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Contents

Federal Register

Vol. 75, No. 23

Thursday, February 4, 2010

Agriculture Department
See Food Safety and Inspection Service
See Forest Service
See Natural Resources Conservation Service

Army Department
See Engineers Corps
NOTICES
Inland Waterways Users Board:
Request for Nominations, 5769–5770

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Community Development Financial Institutions Fund
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5848–5849

Consumer Product Safety Commission
NOTICES
Meetings:
All Terrain Vehicle Chinese Language Webinar, 5767
Meetings; Sunshine Act, 5767

Defense Department
See Army Department
See Engineers Corps
PROPOSED RULES
Federal Acquisition Regulation:
Inflation Adjustment of Acquisition-Related Thresholds, 5716–5722
NOTICES
Meetings:
Veterans' Advisory Board on Dose Reconstruction, 5767–5768

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5770–5771
Availability of Funding:
Education Research and Special Education Research Grant Programs, 5771–5778

Employee Benefits Security Administration
NOTICES
Publication of Model Notice for Employers to Use Regarding Eligibility:
Premium Assistance Under Medicaid or the Children's Health Insurance Program, 5808–5811

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5779

Energy Efficiency and Renewable Energy Office
NOTICES
Request for Information:
Questions Pertaining to Section 1605 (Buy American provisions) of American Recovery and Reinvestment Act (of 2009), 5783–5784

Engineers Corps
NOTICES
Environmental Impact Statements; Availability, etc.:
Improvements to Federal Deep-Draft Pascagoula Harbor Navigation Channel, Jackson County, MS, 5768–5769

Environmental Protection Agency
RULES
Approval and Promulgation of Implementation Plans:
Albuquerque–Bernalillo County, NM; Excess Emissions, 5698–5701
PROPOSED RULES
Approval and Promulgation of Implementation Plans:
Albuquerque–Bernalillo County, NM; Excess Emissions, 5707–5708
Identification of Additional Classes of Facilities for Development of Financial Responsibility Requirements under CERCLA Section 108(b), 5715–5716
Ocean Dumping:
Designation of Ocean Dredged Material Disposal Sites offshore of the Siuslaw River, Oregon, 5708–5715
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
NESHAP for Primary Magnesium Refining (Renewal), 5787–5788
NESHAP for Site Remediation, 5785–5786
NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarbonization Vessels (Renewal), 5786–5787
Draft National Pollutant Discharge Elimination System General Permits for Small Municipal Separate Storm Sewer Systems, 5788–5790
Meetings:
Good Neighbor Environmental Board, 5790
Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities, 5790–5794

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness Directives:
Bell Helicopter Textron, Inc. Model 205B and 212 Helicopters, 5681–5683
Boeing Co. Model 747–200C and –200F Series Airplanes, 5692–5695
Boeing Company Model 767–200, –300, and –300F Series Airplanes, 5677–5681
Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, et al. Airplanes, 5685–5689
PIAGGIO AERO INDUSTRIES S.p.A Model PIAGGIO P–180 Airplanes, 5695–5697

Piaggio Aero Industries S.p.A. Model P–180 Airplanes, 5690–5692
Sikorsky Aircraft Corporation Model S–92A Helicopters, 5684–5685
Turbomeca Arriel 2B and 2B1 Turboshaft Engines, 5689–5690
PROPOSED RULES
Proposed Amendments of Class D and E Airspace:
Everett, WA, 5702–5703
Proposed Modifications of Jet Route (J–3):
Spokane, WA, 5703–5704
Proposed Modifications of Jet Routes (J–37 and J–55):
Northeast United States, 5704–5706
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5843–5846
Deadline for Notification of Intent to Use Airport Improvement Program (AIP) Primary, Cargo, and Nonprimary Entitlement Funds for Fiscal Year 2010; Correction, 5846
Environmental Impact Statements; Availability, etc.:
Public Scoping Comments for Air Tour Management Plan Program at Death Valley National Park, 5846–5847

Federal Communications Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5794–5796

Federal Energy Regulatory Commission
NOTICES
Agenda for Technical Conference on RTO/ISO Responsiveness:
California Independent System Operator Corporation et al., 5779–5780
Applications:
Claverack Creek, LLC, 5780
Complaint:
Green Borders Geothermal, LLC v. Terra-Gen Dixie Valley, LLC, 5780–5781
Declaration of Intention and Soliciting Comments, Protests, and/or Motions to Interverne:
David Noland, 5781–5782
Initial Market-Based Rate Filing:
Noble Energy Marketing and Trade Corp., 5782
Records Governing Off-the-Record Communications, 5782–5783
Technical Conference:
Guidance on Preparation of Market-Based Rate Filings and Electric Quarterly Reports by Public Utilities, 5784–5785

Federal Trade Commission
NOTICES
Proposed Consent Agreements:
Danaher Corp. and MDS, Inc.; Analysis of Agreement Containing Consent Orders to Aid Public Comment, 5796–5798

Federal Transit Administration
NOTICES
Section 5309 Bus and Bus Facilities Livability Initiative and Urban Circulator Program Grants, 5847–5848

Fiscal Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Claim Against the United States for the Proceeds of a Government Check, 5849–5850

Fish and Wildlife Service
PROPOSED RULES
Endangered and Threatened Wildlife and Plants:
Establishment of a Nonessential Experimental Population of Sonoran Pronghorn in Southwestern Arizona, 5732–5745
NOTICES
Endangered and Threatened Species Permit Applications, 5802–5803

Food Safety and Inspection Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5756–5757

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Bridger–Teton National Forest, Big Piney Ranger District, Wyoming; Piney Creeks Vegetation Treatment, 5758–5759
Meetings:
Resource Advisory Committee, 5759
New Recreation Fee Site:
Federal Lands Recreation Enhancement Act, 5759

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation:
Inflation Adjustment of Acquisition-Related Thresholds, 5716–5722

Health and Human Services Department
See National Institutes of Health

Housing and Urban Development Department
PROPOSED RULES
Federal Housing Administration:
Insurance for Manufactured Housing; Reopening of Public Comment Period, 5706–5707
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Fair Housing Initiatives Program Grant Application and Monitoring Reports, 5799
Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs, 5800
Buy American Exceptions under the American Recovery and Reinvestment Act of 2009, 5800–5801

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5850–5873

International Trade Administration
NOTICES
Executive-Led Trade Mission to Colombia and Panama, November 15–18, 2010, 5761–5763
Final Results of Antidumping Duty Administrative Review:
Correction to the First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China, 5763
Initiations of Antidumping Duty New Shipper Reviews:
Certain Non-Frozen Apple Juice Concentrate from People's Republic of China, 5763–5764
Initiations of New Shipper Antidumping Duty Reviews:
Honey from People's Republic of China, 5764–5765
Postponement of Final Determination:
Certain Steel Grating from the People's Republic of China, 5766–5767

International Trade Commission
NOTICES
Investigations:
Certain Semiconductor Integrated Circuits and Products Containing Same, 5804
Small and Medium-Sized Enterprises:
U.S. and EU Export Activities, and Barriers and Opportunities Experienced by U.S. Firms, etc., 5804–5806

Justice Department
NOTICES
Lodging of Modification of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act, 5806
Lodging of Modified Consent Decree Under the Clean Water Act, 5807

Labor Department
See Employee Benefits Security Administration
See Mine Safety and Health Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Meetings:
John Day/Snake Resource Advisory Council, 5803–5804

Mine Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Qualification and Certification of Electrical Training, 5807–5808

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation:
Inflation Adjustment of Acquisition-Related Thresholds, 5716–5722
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5811–5812

National Institutes of Health
NOTICES
Meetings:
National Institute on Drug Abuse, 5798–5799

National Oceanic and Atmospheric Administration
PROPOSED RULES
Pacific Halibut Fisheries:
Catch Sharing Plan, 5745–5755
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Papahanaumokuakea Marine National Monument Permit Application and Reports for Permits, etc., 5760–5761
Western Alaska Community Development Quota Program, 5760
NOAA Coastal and Marine Habitat Restoration Project Supplemental Funding, 5765–5766

