL	33324
Wheaton Franciscan Healthcare-All Saints, Inc.	WFHC Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheaton Franciscan Healthcare-St. Francis, Inc.	WFHC Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheaton Franciscan Healthcare-St. Joseph, Inc.	WFH Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheaton Franciscan - The Wisconsin Heart Hospital Center	WFH Clinical Data Management and Analysis	5000 West Chambers, M229	Milwaukee	WI	53210
Wheeling Hospital	1 Medical Park		Wheeling	WV	26003
White County Medical Center	3214 E. Race Avenue		Searcy	AR	72143
White Memorial Medical Center	1720 Cesar Chavez Avenue		Los Angeles	CA	90033
White River Medical Center	1710 Harrison Street		Batesville	AR	72501

Facility Name	Address 1	Address 2	City	State	Zip Code
William Beaumont Hospital	54373 Samara Drive		Macomb	MI	48042-2213
William Beaumont Hospital – Troy	44201 Dequindre Road		Troy	MI	48085
William W. Backus Hospital	326 Washington Street		Norwich	CT	06360
Willis-Knighton Pierremont	2600 Greenwood Road		Shreveport	LA	71103
Willis-Knighton Medical Center	2600 Greenwood Road		Shreveport	LA	71103
Wilson Memorial Hospital	915 West Michigan Street		Sidney	OH	45365
Wilson N. Jones Medical Center	500 N Highland Avenue		Sherman	TX	75092
Winchester Medical Center Inc.	220 Campus Boulevard	Suite 313	Winchester	VA	22601
Winter Haven Hospital	20005 Avenue F Northeast		Winter Haven	FL	33881
Winthrop University Hospital	19600 E. 39th Street		Independence	MO	64057
Wise Regional Health System	609 Medical Center Drive		Decatur	TX	76234
Wishard Hospital Cardiology	1001 W. 10th Street		Indianapolis	IN	46202
Woman's Christian Association Hospital	207 Foote Avenue		Jamestown	NY	14701

Facility Name	Address 1	Address 2	City	State	Zip Code
Woodland Healthcare	1325 Cottonwood Street		Woodland	CA	95695
Woodland Heights Medical Center	505 S. John Redditt Drive		Lufkin	TX	75904
Wooster Community Hospital	1761 Beall Avenue		Wooster	OH	44691
Wuesthoff Health System	110 Longwood Avenue		Rockledge	FL	32956-5002
Wyckoff Heights Medical Center	374 Stockholm Street	Division of Cardiology - 3rd Floor	Brooklyn	NY	11237
Wyoming Medical Center	1233 East 2nd Street		Casper	WY	82601-2988
Wyoming Valley Health Care System	575 North River Street		Wilkes-Barre	PA	18764
Yakima Regional Medical Center/Cardiac Center	110 S. 9th Avenue		Yakima	WA	98902
Yakima Valley Memorial Hospital	2811 Tieton Drive		Yakima	WA	98902
Yale New Haven Hospital	20 York Street		New Haven	CT	06510
Yavapai Regional Medical Center	1003 Willow Creek Road		Prescott	AZ	86301
York Hospital	15 Hospital Drive		York	ME	03909
York Hospital	1001 South George Street		York	PA	17405
Yuma Regional Medical Center	2400 S. Avenue A		Yuma	AZ	85364

ADDENDUM X: Active CMS Coverage-Related Guidance Documents July Through September 2010

In the September 24, 2004 **Federal Register** (69 FR 57325), we published a notice in which we explained how we would develop coverage-related guidance documents. These guidance documents are required under section 731 of the MMA. In our notice, we committed to the public that, "At regular intervals, we will update a list of all guidance documents in the **Federal Register**."

Addendum X includes a list of active CMS guidance documents as of the ending date of the period covered by this notice. To obtain full-text copies of these documents, visit the CMS Coverage Web site at http://www.cms.hhs.gov/mcd/index_list.asp?list_type=mcd_1.

Document Name: Factors CMS Considers in Commissioning External Technology Assessments
Date of Issuance: April 11, 2006

Document Name: Factors CMS Considers in Opening a National Coverage Determination
Date of Issuance: April 11, 2006

Document Name: (Draft) Factors CMS Considers in Referring Topics to the Medicare Coverage Advisory Committee
Date of Issuance: March 9, 2005

Document Name: National Coverage Determinations with Data Collection as a Condition of Coverage: Coverage With Evidence Development
Date of Issuance: July 12, 2006

ADDENDUM XI: List of Special One-Time Notices Regarding National Coverage Provisions July Through September 2010

As medical technologies, the contexts under which they are delivered, and the health needs of Medicare beneficiaries grow increasingly complex, our national coverage determination (NCD) process must adapt to accommodate these complexities. As part of this adaptation, our national coverage decisions often include multi-faceted coverage determinations, which may place conditions on the patient populations eligible for coverage of a particular item or service, the providers who deliver a particular service, or the methods in which data are collected to supplement the delivery of the item or service (such as participation in a clinical trial).

We outline these conditions as we release new or revised NCDs. However, details surrounding these conditions may need to be shared with the public as "one-time notices" in the **Federal Register**. For example, we may require that a particular medical service may be delivered only in the context of a CMS-recognized clinical research study, which was not named in the NCD itself. We would then use Addendum XI of this notice, along with our coverage Web site at http://www.cms.hhs.gov/coverage, to provide the public with information about the clinical research study that it ultimately recognizes.

Addendum XI includes any additional information we may need to share about the conditions under which an NCD was issued as of the ending date of the period covered by this notice.

There were no Special One-Time Notices Regarding National Coverage Provisions published this quarter.

ADDENDUM XII: National Oncologic PET Registry (NOPR)

In January 2005, we issued our decision memorandum on **positron emission tomography** (PET) scans, which stated that CMS would cover PET scans for particular oncologic indications, as long as they were performed in the context of a clinical study. We have since recognized the National Oncologic PET Registry as one of these clinical studies. Therefore, in order for a beneficiary to receive a Medicare-covered PET scan, the beneficiary must receive the scan in a facility that participates in the Registry. The following facilities have met CMS's requirements for performing PET scans under National Coverage Determination CAG-00181N.

Facility Name	Provider Number	Date Approved	State	Other Information
Baptist East Hospital 4000 Kresge Way Louisville KY 40207	9372701	01/29/2010	KY	
Alpha Med Physicians Group 6701 159th Street Tinley Park IL 60477	610860	01/29/2010	IL	
Hackensack Medical and Molecular Imaging 155 State Street Hackensack NJ 07601	85238	01/29/2010	NJ	
Alexian Brothers Medical Center 820 Biesterfield Road Elk Grove Village IL 60007	1265577191	01/29/2010	IL	
South Texas Radiology Imaging Center-North East Imaging Center 12602 Toepperwein, ste 101 San Antonio TX 78233	00867N	01/29/2010	TX	
Cancer Care Center 2435 Fire Mesa Street Las Vegas NV 89128	1760435713	02/01/2010	NV	
Diagnostic Imaging Association 400 N Garfield, Suite 110 Midland TX 79701	1255328817	02/01/2010	TX	
Jefferson Imaging Langhorne 825 Town Center Drive Langhorne PA 19047	1841269099	02/01/2010	PA	
Newark Beth Israel Medical Center 156 Lyons Ave Newark NJ 07112	310002	02/01/2010	NJ	
Advanced Imaging Center 615 Valley View Drive Suite 101 Moline IL 61265	702970	02/01/2010	IL	
Caritas PET Imaging, LLC at Noble Hospital 115 West Silver Street Westfield MA 01085	1285846410	02/01/2010	MA	
Jefferson Regional Medical Center 565 Coal Valley Road Pittsburgh PA 15236	390265	02/01/2010	PA	
Montgomery Hospital 1308 Powell Street Norristown PA 19404	390108	02/01/2010	PA	
Eastern New Mexico Medical Center Imaging Center 405 West Country Club Road Roswell NM 88201	320006	02/01/2010	NM	
Baltimore Imaging Centers North Park Center 4B North Ave, Suite 300 Bel Air MD21014	H476	02/01/2010	MD	
New Jersey Institute of Radiology PC 630 Broad Street Carlstadt NJ 07072	412182809	02/01/2010	NJ	
Jupiter Hematology Oncology Associates 431 University Blvd Jupiter FL 33458	1003854332	02/01/2010	FL	
Casa Grande Regional Medical Center 1800 E. Florence Blvd. Casa Grande AZ 85222	1437107208	02/01/2010	AZ	
Marshfield Clinic Minocqua Center 9601 Townline Road Minocqua WI 54548	1952347981	02/01/2010	WI	
Cancer Care Associates 11100 Hefner Pointe Drive Oklahoma City OK 73120	731469927	02/01/2010	OK	
Alliance Community Hospital	360131	02/01/2010	OH	