National Park Service
NOTICES
Environmental Impact Statements; Availability, etc.:
New Merced Wild and Scenic River Comprehensive Management Plan; Mariposa and Madera Counties, California, 5803

Natural Resources Conservation Service
NOTICES
Availability of Final Environmental Assessment and Finding of No Significant Impact:
Delta–Clearwater Remediation Project, Delta Junction, AK, 5757–5758

Occupational Safety and Health Administration
PROPOSED RULES
Revising Standards Referenced in the Acetylene Standard; withdrawal, 5707

Presidential Documents
ADMINISTRATIVE ORDERS
Cote d'Ivoire; Continuation of National Emergency (Notice of February 2, 2010), 5675

Public Debt Bureau
See Fiscal Service

Securities and Exchange Commission
NOTICES
Applications for Deregistration Under Section 8(f) of the Investment Company Act (of 1940), 5812–5814
Applications for Orders for Exemptions under Section 6(c) of 1940 Investment Company Act:
ShariahShares Exchange-Traded Fund Trust, et al., 5814–5821
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 5831–5834
Financial Industry Regulatory Authority, Inc., 5834–5836
International Securities Exchange, LLC, 5824–5827
NASDAQ OMX PHLX, Inc., 5827–5829
NASDAQ Stock Market LLC, 5821–5824, 5829–5831

Small Business Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5812

State Department
NOTICES
Lifting of Nonproliferation Measures Against One Russian Entity, 5836
Meetings:
United States–Peru Environmental Affairs Council, 5836
Request for Grant Proposals:
Indonesia–U.S. Youth Leadership Program, 5836–5842

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 5801–5802

Tennessee Valley Authority
NOTICES
Environmental Impact Statements; Availability, etc.:
Purchase of Renewable Energy from CPV Ashley Wind Power Project in North Dakota, 5873–5875

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration
RULES
Employee Protection Program:
Removal, 5697–5698
PROPOSED RULES
Procedures for Transportation Workplace Drug and Alcohol Testing Programs, 5722–5732
NOTICES
Aviation Proceedings, Agreements Filed:
(Week Ending January 23, 2010), 5842–5843

Treasury Department
See Community Development Financial Institutions Fund
See Fiscal Service
See Internal Revenue Service

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Notices:

Notice of February 2, 2010 5675

14 CFR

39 (8 documents) ...5677, 5681, 5684, 5685, 5689, 5690, 5692, 5695

314 5697

Proposed Rules:

71 (3 documents) ...5702, 5703, 5704

24 CFR

Proposed Rules:

201 5706

203 5706

29 CFR

Proposed Rules:

1910 5707

40 CFR

52 5698

Proposed Rules:

52 5707

228 5708

320 5715

48 CFR

Proposed Rules:

1 5716

2 5716

3 5716

5 5716

6 5716

7 5716

8 5716

12 5716

13 5716

15 5716

16 5716

17 5716

19 5716

22 5716

23 5716

28 5716

32 5716

36 5716

42 5716

43 5716

50 5716

52 5716

49 CFR

Proposed Rules:

40 5722

50 CFR

Proposed Rules:

17 5732

300 5745

Federal Register
Vol. 75, No. 23
Thursday, February 4, 2010

Presidential Documents

Title 3—

The President

Notice of February 2, 2010

Continuation of the National Emergency With Respect to the Situation in or in Relation to Côte d'Ivoire

On February 7, 2006, by Executive Order 13396, the President declared a national emergency, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the situation in or in relation to Côte d'Ivoire and ordered related measures blocking the property of certain persons contributing to the conflict in Côte d'Ivoire. The situation in or in relation to Côte d'Ivoire, which has been addressed by the United Nations Security Council in Resolution 1572 of November 15, 2004, and subsequent resolutions, has resulted in the massacre of large numbers of civilians, widespread human rights abuses, significant political violence and unrest, and fatal attacks against international peacekeeping forces. Because the situation in or in relation to Côte d'Ivoire continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on February 7, 2006, and the measures adopted on that date to deal with that emergency, must continue in effect beyond February 7, 2010. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13396.

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

THE WHITE HOUSE,
February 2, 2010.

[FR Doc. 2010–2574
Filed 2–3–10; 8:45 am]
Billing code 3195–W0–P

Rules and Regulations

Federal Register

Vol. 75, No. 23

Thursday, February 4, 2010

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0031; Directorate Identifier 2009–NM–266–AD; Amendment 39–16192; AD 2010–03–08]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 767–200, –300, and –300F Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to certain Model 767–200, –300, and –300F series airplanes. The existing AD currently requires repetitive detailed and eddy current inspections to detect cracks or corrosion of certain midspar fuse pins, and corrective actions if necessary. That AD also provides optional terminating action, which ends the repetitive inspections. This new AD requires reduced intervals for certain repetitive inspections. This AD results from a report of a fractured midspar fuse pin. We are issuing this AD to prevent loss of the strut and engine due to corrosion damage and cracking of both fuse pins on the same strut.

DATES: This AD becomes effective February 19, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of February 19, 2010.

The Director of the Federal Register previously approved the incorporation by reference of a certain publication listed in the AD as of March 5, 2001 (66 FR 8085, January 29, 2001).

The Director of the Federal Register previously approved the incorporation by reference of a certain other publication listed in the AD as of October 17, 2000 (65 FR 58641, October 2, 2000).

We must receive any comments on this AD by March 22, 2010.

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

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

For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

On January 22, 2003, we issued AD 2003–03–02, amendment 39–13026 (68 FR 4374, January 29, 2003). That AD applies to certain Model 767–200, –300, and –300F airplanes. That AD requires repetitive detailed and eddy current inspections to detect cracks and corrosion of certain midspar fuse pins, and corrective actions if necessary. That AD also provides optional terminating action, which ends the repetitive inspections. That AD resulted from a report of a fractured outboard midspar fuse pin (part number (P/N) 311T3102–1) of the left engine pylon, which was found during a scheduled maintenance visit. The fuse pin also had corrosion on the pin and within the bore. The actions specified in that AD are intended to prevent loss of the strut and engine due to corrosion damage and cracking of both fuse pins on the same strut.

Actions Since AD Was Issued

Since we issued that AD, we received a report that a fractured midspar fuse pin was found on a Model 767–300 airplane with CF6–80C2 engines. The airplane had accumulated 16,054 flight cycles and neither Boeing Service Bulletin 767–54–0069 (required by AD 2000–19–09, amendment 39–11910; AD 2001–02–07, amendment 39–12091; and AD 2001–06–12, amendment 39–12159) nor Boeing Service Bulletin 767–54–0081 (required by AD 2001–06–12) had been incorporated. (ADs 2001–02–07 and 2001–06–12 have been superseded by AD 2004–16–12, amendment 39–13768.) The fractured midspar fuse pin was found during routine maintenance on the outboard side of the number one pylon, prior to the next scheduled midspar fuse pin inspection in accordance with Boeing Alert Service Bulletin 767–54A0062, Revision 5, dated November 11, 2002 (referenced in AD 2003–03–02). Further inspection revealed a cracked midspar fuse pin on the inboard side of the number one pylon. Subsequent inspection of both midspar fuse pins revealed discrepant circumferential machining grooves on the fuse pin main bore surface, in addition to longitudinal cracks. In addition, eddy current inspection of the midspar fuse pins in accordance with the requirements of Revision 5 of this service bulletin will not reveal the maximum allowable roughness of the fuse pin main bore surface. Metallurgical analysis determined the fuse pin fracture or crack origins coincided with the discrepant

machining groove locations, in all cases. Stresses due to pin ovalization contributed to the longitudinal cracking of the midspar fuse pins.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009. The service bulletin describes procedures similar to those in Boeing Alert Service Bulletin 767–54A0062, Revision 5, dated November 11, 2002 (referred to in AD 2003–03–02 as a method of accomplishing the required actions), but with reduced repetitive inspection intervals. Revision 6 of this service bulletin does provide optional corrective actions for certain conditions; a repair of the midspar fuse pin may be done instead of replacing the pin. The repair includes contacting Boeing for repair instructions and doing the repair. Revision 6 of this service bulletin also revises the corrective actions for corrosion by basing the condition on corrosion found on a non-critical surface or any surface other than a non-critical surface.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to supersede AD 2003–03–02. This new AD retains certain requirements of the existing AD. This AD also reduces intervals for repeat inspections and requires accomplishing the actions specified in Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009, described previously, except as discussed under "Difference Between the AD and the Service Bulletin."