Facility Name	Provider Number	Date Approved	State	Other Information
200 East State Street Alliance OH 44601				
Hematology & Oncology Specialists, LLC 4200 Houma Boulevard Metairie LA 70006	1190500005	02/01/2010	LA	
Lake Pointe Imaging Center 1005 West Ralph Hall Parkway, #121 Rockwall TX 75032	450742	02/01/2010	TX	
Mountain Medical Physician Specialists 5121 Cottonwood Street Murray UT 84107	1720035520	02/01/2010	UT	
Advanced Breast Care Imaging 250 Cetronia Road, Ste 102 Allentown PA 18104	103579	02/01/2010	PA	
Independent Imaging, LLC 3347 South State Road 7, Suite 100 Wellington FL 33449	45741	02/01/2010	FL	
Ocean Medical Center 425 Jack Martin Blvd Brick NJ 08724	1962409987	02/01/2010	NJ	
Newport Doctors Medical Imaging 401 Old Newport Boulevard, Suite 201 Newport Beach CA 92663-4289	W19467	02/01/2010	CA	
Neil M. Barth, MD Inc 20162 S.W. Birch Street Suite 150 Newport Beach CA 92660	1063551760	02/01/2010	CA	
Florida Cancer Institute - New Hope 4003 Mariner Blvd Spring Hill FL 34609	K4006	02/01/2010	FL	
Gulfcoast Cancer Institute Largo 100 Highland Ave Largo FL 33770	1629215579	02/01/2010	FL	
Grand View Hospital 905 Lawn Avenue	390057	02/02/2010	PA	

Facility Name	Provider Number	Date Approved	State	Other Information
Sellersville PA 18960				
Citizens Memorial Healthcare 1500 North Oakland Bolivar MO 65613	1003981549	02/02/2010	MO	
Community Cancer Center of Lake City 4520 West US Hwy 90 Lake City FL 32055	K3866	02/02/2010	FL	
Memorial Hermann Sugarland 17510 W. Grand Parkway South, Suite 120 Sugar Land TX 77479	450848	02/02/2010	TX	Medical Plaza 1
Carlisle Regional Medical Center 361 Alexander Spring Road Carlisle PA 17015	390058	02/02/2010	PA	
Fairview Hospital 18200 Lorain Avenue Cleveland OH 44111	360077	02/02/2010	OH	Moll Cancer Pavillion
Community Hospital 2021 N. 12th Street Grand Junction CO 80501	60054	02/02/2010	CO	
Alliance Imaging-West Coast Rad-MV/LN 27882 Forbes Road, Suite 120 Laguna Niguel CA 92677	1093969479	02/02/2010	CA	
Boston Diagnostic 398 E Altamonte Springs Altamonte SpringS FL 32701	1083691463	02/02/2010	FL	
Gerald Champion Regional Medical Center 2669 N. Scenic Dr. Alamogordo NM 88310	320004	02/02/2010	NM	
Metro South Imaging Center 12935 South Gregory Blue Island IL 60406	1700812294	02/02/2010	IL	
Christus St. Elizabeth 2830 Calder Street Beaumont TX 77702	450034	02/02/2010	TX	
Central DuPage Hospital 25 N Winfield Rd	1003864810	02/02/2010	IL	