Difference Between the AD and the Service Bulletin

Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009, specifies to "Contact Boeing for repair instructions * * *." This AD would require repairing in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA.

Change to Existing AD

This AD would retain certain requirements of AD 2003–03–02. Since AD 2003–03–02 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2003–03–02	Corresponding requirement in this AD
paragraph (h)	paragraph (g)
paragraph (i)	paragraph (h)
paragraph (j)	paragraph (i)
paragraph (k)	paragraph (j)
paragraph (l)	paragraph (k)
paragraph (m)	paragraph (l)
paragraph (n)	paragraph (m)

FAA's Justification and Determination of the Effective Date

A fractured midspar fuse pin was discovered after the issuance of AD 2003–03–02. Fractured, corroded, or cracked midspar fuse pins could lead to the separation of the strut and engine from the airplane. Because of our requirement to promote safe flight of civil aircraft and thus, the critical need to assure the structural integrity of the engine strut and the short compliance time involved with this action, this AD must be issued immediately.

Because an unsafe condition exists that requires the immediate adoption of this AD, we find that notice and opportunity for prior public comment hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0031; Directorate Identifier 2009–NM–266–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

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 the regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 Federal Aviation Administration (FAA) amends § 39.13

by removing amendment 39–13026 (68 FR 4374, January 29, 2003) and by adding the following new airworthiness directive (AD):

2010–03–08 The Boeing Company: Amendment 39–16192. Docket No. FAA–2010–0031; Directorate Identifier 2009–NM–266–AD.

Effective Date

(a) This AD becomes effective February 19, 2010.

Affected ADs

(b) This AD supersedes AD 2003–03–02, Amendment 39–13026. In addition, AD 2000–19–09, Amendment 39–11910; AD 2001–02–07, Amendment 39–12091; and AD 2001–06–12, Amendment 39–12159; affect this AD.

Applicability

(c) This AD applies to The Boeing Company Model 767–200, –300, and –300F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 54: Nacelles/Pylons.

Unsafe Condition

(e) This AD results from a report of a fractured midspar fuse pin. The Federal Aviation Administration is issuing this AD to prevent loss of the strut and engine due to corrosion damage and cracking of both fuse pins on the same strut.

Compliance

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

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (r)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Restatement of Certain Requirements of AD 2003–03–02, With New Service Information

Initial and Repetitive Inspections

(g) For airplanes having midspar fuse pins, part numbers 311T3102–1, 311T3102–2, 311T3102–3, 311T3102–4, 311T2102–1 or 311T2102–2: Do a detailed inspection and an eddy current inspection for cracks and corrosion, per Boeing Alert Service Bulletin 767–54A0062, Revision 5, dated November 11, 2002; or in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009. Do the inspections at the later of the times specified in paragraphs (g)(1) and (g)(2) of this AD. Repeat the inspections at least every 3,000 landings or 5 years, whichever is first, except as required by paragraph (n) of this AD. After the effective date of this AD, Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009, must be used. Accomplishing the inspection required by paragraph (n) of this AD terminates the repetitive inspections required by this AD.

(1) Before the accumulation of 5,000 total landings on the fuse pin or within 5 years after fuse pin installation, whichever is first.

(2) Within 30 days after February 13, 2003.

Corrective Action

(h) If any crack or corrosion is found during any inspection required by paragraph (g) of this AD, before further flight, do the actions required by paragraph (h)(1) or (h)(2) of this AD, as applicable, per Boeing Alert Service Bulletin 767–54A0062, Revision 5, dated November 11, 2002, or do the applicable actions required by paragraph (p) of this AD. As of the effective date of this AD, if any crack or corrosion is found during any inspection required by paragraph (g) of this AD, before further flight, do the applicable actions required by paragraph (p) of this AD.

(1) If any crack is found, replace the midspar fuse pin with a new fuse pin.

(2) If any corrosion is found, repair the midspar fuse pin, or replace with a new fuse pin.

Repetitive Inspections

(i) For airplanes identified in paragraph (g) of this AD, and on which a new midspar fuse pin was installed before the effective date of this AD: After the installation of a new midspar fuse pin, inspect the new fuse pin per paragraph (g) of this AD before the accumulation of 5,000 total landings on the fuse pin or within 5 years, whichever is first. Repeat the inspections at least every 3,000 landings or 5 years, whichever is first, except as required by paragraph (n) of this AD. Accomplishing the inspection required by paragraph (n) of this AD terminates the repetitive inspections required by this paragraph.

Optional Terminating Action

(j) For all airplanes: Accomplishment of the rework of the side load fitting and tension fasteners, as applicable, and replacement of midspar fuse pins per Boeing Service Bulletin 767–54–0069, dated October 9, 1997; Revision 1, dated January 29, 1998; or Revision 2, dated August 31, 2000; ends the repetitive inspections required by this AD.

(k) Modification of the nacelle strut and wing structure as required by AD 2000–19–09, amendment 39–11910 (applicable to certain Model 767 series airplanes powered by Rolls-Royce RB211 series engines); AD 2001–02–07, amendment 39–12091 (applicable to certain Model 767 series airplanes powered by Pratt & Whitney engines); or AD 2001–06–12, amendment 39–12159 (applicable to certain Model 767 series airplanes powered by General Electric engines); as applicable; ends the repetitive inspections required by this AD.

"Operator's Equivalent Procedure"

(l) Although Boeing Alert Service Bulletin 767–54A0062, Revision 5, dated November 11, 2002, specifies that an "operator's equivalent procedure" may be used for all actions for which the Boeing 767 Airplane Maintenance Manual (AMM) is specified as the appropriate source of service information, this AD requires those actions to be done in accordance with Boeing Alert Service Bulletin 767–54A0062, Revision 5, dated November 11, 2002.

Actions Done per Previously Issued Service Information

(m) Inspections and replacements done before February 13, 2003, per Boeing Alert Service Bulletin 767–54A0062, Revision 1, dated May 11, 1994; Revision 2, dated December 21, 1994; Revision 3, dated June 15, 1995; or Revision 4, dated May 7, 1998; are acceptable for compliance with the applicable actions specified in this AD.

New Requirements of This AD

Reduced Repetitive Inspection Intervals

(n) For airplanes on which any inspection required by paragraphs (g) and (i) of this AD has been done: Do the inspections specified in paragraph (p) of this AD at the earlier of the times specified in paragraphs (n)(1) and (n)(2) of this AD. Repeat the inspection thereafter at intervals not to exceed 2,000 flight cycles or 2 years, whichever occurs first, except as provided by paragraph (o) of this AD. Accomplishing this paragraph terminates the repetitive inspection requirements of paragraphs (g) and (i) of this AD.

(1) At the later of the times specified in paragraphs (n)(1)(i) and (n)(1)(ii) of this AD.

(i) Within 2,000 flight cycles or 2 years after the last inspection done in accordance with paragraph (g) of this AD, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(2) Within 3,000 flight cycles or 5 years, whichever occurs first after the last inspection done in accordance with paragraph (g) of this AD.

(o) For airplanes identified in paragraph (g) of this AD and on which a new or serviceable midspar fuse pin is installed on or after the effective date of this AD: Do the inspections specified in paragraph (p) of this AD before the accumulation of 5,000 total flight cycles on the midspar fuse pin or within 5 years after the installation of the new midspar fuse pin, whichever occurs first. Repeat the inspections thereafter at the times specified in paragraph (n) of this AD.