Facility Name	Provider Number	Date Approved	State	Other Information
Winfield IL 60190				
Gulf Coast MRI & Diagnostic 5233 Fairmont Parkway, Suite A Pasadena TX 77505	1609823822	02/02/2010	TX	
Desert Regional Medical Center, Pet/Ct 1180 N. Indian Canyon Drive #E-155 Palm Springs CA 92262	1104856095	02/02/2010	CA	
Advanced Imaging@Community Medical Center, LLC 2803 South Avenue West Missoula MT 59804	1164437943	02/02/2010	MT	
Menorah Medical Center 5721 West 119th Street Overland Park KS 66209	170182	02/02/2010	KS	Oncology Services
Northwest Imaging Center 4383 Medical Drive, Ste 150 San Antonio TX 78229	00867N	02/02/2010	TX	
Dayton Physicians, LLC. 9000 N. Main st. Dayton OH 45415	1902844947	02/02/2010	OH	
Mercy Medical Center – Dubuque 250 Mercy Drive Dubuque IA 52001	1659348506	02/02/2010	IA	
DORAL Diagnostic Center 8881 NW 18th Terrace Miami FL 33172	K7806	02/02/2010	FL	
Maple Grove Fairview 14500 99th Ave North Maple Grove MN 55369	1841315165	02/02/2010	MN	
NSMS - Ste. Genevieve, MO US Hwy 61 & 32 Ste. Genevieve MO 63670	1295785079	02/02/2010	MO	
Floyd Memorial Hospital and Health Services 2210 Green Valley Rd New Albany IN 47150	1497798847	02/02/2010	IN	
NSMS - Lebanon, MO 100 Hospital Drive	1295785079	02/02/2010	MO	

Facility Name	Provider Number	Date Approved	State	Other Information
Lebanon MO 65536				
Inova Alexandria Hospital 4320 Seminary Road Alexandria VA 22304	490040	02/02/2010	VA	Radiology
Medical Doctors Imaging, Inc. 2020 Court Street Redding CA 96001	1235161480	02/02/2010	CA	
Hancock Regional Hospital 801 North State St Greenfield IN 46140	1952559163	02/02/2010	IN	
Calvert Medical Imaging Center (CMIC) 130 Hospital Drive Suite LL 100 Prince Frederick MD 20678	1629235312	02/02/2010	MD	
NSMS - Clay Center, KS 617 Liberty Street Clay Center KS 67432	1295785079	02/02/2010	KS	
Alliance HealthCare Services Inc 1401 West 5th Street Sheridan WY 82801	1134303845	02/02/2010	WY	
NUSCAN 101 Consolidated Medical Plaza Caguas PR 725	1275630527	02/02/2010	PR	201 Ave Gautier Benitez
Delta County Memorial Hospital 1501 East 3rd Street Delta CO 81416	1417935446	02/02/2010	CO	
Bozeman Deaconess Hospital 915 Highland Blvd Bozeman MT 59715	1720079619	02/02/2010	MT	
Bradford Regional Medical Center 116 Interstate Parkway Bradford PA 16701	390118	02/02/2010	PA	
Gwinnett Medical Center 1000 Medical Center Blvd Lawrenceville GA 30045	1952340994	02/02/2010	GA	
Mankato Clinic 1421 Premier Drive Mankato MN 56001	1629044029	02/02/2010	MN	