Inspection and Related Corrective and Investigative Actions

(p) At the applicable times specified in paragraphs (n) and (o) of this AD: Do a detailed inspection of the midspar fuse pin for cracking and corrosion; and do all applicable actions specified in paragraphs (p)(1) through (p)(4) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin

767–54A0062, Revision 6, dated November 5, 2009. As an option during accomplishment of the requirements of paragraphs (p)(1) through (p)(4) of this AD, the inspected midspar fuse pin may be replaced with a new or serviceable fuse pin in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009, and the inspection repeated at the time specified in paragraph (o) of this AD.

(1) If no crack and no corrosion is found during the detailed inspection, before further flight, do an eddy current inspection (ECI) for any cracking, and before further flight, do the applicable actions specified in paragraphs (p)(1)(i) through (p)(1)(iii) of this AD.

(i) If no crack is found during the on-wing ECI, do Part 5, "Fuse Pin Secondary Retention Hardware Installation," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(ii) If no crack is found during off-wing ECI, reinstall the fuse pin.

(iii) If any crack is found during the ECI, do a magnetic particle inspection (MPI) in accordance with Part 4, "Magnetic Particle Inspection of the Midspar Fuse Pin for Any Crack," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(A) If no crack is found during the MPI, reinstall the fuse pin.

(B) If any crack is found during the MPI, do Part 3, "Midspar Fuse Pin Replacement," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(2) If any crack is found during the detailed inspection, before further flight, do Part 3, "Midspar Fuse Pin Replacement," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(3) If, during the detailed inspection, no crack is found, and corrosion is found only on a non-critical surface as defined in Appendix A of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009, before further flight, rework the fuse pin to remove the corrosion, and do the applicable actions specified in paragraphs (p)(3)(i) and (p)(3)(ii) of this AD.

(i) If all the corrosion is removed and the fuse pin is still serviceable, as specified in Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009: Do an ECI in accordance with Figure 3 (on-wing) or Figure 4 (off-wing) of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009, or MPI in accordance with Part 4, "Magnetic Particle Inspection of the Midspar Fuse Pin for Any Crack," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(A) If no crack was found during the on-wing ECI, do Part 5, "Fuse Pin Secondary Retention Hardware Installation," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(B) If no crack was found during the off-wing ECI, install the fuse pin.

(C) If any crack was found during either on-wing or off-wing ECI, do Part 4, "Magnetic Particle Inspection of the Midspar Fuse Pin for Any Crack," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(D) If the MPI is accomplished and no crack was found, reinstall the fuse pin.

(E) If the MPI is accomplished, and any cracking was found, do Part 3, "Midspar Fuse Pin Replacement," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(ii) If the corrosion cannot be completely removed or if removing all the corrosion makes the fuse pin unserviceable, do Part 3, "Midspar Fuse Pin Replacement," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(4) If, during the detailed inspection, no crack is found, and any corrosion found is on a critical surface as defined in Appendix A of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009, before further flight, do an ECI and do the applicable actions specified in paragraphs (p)(4)(i) and (p)(4)(ii) of this AD.

(i) If no crack is found during the ECI, repair in accordance with the procedures specified in paragraph (r) of this AD.

(ii) If any crack is found during the ECI, do an MPI in accordance with Part 6, "Magnetic Particle Inspection of the Midspar Fuse Pin for Any Crack Prior to Repair," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

(A) If no crack is found during the MPI, repair in accordance with the procedures specified in paragraph (r) of this AD.

(B) If any crack is found during the MPI, do Part 3, "Midspar Fuse Pin Replacement," of the Work Instructions of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009.

Special Flight Permit

(q) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where corrective action can be accomplished, provided that the conditions in paragraphs (q)(1), (q)(2), and (q)(3) of this AD are met.

(1) Airplanes have zero or one midspar fuse pin per wing having any of the inspection results or corrosion conditions detailed in paragraphs (q)(1)(i) through (q)(1)(ix) of this AD.

(i) Crack is found by detailed inspection (Condition 1 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(ii) No crack is found, and any corrosion found is on non-critical surface (Condition 2 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(iii) Any corrosion found is removed (Condition 2.1 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(iv) Any crack is found during an ECI required by paragraph (p)(3)(i) of this AD and cannot be refuted (or proved false) by an MPI required by paragraph (p)(3)(i)(C) of this AD (Condition 2.1.1 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(v) Any crack is found by MPI (Condition 2.1.3 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(vi) Any corrosion found is not removed (Condition 2.2 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(vii) Crack is found by detailed inspection (Condition 3 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(viii) Any crack is found during an ECI required by paragraph (p)(4) of this AD (Condition 3.1 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(ix) No crack is found during an ECI required by paragraph (p)(4) of this AD (Condition 3.2 in Table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009).

(2) An additional ECI of both midspar fuse pins on each wing for any cracking is done and verifying that the airplane meets the criteria specified in paragraph (q)(1) of this AD.

(3) A detailed inspection of the other strut-to-wing load paths (including the upper link, upper link fuse pin, diagonal brace, and lower diagonal brace fuse pin) for any cracking is done.

Alternative Methods of Compliance (AMOCs)

(r)(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590. Information may be e-mailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle

ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane.

(4) Alternative methods of compliance, approved previously in accordance with AD 2003–03–02, for the actions specified in paragraph (i) of that AD, are approved as alternative methods of compliance with paragraph (h) of this AD.

Material Incorporated by Reference

(s) You must use Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009, to do the actions required by this AD, unless the AD specifies otherwise. If you accomplish the optional actions specified by this AD, you must use the service information specified in Table 1 of this AD to do those actions, unless the AD specifies otherwise.

TABLE 1—MATERIAL INCORPORATED BY REFERENCE FOR OPTIONAL TERMINATING ACTION IN THIS AD

Boeing Service Bulletin—	Revision—	Dated—
767–54–0069	Original	October 9, 1997.
767–54–0069	1	January 29, 1998.
767–54–0069	2	August 31, 2000.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 767–54A0062, Revision 6, dated November 5, 2009; and Boeing Service Bulletin 767–54–0069, dated October 9, 1997; under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of Boeing Service Bulletin 767–57–0069, Revision 2, dated August 31, 2000, on March 5, 2001 (66 FR 8085, January 29, 2001).

(3) The Director of the Federal Register previously approved the incorporation by reference of Boeing Service Bulletin 767–54–0069, Revision 1, dated January 29, 1998, on October 17, 2000 (65 FR 58641, October 2, 2000).

(4) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(5) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(6) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on January 22, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–2192 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0065; Directorate Identifier 2009–SW–01–AD; Amendment 39–16186; AD 2010–03–03]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 205B and 212 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Bell Helicopter Textron, Inc. (Bell) Model 205B and 212 helicopters with certain main rotor (M/R) blade assemblies installed. This action requires inspecting the M/R blades paying particular attention to an area near the blade root for an edge void, corrosion, or a crack. This amendment is prompted by two reports of fatigue cracks on M/R blades installed on Model 212 helicopters. Both model helicopters use the same part-numbered M/R blades. The actions specified in this AD are intended to detect an edge void, corrosion, or a crack on a M/R blade, which could lead to loss of the M/R blade and subsequent loss of control of the helicopter.

DATES: Effective February 19, 2010.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 19, 2010.

Comments for inclusion in the Rules Docket must be received on or before April 5, 2010.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may get the service information identified in this AD from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at *http://www.bellcustomer.com/files/.*

Examining the Docket: You may examine the docket that contains the AD, any comments, and other information 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 Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: DOT/FAA Southwest Region, Michael Kohner, ASW–170, Aviation Safety Engineer, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5170, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD for certain serial-numbered Bell Model 205B and 212 helicopters with a M/R blade, part number (P/N) 212–015–501–005, –111, –113, –115, –117, –119, or –121, installed. The AD requires, within 25

hours time-in-service (TIS), and thereafter at intervals not to exceed 100 hours TIS, washing the upper and lower surfaces of each M/R blade and visually inspecting the grip plates and doublers in the area between blade stations 24.5 and 40.0 for an edge void, corrosion, or a crack, using a 3x power or higher magnifying glass. It also requires visually inspecting the remaining surfaces of each M/R blade in the area between blade stations 24.5 and 40.0 for any corrosion or a crack using a 3x power or higher magnifying glass. If a crack is found in the paint finish, removing the paint and re-inspecting the M/R blade is required before further flight. If a crack is found in the M/R blade, replacing it with an airworthy M/R blade is required before further flight. If an edge void or any corrosion is found in the M/R blade, replacing it with an airworthy M/R blade, or repairing it if the damage is within the maximum repair damage limits, is required before further flight. This amendment is prompted by two reports of fatigue cracks on M/R blades installed on Model 212 helicopters. The cracks were located in the lower doublers and skin, and the box beam at the M/R blade attachment bolt hole, and in the lower grip plate at blade station (BS) 36. The M/R blades had accumulated 1,026 and 2,559 hours TIS. The cause of the cracks has been attributed to inadequate adhesive bonding during manufacture in the area between the grip plate and mating doubler surface. A crack first appears in the grip plate, which can be detected visually with the M/R blade installed on the helicopter. The actions specified in this AD are intended to detect an edge void, corrosion, or a crack on a M/R blade, which could lead to loss of the M/R blade and subsequent loss of control of the helicopter.

We have reviewed Bell Helicopter Alert Service Bulletin (ASB) No. 205B–08–51 and ASB No. 212–08–130, both Revision A, dated January 13, 2009, applicable to Model 205B and Model 212 helicopters, respectively, which describe procedures for initial and repetitive inspections of certain part-numbered M/R blades on certain serial-numbered helicopters for signs of an edge void, corrosion, or a crack, including a hair-line crack in the M/R blade paint finish.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, this AD is being issued to detect an edge void, corrosion, or a crack on a M/R blade, which could lead to loss of the M/R blade and subsequent loss of control of the helicopter. Accomplish the actions by following specified portions of the applicable ASB, described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, the AD must be issued immediately to require the following actions within 25 hours TIS, and thereafter at intervals not to exceed 100 hours TIS:

- Washing the upper and lower M/R blade surfaces using a solution of cleaning compound (C–318) and water;
- Using a 3x or higher magnifying glass, visually inspecting the upper and lower grip plates and doublers of the M/R blade between blade station (BS) 24.5 to 40, and the whole width of the chord, for an edge void, any corrosion, or a crack;
- Using a 3x power or higher magnifying glass, visually inspecting the remaining upper and lower surfaces of the M/R blade between BS 24.5 and 40.0, and the whole width of the chord, for any corrosion or a crack;
- Applying a light coat of preservative oil (C–125) to all surfaces of the M/R blade;
- Removing paint from areas in which a crack is discovered in the M/R blade paint finish by sanding with 180–220 grit paper to determine if a crack exists in the M/R blade;
- Replacing any M/R blade that has a crack in any part of the M/R blade other than the paint finish with an airworthy M/R blade;
- Replacing any M/R blade that has any corrosion or an edge void with an airworthy M/R blade, or repairing the M/R blade if the damage is within the maximum repair damage limits. The maximum repair damage limitations are contained in the applicable Component and Repair Overhaul Manual; and
- Replacing any M/R blade that has any parent material removed during the sanding operation to remove paint from areas in which a paint crack is discovered, or repairing the M/R blade if the amount of parent removed material is within the maximum repair damage limits.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

We estimate that this AD will affect 87 helicopters of U.S. registry, and washing and visually inspecting each M/R blade will take approximately 1 work hour per helicopter at an average labor rate of $80 per work hour. If an edge void, corrosion, or a crack is discovered, replacing the M/R blade with an airworthy blade will take approximately 6 work hours. Required parts will cost approximately $97,500 for a replacement M/R blade. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $139,740, assuming that 6 inspections per year are conducted on each helicopter, and that one M/R blade will need to be replaced.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0065; Directorate Identifier 2009–SW–01–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

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 the regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2010–03–03 Bell Helicopter Textron, Inc.: Amendment 39–16186. Docket No. FAA–2010–0065; Directorate Identifier 2009–SW–01–AD.

Applicability: Serial-numbered Model 205B and Model 212 helicopters, with the specified part-numbered main rotor (M/R) blade that is listed in Table 1 of this AD installed, certificated in any category.

TABLE 1

Helicopter model and serial No. (S/N)	M/R blade P/N
Model 205B: S/N 30066, 30166, 30188, or 30297	P/N 212–015–501–005, –111, –113, –115, –117, –119, or –121.
Model 212: S/N 30502 through 30603, 30611 through 30999, 31101 through 31311, 32101 through 32262, or 35001 through 35103.	P/N 212–015–501–005, –111, –113, –115, –117, –119, or – 121.

Compliance: Required as indicated.

To detect an edge void, corrosion, or a crack on a M/R blade, which could lead to loss of the M/R blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 100 hours TIS:

(1) Wash the upper and lower surfaces of the M/R blade with a solution of cleaning compound (C–318) and water. Rinse thoroughly and wipe dry.

(2) Using a 3x power or higher magnifying glass, on each affected M/R blade, in an area from blade stations 24.5 to 40, including the entire width of the M/R blade chord, as depicted in Figure 1 in Bell Helicopter Alert Service Bulletin No. 205B–08–51 for the Model 205B helicopters, or No. 212–08–130 for the Model 212 helicopters, both Revision A, dated January 13, 2009 (ASBs), as applicable:

(i) Visually inspect the upper and lower grip plates and doublers of the M/R blade in the specified area for an edge void, corrosion, or a crack.

(ii) Visually inspect the remaining upper and lower surfaces of the M/R blade in the specified area for any corrosion or a crack.

Note 1: The inspections required by paragraphs (a)(2)(i) and (a)(2)(ii) of this AD can be accomplished with the M/R blade installed on the helicopter.

Note 2: Crack indications on an actual M/R blade are shown in Figure 2 of both ASBs.

(3) Apply a light coat of preservative oil (C–125) to all surfaces of the M/R blade in the specified area.

(b) Before further flight:

(1) If any corrosion or an edge void is found, replace the M/R blade with an airworthy M/R blade, or repair the M/R blade if the damage is within the maximum repair damage limits.

(2) If a crack is found in the M/R blade paint finish, remove the paint in the affected area by lightly sanding with 180–220 grit paper in a span wise direction to determine if the grip plate, doubler, or skin is cracked. Do not remove any parent material of the M/R blade during the sanding operation. Refinish the sanded area.

(3) If a crack is found in any part of the M/R blade other than the paint finish, replace the M/R blade with an airworthy M/R blade.

(4) If any parent material is removed during the sanding operation required by paragraph (b)(2) of this AD, replace the M/R blade with an airworthy M/R blade, or repair the M/R blade if the amount of parent material removed is within the maximum repair damage limits.

Note 3: The maximum repair damage limitations specified in paragraphs (b)(1) through (b)(4) of this AD are contained in the applicable Component and Repair Overhaul Manual.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Rotorcraft Certification Office, ATTN: Michael Kohner, Aviation Safety Engineer, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5170, fax (817) 222–5783, for information about previously approved alternative methods of compliance.

(d) The inspections and replacements, if necessary, shall be done in accordance with the specified portions of Bell Helicopter Alert Service Bulletin No. 205B–08–51 for Model 205B helicopters, or No. 212–08–130 for Model 212 helicopters, both Revision A, dated January 13, 2009, as applicable. The Director of the Federal Register approved this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, telephone (817) 280–3391, fax (817) 280–6466, or at *http://www.bellcustomer.com/files/*. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Joint Aircraft System/Component (JASC) Code

(e) JASC Code 6210: Main Rotor Blades.

(f) This amendment becomes effective on February 19, 2010.

Issued in Fort Worth, Texas, on December 21, 2009.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–1720 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0066; Directorate Identifier 2009–SW–52–AD; Amendment 39–16190; AD 2009–23–51]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–92A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2009–23–51, which was sent previously to all known U.S. owners and operators of Sikorsky Aircraft Corporation (Sikorsky) Model S–92A helicopters by individual letters. This AD requires cleaning and inspecting each main gearbox (MGB) assembly mounting foot pad and rib for a crack and corrosion. If you do not find a crack, the AD requires applying a corrosion preventive compound. If you find a crack, the AD requires replacing the MGB before further flight. If you find corrosion, bubbled paint, or paint discoloration, the AD also requires you to repair the MGB before further flight. This amendment is prompted by reports of cracks in the MGB mounting foot pads and foot ribs. This condition, if not detected, could result in loss of the MGB and subsequent loss of control of the helicopter.