Facility Name	Provider Number	Date Approved	State	Other Information
Delray Medical Center 5352 Linton Boulevard Delray Beach FL 33484	100258	02/02/2010	FL	
Buffalo Hospital 303 Catlin Str, Radiology Buffalo MN 55313	240076	02/02/2010	MN	
Evergreen Radia Imaging Center 11521 N.E. 128th Street Suite 200 Kirkland WA 98034	AB39931	02/02/2010	WA	
Alliance Imaging - St. John's Medical Center 625 E Broadway Jackson WY 83001	W22619	02/02/2010	WY	
Clarion Hospital One Hospital Drive Clarion PA 16214	1265422901	02/04/2010	PA	
Exempla St. Joseph's Hospital 1835 Franklin St. Denver CO 80218	1417946021	02/04/2010	CO	
Olean General Hospital 515 Main St Olean NY 14760	1225083074	02/04/2010	NY	
Excel Medical Imaging 5626 Gulf Drive New Port Richey FL 34652	K5327	02/04/2010	FL	
Delnor Hospital (Imaging Dept) 300 Randall Rd Geneva IL 60134	1407859655	02/04/2010	IL	
Cancer Center of Pasco Pinellas 3000 US Hwy 19 Holiday FL 34691	1101019207	02/04/2010	FL	
Citrus Memorial Health Systems 131 S. Citrus Avenue Inverness FL 34452	592890430	02/04/2010	FL	
Ironwood Cancer & Research Centers 6111 E Arbor Ave Mesa/Chandler AZ 85206	Z70782	02/04/2010	AZ	695 S Dobson Rd
Cape Cod PET/CT Services, LLC	1407180847	02/04/2010	MA	

Facility Name	Provider Number	Date Approved	State	Other Information
2 Jan Sebastian Drive Sandwich MA 02563				
Mission Hospital 27700 Medical Center Road Mission Viejo CA 92691	1992752315	02/05/2010	CA	
MetroHealth 5900 Byron Center Ave SW Wyoming MI 49519	1619923919	02/05/2010	MI	
Ardmore PET Associates, LLC 908 North Rockford Rd, Ste C Ardmore OK 73401	1447585302	02/05/2010	OK	
Baptist Medical Center PET*CT 800 Prudential drive Jacksonville FL32221	15786220449	02/05/2010	FL	
Johnston Medical Center 509 N. Bright Leaf Blvd. Smithfield NC 27577	1619911104	02/05/2010	NC	
El Camino Hospital 2500 Grant Road Mountain View CA 95040	943167314	02/05/2010	CA	
NSMS - Carthage, MO 3125 Drive Russell Smith Way Carthage MO 64836	1295785079	02/05/2010	MO	
Gulfcoast Cancer Center 100 Highland Ave Ne Largo FL 33770	1225019649	02/05/2010	FL	
Elite Advanced 17260 Bear Valley Rd Victorville CA 92395	ZZZ23616Z	02/05/2010	CA	
Mountainside Hospital 1 Bay Avenue Montclair NJ 07042	310054	02/05/2010	NJ	
Orange Coast Memorial Imaging Center 9920 Talbert Avenue Fountain Valley CA 92708	50678	02/05/2010	CA	
NYOH Mobile PET/CT Imaging Saratoga 377 Church St Saratoga Springs NY 12866	1609863448	02/05/2010	NY	
Compassionate Cancer Care Radiation Diagnostic Grp 260 E. Ontario Avenue, Suite #101 Corona CA 92879	1720073935	02/05/2010	CA	
Athens Cancer Center 75 Hospital Dr., Suite 170 Athens OH 45701	203145500	05/02/2010	OH	

ADDENDUM XIII: Medicare-Approved Ventricular Assist Device (Destination Therapy) Facilities July Through September 2010

On October 1, 2003, we issued our decision memorandum on ventricular assist devices for the clinical indication of destination therapy. We determined that ventricular assist devices used as destination therapy are reasonable and necessary only if performed in facilities that have been determined to have the experience and infrastructure to ensure optimal patient outcomes. We established facility standards and an application process. All facilities were required to meet our standards in order to receive coverage for ventricular assist devices implanted as destination therapy.

VAD Destination Therapy Facilities

The following facilities have met the CMS facility standards for destination therapy VADs.

Facility	Provider Number	Date Approved	State	Other Information
University of Iowa Hospitals and Clinics 200 Hawkins Drive Iowa City, Iowa	160058	6/23/2010	IA	Facility was initially certified on 11/12/03 and became decertified on 08/08/07. Recertification from the Joint Commission began 6/23/10.
Saint Joseph's Hospital of Atlanta 5665 Peachtree Dunwoody Road Atlanta, GA	110082	7/14/2010	GA	Joint Commission certified on 7/14/10
Robert Wood Johnson University Hospital One Robert Wood Johnson Place New Brunswick, NJ	310038	7/23/2010	NJ	Joint Commission certified on 7/23/10
Lutheran Hospital of Indiana 7950 W Jefferson Boulevard Fort Wayne, Indiana	150017	9/15/2010	IN	Hospital was certified by CMS from 10/29/03 until being decertified on 7/30/07. The hospital is certified by the Joint Commission as of 9/15/10.
Medical University of South Carolina Medical Center 169 Ashley Avenue Charleston, South Carolina	420004	9/24/2010	SC	

ADDENDUM XIV: Lung Volume Reduction Surgery (LVRS) July Through September 2010

The following three types of facilities are eligible for reimbursement for Lung Volume Reduction Surgery (LVRS):

- National Emphysema Treatment Trial (NETT) approved (Beginning 05/07/2007, these will no longer automatically qualify and can qualify only with the other programs);
- Credentialed by the Joint Commission (formerly, the Joint Commision on Accreditation of Healthcare Organizations (JCAHO)) under their Disease Specific Certification Program for LVRS; and
- Medicare approved for lung transplants.

Only the first two types are in the list.

Facility name	Date Approved	State	Type of Certification
Baylor College of Medicine Houston, Texas	N/A	TEXAS	NETT
Brigham and Women's Hospital Boston, MA	N/A	MASSACHUSETTS	NETT
Cedars-Sinai Medical Center Los Angeles, CA	N/A	CALIFORNIA	NETT
Chapman Medical Center Orange, CA	N/A	CALIFORNIA	NETT
Cleveland Clinic Foundation Cleveland, OH	N/A	OHIO	NETT
Columbia University New York, NY	N/A	NEW YORK	NETT
Duke University Medical Center Durham, NC	N/A	NORTH CAROLINA	NETT
Johns Hopkins Hospital Baltimore, MD	N/A	MARYLAND	NETT
Kaiser Foundation Hospital - Riverside Riverside, CA	11/01/2008	CALIFORNIA	JCAHO
Long Island Jewish Medical Center New Hyde Park, NY	N/A	NEW YORK	NETT
Mayo Clinic Rochester, MN	N/A	MINNESOTA	NETT
Memorial Medical Center Springfield, IL	12/13/2006	ILLINOIS	JCAHO

Facility name	Date Approved	State	Type of Certification
National Jewish Medical Center Denver, CO	N/A	COLORADO	NETT
The Ohio State University Hospital Columbus, OH	N/A	OHIO	JCAHO
Ohio State University Medical Center Columbus, OH	N/A	OHIO	NETT
Saint Louis University Saint Louis, MO	N/A	MISSOURI	NETT
Temple University Hospital Philadelphia, PA	08/23/2008	PENNSYLVANIA	JCAHO
UCLA Medical Center Los Angeles, CA	N/A	CALIFORNIA	NETT
University of California, San Diego San Diego, CA	N/A	CALIFORNIA	NETT
University of Maryland Medical Center Baltimore, MD	N/A	MARYLAND	NETT
University of Michigan Medical Center Ann Arbor, MI	N/A	MICHIGAN	JCAHO
University of Pennsylvania Philadelphia, PA	N/A	PENNSYLVANIA	NETT
University of Pittsburgh Pittsburgh, PA	N/A	PENNSYLVANIA	NETT
University of Washington Seattle, WA	N/A	WASHINGTON	NETT
Washington University/Barnes Hospital Saint Louis, MO	N/A	MISSOURI	JCAHO
Allegheny General Hospital Pittsburgh, PA	04/23/2008	PENNSYLVANIA	JCAHO