DATES: Effective February 19, 2010, to all persons except those persons to whom it was made immediately effective by Emergency AD 2009–23–51, issued on October 29, 2009, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 19, 2010.

Comments for inclusion in the Rules Docket must be received on or before April 5, 2010.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

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

You may get the service information identified in this AD from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (203) 383–4866, e-mail address *tsslibrary@sikorsky.com*, or at *http://www.sikorsky.com.*

Examining the Docket: You may examine the docket that contains the AD, any comments, and other information 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 Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Michael Schwetz, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7761, fax (781) 238–7170.

SUPPLEMENTARY INFORMATION: On October 29, 2009, the FAA issued Emergency AD 2009–23–51 for the Sikorsky Model S–92A helicopters, which requires cleaning and inspecting each MGB assembly mounting foot pad and rib for a crack and corrosion. If you do not find a crack, the AD requires applying a corrosion preventive compound. If you find a crack, the AD requires replacing the MGB before further flight. If you find corrosion, bubbled paint, or paint discoloration, the AD also requires you to repair the MGB before further flight. This amendment is prompted by reports of cracks in the MGB mounting foot pads and foot ribs. The manufacturer is investigating the root cause of these cracks. Contributing factors may include corrosion and the bushing press fit in the mounting foot bolt hole. This condition, if not detected, could result in loss of the MGB and subsequent loss of control of the helicopter.

We have reviewed Sikorsky Alert Service Bulletin No. 92–63–020, dated September 11, 2009 (ASB), which describes procedures for visually inspecting the MGB assembly mounting foot pads and foot ribs for a crack and corrosion. The ASB specifies a 10-hour recurring visual inspection. If you suspect a crack, the ASB specifies a fluorescent penetrant inspection (FPI) or a dye penetrant inspection (DPI). If you find a crack, the ASB specifies replacing the MGB before further flight. Also, the ASB specifies treating any corrosion.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, this AD requires within 10 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 10 hours TIS, cleaning and inspecting each MGB assembly mounting foot pad and rib for a crack and corrosion. If you do not find a crack, the AD requires applying a corrosion preventive compound. If you find a crack, the AD requires replacing the MGB before further flight. If you find corrosion, bubbled paint, or paint discoloration, this AD also requires you to repair the MGB before further flight. The actions specified in this AD are interim actions until the root cause of the cracking is determined. After that determination, we anticipate further rulemaking.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on October 29, 2009, to all known U.S. owners and operators of Sikorsky Model S–92A helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

The FAA estimates that this AD will affect 44 helicopters of U.S. registry, and inspecting the MGB assembly mounting foot pads and foot ribs for corrosion or a crack will take about:

- 2 work hours to do the visual inspection, assuming 2,200 (50×44 helicopters) inspections per year for commercial and part 91 operators; and
- 24 work hours to remove and replace an MGB.

The average labor rate is $80 per work hour and required parts will cost about $590,000 per helicopter. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $5,087,360, assuming 8 helicopters will require an MGB replacement.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment;

however, we invite you to submit any written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0066; Directorate Identifier 2009–SW–52–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the 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 AD. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

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 the regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD. See the AD docket to examine the economic evaluation.

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 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. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2009–23–51 Sikorsky Aircraft Corporation: Amendment 39–16190. Docket No. FAA–2010–0066; Directorate Identifier 2009–SW–52–AD.

Applicability: Model S–92A helicopters, with main gearbox (MGB) assembly, part number (P/N) 92351–15000–042 or –043, with MGB housing, P/N 92351–15110–042, –043, –044, or –045, installed, certificated in any category.

Compliance: Required as indicated.

To prevent loss of an MGB and subsequent loss of control of the helicopter, do the following:

(a) Within 10 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 10 hours TIS, clean and inspect each MGB assembly mounting foot pad and rib for a crack and corrosion in the area depicted in Figure 1; as shown in the examples in Figures 2, 3, and 4; of Sikorsky Alert Service Bulletin No. 92–63–020, dated September 11, 2009 (ASB). If no crack is found, apply the corrosion preventive compound to each foot pad and rib area.

Note 1: When conducting a visual inspection, use a bright, non-LED light.

(1) If you find a crack, replace the MGB before further flight.

(2) If you find corrosion, bubbled paint, or paint discoloration, before further flight, repair the affected area.

Note 2: Following the ASB Accomplishment Instructions accomplishes the intent of this AD.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Boston Aircraft Certification Office, ATTN: Michael Schwetz, Aviation Safety Engineer, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7761, fax (781) 238–7170, for information about previously approved alternative methods of compliance.

(c) The Joint Aircraft System/Component (JASC) Code is 6320: Main Rotor Gearbox.

(d) Do the inspections by following the specified portions of Sikorsky Alert Service Bulletin No. 92–63–020, dated September 11, 2009. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (203) 383–4866, e-mail address *tsslibrary@sikorsky.com*, or at *http://www.sikorsky.com.* Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(e) This amendment becomes effective on February 19, 2010, to all persons except those persons to whom it was made immediately effective by Emergency AD 2009–23–51, issued October 29, 2009, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on December 18, 2009.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–1723 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0659; Directorate Identifier 2009–NM–060–AD; Amendment 39–16191; AD 2010–03–07]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, and –135LR Airplanes; and EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

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

ACTION: Final rule.

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

It has been found occurrences of main landing gear (MLG) trailing arm pins broken due to a fatigue mechanism induced by an excessive torque applied during the assemblage of auxiliary door support attachment and consequent deformation of the MLG trailing arm axle. A broken pin can lead to loss of the MLG trailing arm axle, disconnecting the trailing arm from the main strut, which affects the airplane controllability on ground.

* * * * *

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 11, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 11, 2010.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 30, 2009 (74 FR 37965). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

It has been found occurrences of main landing gear (MLG) trailing arm pins broken due to a fatigue mechanism induced by an excessive torque applied during the assemblage of auxiliary door support attachment and consequent deformation of the MLG trailing arm axle. A broken pin can lead to loss of the MLG trailing arm axle, disconnecting the trailing arm from the main strut, which affects the airplane controllability on ground.

* * * * *

Required actions include inspecting for cracks, and, if necessary, replacing the MLG trailing arm pin with a serviceable pin; and modifying the MLG auxiliary door mounting support. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

EMBRAER has issued the following revisions to the service information that was referenced in the NPRM:

- Service Bulletin 145LEG–52–0014, Revision 01, dated June 17, 2009, which adds airplane serial number 145363.
- Service Bulletin 145LEG–32–0033, Revision 01, dated June 18, 2009, which changes the visual inspection to a detailed inspection and includes the option of using the same part number of the landing gear trailing arm pin.
- Service Bulletin 145–32–0122, Revision 01, dated April 29, 2009, which changes the visual inspection to a detailed inspection and includes the option of using the same part number of the landing gear trailing arm pin.

We have revised this final rule to cite the revised service bulletins and to give credit for accomplishment of the actions done in accordance with the earlier service information referred to in the NPRM. We have also revised paragraph (f)(1)(i) and Note 1 of this AD to clarify that the inspection type is a detailed inspection.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request for Clarification for a Terminating Action

American Eagle Airlines (AEA) requests that we add a statement to paragraph (f) of this AD that clarifies that the accomplishment of paragraph (f) of this AD is a terminating action for the requirements of this AD. AEA suggests that it is not clear that no further action is required after inspection.

We agree to clarify the requirements. We have added the phrase "one-time" before "detailed inspection" in paragraph (f)(1)(i) of this AD to clarify that no repeat inspections are required after the initial inspection.

Request for Changing Compliance Time

AEA requests that we change the compliance in paragraph (f)(1) of this AD from "whichever occurs first" to "whichever occurs later." AEA explains that the actions specified in the NPRM require jacking the airplane and compressing the landing gear, and that specific tools required to complete these tasks may not be stocked at every maintenance base. AEA explains that increasing the compliance time would allow operators to arrange for having the proper tools in their Main Base Visit program.

While we agree that some of the tools required to perform the tasks may not be stocked at every maintenance base, we do not agree with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition, and the practical aspect of accomplishing the required tasks within a period of time that corresponds to the normal scheduled maintenance for most affected operators. However, according to the provisions of paragraph (g) of the final rule, we may approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety. We have not changed the final rule in this regard.

Addition of an Airplane

Based on our original review of the service information, we determined that airplane serial number (S/N) 145363 was not affected. Therefore, the NPRM proposed to exclude airplane S/N 145363 from the applicability. We have now determined that airplane S/N 145363 should be included in the applicability of this final rule, and we have revised this final rule accordingly. This airplane is not on the U.S. Register and is known to be in compliance with the requirements of this AD.

Explanation of Additional Changes Made to This AD

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

Conclusion

We 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 determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in

general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow our FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 711 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $240 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $284,400, or $400 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–03–07 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16191. Docket No. FAA–2009–0659; Directorate Identifier 2009–NM–060–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 11, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, as identified in EMBRAER Service Bulletin 145LEG–32–0033, dated November 27, 2008; and Model EMB–135ER, –135KE, –135KL, and –135LR airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes, as identified in EMBRAER Service Bulletin 145–32–0122, dated November 27, 2008; certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing Gear.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

It has been found occurrences of main landing gear (MLG) trailing arm pins broken due to a fatigue mechanism induced by an excessive torque applied during the assemblage of auxiliary door support attachment and consequent deformation of the MLG trailing arm axle. A broken pin can lead to loss of the MLG trailing arm axle, disconnecting the trailing arm from the main strut, which affects the airplane controllability on ground.

* * * * *

Required actions include inspecting for cracks, and, if necessary, replacing the MLG trailing arm pin with a serviceable pin; and modifying the MLG auxiliary door mounting support.

Actions and Compliance

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

(1) Within 2,500 flight hours or 24 months after the effective date of this AD, whichever occurs first, do the actions specified in paragraphs (f)(1)(i) and (f)(1)(ii) of this AD.

(i) Perform a one-time detailed inspection for cracks on the MLG trailing arm pins, in accordance with EMBRAER Service Bulletin 145–32–0122, Revision 01, dated April 29, 2009; or 145LEG–32–0033, Revision 01, dated June 18, 2009; as applicable. If any crack is found, before further flight, replace the MLG trailing arm pin with a serviceable pin, in accordance with EMBRAER Service Bulletin 145–32–0122, Revision 01, dated April 29, 2009; or 145LEG–32–0033, Revision 01, dated June 18, 2009; as applicable.

(ii) Prior to or concurrently with accomplishing the inspection required by paragraph (f)(1)(i) of this AD, modify the MLG auxiliary door mounting support, in accordance with EMBRAER Service Bulletin 145–52–0047, Revision 01, dated March 31, 2008; or 145LEG–52–0014, Revision 01, dated June 17, 2009; as applicable.

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

Note 2: For the purposes of this AD, a "serviceable" pin is a pin that has no cracking.

(2) Modifications and inspections accomplished before the effective date of this AD, according to a service bulletin listed in Table 1 of this AD, are considered acceptable for compliance with the corresponding action specified in this AD.

TABLE 1—CREDIT SERVICE BULLETINS

Affected airplanes	Service Bulletin	Date
Model EMB–135BJ airplanes	EMBRAER Service Bulletin 145LEG–32–0033	November 27, 2008.
Model EMB–135BJ airplanes	EMBRAER Service Bulletin 145LEG–52–0014	October 28, 2008.
Model EMB–135ER, –135KE, –135KL, and –135LR airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes.	EMBRAER Service Bulletin 145–32–0122	November 27, 2008.
Model EMB–135ER, –135KE, –135KL, and –135LR airplanes, and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes.	EMBRAER Service Bulletin 145–52–0047	July 18, 2005.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: Agência Nacional de Aviação Civil (ANAC) Brazilian Airworthiness Directive 2009–02–01, dated February 12, 2009, is applicable to "all EMB–145 and EMB–135 aircraft models in operation." However, this does not agree with the service information specified in Table 2 of this AD, which specifies that only certain Model EMB–145 and EMB–135 airplanes are affected and identifies them by serial number. This AD is applicable only to the airplanes listed in the applicable service bulletins. This difference has been coordinated with the ANAC.

TABLE 2—SERVICE INFORMATION

Document	Revision	Date
EMBRAER Service Bulletin 145LEG–32–0033	01	June 18, 2009.
EMBRAER Service Bulletin 145LEG–52–0014	01	June 17, 2009.
EMBRAER Service Bulletin 145–32–0122	01	April 29, 2009.
EMBRAER Service Bulletin 145–52–0047	01	March 31, 2008.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Agência Nacional de Aviação Civil Airworthiness Directive 2009–02–01, dated February 12, 2009; and the service information contained in Table 3 of this AD; for related information.

TABLE 3—RELATED SERVICE INFORMATION

Document	Revision	Date
EMBRAER Service Bulletin 145LEG–32–0033	01	June 18, 2009.
EMBRAER Service Bulletin 145LEG–52–0014	01	June 17, 2009.
EMBRAER Service Bulletin 145–32–0122	01	April 29, 2009.
EMBRAER Service Bulletin 145–52–0047	01	March 31, 2008.

Material Incorporated by Reference

(i) You must use the service information contained in Table 4 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

TABLE 4—MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
EMBRAER Service Bulletin 145LEG–32–0033	01	June 18, 2009.
EMBRAER Service Bulletin 145LEG–52–0014	01	June 17, 2009.
EMBRAER Service Bulletin 145–32–0122	01	April 29, 2009.
EMBRAER Service Bulletin 145–52–0047	01	March 31, 2008.

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

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP–BRASIL; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; e-mail: *distrib@embraer.com.br;* Internet: *http://www.flyembraer.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on January 22, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–1930 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0889; Directorate Identifier 2009–NE–35–AD; Amendment 39–16189; AD 2010–03–06]

RIN 2120–AA64

Airworthiness Directives; Turbomeca Arriel 2B and 2B1 Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

Several events of uncoupling of the low-pressure (LP) fuel pump impeller and the high-pressure (HP) fuel pump shaft have been reported on Arriel 2 engines which do not incorporate Modification TU 147. In most cases the "low fuel pressure switch" enlightened, the pilot activated the aircraft booster pump in accordance with the Flight Manual Instructions and landed safely with no other incident. One case, on a single-engine helicopter, led to a sudden engine power loss. The uncoupling of the LP fuel pump impeller and the HP fuel pump shaft may lead to a limitation of engine power or, at worst, an uncommanded in-flight shutdown. On a single-engine helicopter, the result may be an emergency autorotation landing.

We are issuing this AD to prevent a forced autorotation landing or an accident.

DATES: This AD becomes effective March 11, 2010. The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 11, 2010.

ADDRESSES: 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.

Contact Turbomeca, 40220 Tarnos, France; telephone (33) 05 59 74 40 00, fax (33) 05 59 74 45 15, for the service information identified in this AD.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 5, 2009 (74 FR 57277). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

Several events of uncoupling of the LP fuel pump impeller and the HP fuel pump shaft have been reported on Arriel 2 engines which do not incorporate Modification TU 147. In most cases the "low fuel pressure switch" enlightened, the pilot activated the aircraft booster pump in accordance with the Flight Manual Instructions and landed safely with no other incident. One case, on a single-engine helicopter, led to a sudden engine power loss. The uncoupling of the LP fuel pump impeller and the HP fuel pump shaft may lead to a limitation of engine power or, at worst, an uncommanded in-flight shutdown. On a single-engine helicopter, the result may be an emergency autorotation landing.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

One commenter, a private citizen, states that the labor rate of $80 per work-hour referenced in the proposed AD is underestimated. He states that it should be at least $95 per work-hour.