ADDENDUM XV: Medicare-Approved Bariatric Surgery Facilities

On February 21, 2006, we issued our decision memorandum on bariatric surgery procedures. We determined that bariatric surgical procedures are reasonable and necessary for Medicare beneficiaries who have a body-mass index (BMI) greater than or equal to 35, have at least one co-morbidity related to obesity, and have been previously unsuccessful with medical treatment for obesity.

This decision also stipulated that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities that are:

(1) certified by the American College of Surgeons (ACS) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or

(2) certified by the American Society for Bariatric Surgery (ASBS) as a Bariatric Surgery Center of Excellence (BSCOE) (program standards and requirements in effect on February 15, 2006).

The following facilities have met our minimum facility standards for bariatric surgery and have been certified by American College of Surgeons (ACS) or American Society for Metabolic and Bariatric Surgery (ASMBS).

Facility Name	Provider Number	Date Approved	State	Other Information
MetroWest Medical Center, Leonard Morse Hospital 67 Union Street, Fair 4 Natick, Massachusetts 01760	5585	07/14/2010	MA	ASMBS
Central Maine Medical Center 300 Main Street Lewiston, Maine 04240	010211494	07/14/2010	ME	ASMBS
Physicians' Specialty Hospital 3873 North Parkview Drive Fayetteville, Arkansas 72703	1285622845	08/16/2010	AR	ASMBS
Shands at the University of Florida 1600 SW Archer Road, #6175 Gainesville, Florida 32610	100113	07/26/2010	FL	ASMBS
The George Washington University Hospital 900 23rd Street NW Washington, DC 20037	090001	7/27/2010	DC	ASMBS
Community Hospital Monterery Peninsula 23625 Holman Highway Monterey, CA 93940	05-0145 1932197258	08/31/2010	CA	ASMBS
Flowers Hospital 4370 West Main Street, Ste. 41	010055	08/27/2010	AL	ASMBS

Facility Name	Provider Number	Date Approved	State	Other Information
Dothan, AL 36305				
Jeanes Hospital 7600 Central Ave. Philadelphia, PA 19111	390080	08/02/2010	PA	ASMBS
Scripps Green Hospital 12395 El Camino Real Suite 317 San Diego, CA 92130	18412 33780	08/19/2010	CA	ACS
Emerson Hospital 54 Baker Avenue Extension Concord, MA 01742	1922103357	07/30/2010	MA	ACS
University of North Carolina 4035 Burnett-Womack Bldg. Campus Box 7081 Chapel Hill, NC 27599	1932208576	08/23/2010	NC	ACS
Brandon Regional Hospital 119 Oakfield Drive Brandon, FL	10-0243	08/16/2010	FL	ASMBS
St. Elizabeth Hospital 1125 West Hwy 30 Gonzales, Louisiana 70737	190242	08/27/2010	LA	ASMBS
Washington County Hospital 251 East Antietam Street Hagerstown, MD 21740	21-0001	09/17/2010	MD	ASMBS
Our Lady of the Lake Regional Medical Center 5000 Hennessy Blvd. Baton Rouge, LA 70808	190064	09/17/2010	LA	ASMBS
Bridges Center at Tempe St. Luke's 1500 South Mill Avenue Tempe, AZ 85281	030037	09/17/2010	AZ	ASMBS

ADDENDUM XVI: FDG-PET for Dementia and Neurodegenerative Diseases Clinical Trials

In a National Coverage Determination for fluorodeoxyglucose positron emission tomography (FDG-PET) for Dementia and Neurodegenerative Diseases (220.6.13), we indicated that an FDG-PET scan is considered reasonable and necessary in patients with mild cognitive impairment or early dementia only in the context of an approved clinical trial that contains patient safeguards and protections to ensure proper administration, use, and evaluation of the FDG-PET scan.

Facility name	Provider Number	Date Approved	State	Name of Trial	Principal Investigator
UCLA Medical Center 10833 Le Conte Avenue Los Angeles, CA 90095	HW13029	06/07/2006	CA	Early and Long-Term Value of Imaging Brain Metabolism	Dr. Daniel Silverman
Santa Monica-UCLA Medical Center 1245 16th Street Suite 105 Santa Monica, CA 90404	W11817A	01/12/2007	CA	N/A	N/A
University of Buffalo 3435 Main Street Buffalo, NY 14214	14414A	03/12/2007	NY	Metabolic Cerebral Imaging in Incipient Dementia (MCI-ID)	Dr. Daniel Silverman
Center for Alzheimer's Care, Imaging and Research (University of Utah) 650 Komas Drive Suite 106-A Salt Lake City, UT 84108	460009	02/17/2009	UT	Metabolic Cerebral Imaging in Incipient Dementia (MCI-ID)	Norman Foster, M.D.
Medical University of South Carolina 169 Ashley Avenue PO Box 250322 Charleston, SC 29425	1073605879	02/17/2009	SC	N/A	Kenneth Spicer
Cedars-Sinai Medical Center 8700 Beverly Boulevard Nuc Suite 1239	951644600	10/09/2009	CA	"Early and Long-term Value of Imaging Brain Metabolism"	Dr. Alan Waxman
Los Angeles, CA 90048					

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 4387/P.L. 111–297

To designate the Federal building located at 100 North Palafox Street in Pensacola, Florida, as the "Winston E. Arnow Federal Building". (Dec. 14, 2010; 124 Stat. 3267)

H.R. 5651/P.L. 111–298

To designate the Federal building and United States courthouse located at 515 9th Street in Rapid City, South Dakota, as the "Andrew W. Bogue Federal Building and United States Courthouse". (Dec. 14, 2010; 124 Stat. 3268)

H.R. 5706/P.L. 111–299

To designate the building occupied by the Government Printing Office located at 31451 East United Avenue in Pueblo, Colorado, as the "Frank Evans Government Printing Office Building". (Dec. 14, 2010; 124 Stat. 3269)

H.R. 5758/P.L. 111–300

To designate the facility of the United States Postal Service located at 2 Government Center in Fall River, Massachusetts, as the "Sergeant Robert Barrett Post Office Building". (Dec. 14, 2010; 124 Stat. 3270)

H.R. 5773/P.L. 111–301

To designate the Federal building located at 6401 Security Boulevard in Baltimore, Maryland, commonly known as the Social Security Administration Operations Building, as the "Robert M. Ball Federal Building". (Dec. 14, 2010; 124 Stat. 3271)

H.R. 6162/P.L. 111–302

Coin Modernization, Oversight, and Continuity Act of 2010 (Dec. 14, 2010; 124 Stat. 3272)

H.R. 6166/P.L. 111–303

American Eagle Palladium Bullion Coin Act of 2010 (Dec. 14, 2010; 124 Stat. 3275)

H.R. 6237/P.L. 111–304

To designate the facility of the United States Postal Service located at 1351 2nd Street in Napa, California, as the "Tom Kongsgaard Post Office Building". (Dec. 14, 2010; 124 Stat. 3278)

H.R. 6387/P.L. 111–305

To designate the facility of the United States Postal Service located at 337 West Clark Street in Eureka, California, as the "Sam Sacco Post Office Building". (Dec. 14, 2010; 124 Stat. 3279)

S. 1338/P.L. 111–306

To require the accreditation of English language training programs, and for other purposes. (Dec. 14, 2010; 124 Stat. 3280)

S. 1421/P.L. 111–307

Asian Carp Prevention and Control Act (Dec. 14, 2010; 124 Stat. 3282)

S. 3250/P.L. 111–308

Federal Buildings Personnel Training Act of 2010 (Dec. 14, 2010; 124 Stat. 3283)

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