We partially agree. The work-hour labor rate estimate is established by the FAA's Regulatory Analysis Division which recently published a new rate; $85 per work-hour. We changed the AD to reflect this increase.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the change described previously.

Differences Between This AD and the MCAI or Service Information

The MCAI requires checking the transmissible torque between the LP pump impeller and the HP pump shaft within 550 engine flight hours from the effective date of the AD, but no later than June 30, 2010.

This AD requires checking the transmissible torque between the LP pump impeller and the HP pump shaft within 550 engine flight hours from the effective date of the AD.

Costs of Compliance

Based on the service information, we estimate that this AD will affect about 414 engines installed on helicopters of U.S. registry. We also estimate that it will take about 2.5 work-hours per engine to comply with this AD. The average labor rate is $85 per work-hour. Replacement HP/LP pump metering units (HMUs) will cost about $12,000 per engine. Based on these figures, if all of the HMUs were to fail the check, we estimate the cost of the AD to U.S. operators to be $5,055,975.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures

the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–03–06 Turbomeca: Amendment 39–16189. Docket No. FAA–2009–0889; Directorate Identifier 2009–NE–35–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 11, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Turbomeca Arriel 2B and 2B1 turboshaft engines that have not incorporated Modification TU 147. These engines are installed on, but not limited to, Eurocopter AS 350 B3 and EC 130 B4 helicopters.

Reason

(d) This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this AD to prevent a forced autorotation landing or an accident.

Actions and Compliance

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

(1) Within 550 engine flight hours from the effective date of this AD, check the transmissible torque between the low-pressure (LP) pump impeller and the high-pressure (HP) pump shaft of the HP/LP pump metering unit (HMU). Use paragraph 2 of the Instructions to be Incorporated of Turbomeca Mandatory Service Bulletin No. A292 73 2830, Version B, dated July 10, 2009, to do the check.

(2) If the check is compliant, apply the nominal tightening torque to the screw of the LP pump impeller.

(3) If the check is not compliant, replace the HP/LP pump HMU with a unit that has not incorporated Modification TU 147 but has passed the check, or with a unit that has incorporated Modification TU 147.

FAA AD Differences

(f) This AD differs from the MCAI and/or service information as follows:

(1) The MCAI requires the checking of the transmissible torque between the LP pump impeller and the HP pump shaft within 550 engine flight hours from the effective date of the AD, but no later than June 30, 2010.

(2) This AD requires the checking of the transmissible torque between the LP pump impeller and the HP pump shaft within 550 engine flight hours from the effective date of this AD.

Alternative Methods of Compliance (AMOCs)

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009–0184, dated August 14, 2009, for related information.

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

Material Incorporated by Reference

(j) You must use Turbomeca Mandatory Service Bulletin No. A292 73 2830, Version B, dated July 10, 2009, to do the transmissible torque check required by this AD.

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

(2) For service information identified in this AD, contact Turbomeca, 40220 Tarnos, France; telephone (33) 05 59 74 40 00, fax (33) 05 59 74 45 15.

(3) You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on January 21, 2010.

Peter A. White,

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

[FR Doc. 2010–1735 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1081; Directorate Identifier 2009–CE–058–AD; Amendment 39–16187; AD 2010–03–04]

RIN 2120–AA64

Airworthiness Directives; PIAGGIO AERO INDUSTRIES S.p.A. Model P–180 Airplanes

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

ACTION: Final rule.

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

An operator reported a short circuit between a generator power cable and an anti-ice shutoff valve, which was caused by chafing between the cable and the valve; the insulation of the cable and surrounding sleeve were worn off.

An investigation revealed that a scarce clearance between the cables and adjacent parts, together with vibrations of generator power cables favoured by insufficient clamping, was the root cause of the damage.

If left uncorrected, this situation could lead to short circuits with possible fire and/or loss of important aircraft systems.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 11, 2010.

On March 11, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 19, 2009 (74 FR 59941). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

An operator reported a short circuit between a generator power cable and an anti-ice shutoff valve, which was caused by chafing between the cable and the valve; the insulation of the cable and surrounding sleeve were worn off.

An investigation revealed that a scarce clearance between the cables and adjacent parts, together with vibrations of generator power cables favoured by insufficient clamping, was the root cause of the damage.

If left uncorrected, this situation could lead to short circuits with possible fire and/or loss of important aircraft systems.

This Airworthiness Directive (AD) requires an inspection to detect damaged cables/sleeves, and replacement/repair as necessary; in addition, this AD requires to ensure that acceptable minimum clearances between cables and parts exist, and to improve clamping to minimize vibrations of the cables.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 63 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD to the U.S. operators to be $10,710 or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 6 work-hours and require parts costing $10, for a cost of $520 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–03–04 PIAGGIO AERO INDUSTRIES S.p.A.: Amendment 39–16187; Docket No. FAA–2009–1081; Directorate Identifier 2009–CE–058–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 11, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model PIAGGIO P–180 airplanes, all serial numbers through 1180, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 24: Electric Power.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

An operator reported a short circuit between a generator power cable and an anti-ice shutoff valve, which was caused by chafing between the cable and the valve; the insulation of the cable and surrounding sleeve were worn off.

An investigation revealed that a scarce clearance between the cables and adjacent parts, together with vibrations of generator power cables favoured by insufficient clamping, was the root cause of the damage.

If left uncorrected, this situation could lead to short circuits with possible fire and/or loss of important aircraft systems.

This Airworthiness Directive (AD) requires an inspection to detect damaged cables/sleeves, and replacement/repair as necessary; in addition, this AD requires to ensure that acceptable minimum clearances between cables and parts exist, and to improve clamping to minimize vibrations of the cables.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within 3 months after March 11, 2010 (the effective date of this AD), inspect for minimum clearance and insulation damage to the generator power cables in accordance with Part A of the ACCOMPLISHMENT INSTRUCTIONS of PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: 80–0271, dated May 18, 2009.

(2) If, as a result of the inspection required by paragraph (f)(1) of this AD, any discrepancy (inadequate clearance or insulation damage) is found, before further flight, do all necessary corrective actions in accordance with Part B of the ACCOMPLISHMENT INSTRUCTIONS of PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: 80–0271, dated May 18, 2009.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency AD No.: 2009–0212, dated October 6, 2009; and PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: 80–0271, dated May 18, 2009, for related information.

Material Incorporated by Reference

(i) You must use PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: 80–0271, dated May 18, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Piaggio Aero Industries S.p.a., Via Cibrario, 4—16154 Genoa, Italy; telephone +39 010 06481 741; fax: +39 010 6481 309; Internet: *http://www.piaggioaero.com*, or e-mail: *MMicheli@piaggioaero.it.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on January 21, 2010.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–1691 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0608; Directorate Identifier 2008–NM–215–AD; Amendment 39–16188; AD 2010–03–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 747–200C and –200F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Model 747–200C and –200F series airplanes. This AD requires a high frequency eddy current (HFEC) inspection for cracks of certain fastener holes, and corrective action if necessary. This AD also requires repetitive replacements of the upper chords, straps (or angles), and radius fillers of certain upper deck floor beams, and, for any replacement that is done, detailed and open-hole HFEC inspections for cracks of the modified upper deck floor beams, and corrective actions if necessary. This AD results from a report from the manufacturer that the accomplishment of certain existing inspections, repairs, and modifications is not adequate to ensure the structural integrity of the affected 7075 series aluminum alloy upper deck floor beam upper chords on airplanes that have exceeded certain thresholds. We are issuing this AD to prevent cracking of the upper chords and straps (or angles) of the floor beams, which could lead to failure of the floor beams and consequent loss of controllability, rapid decompression, and loss of structural integrity of the airplane.

DATES: This AD is effective March 11, 2010.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in the AD as of March 11, 2010.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Model 747–200C and –200F series airplanes. That NPRM was published in the **Federal Register** on July 6, 2009 (74 FR 31894). That NPRM proposed to require a high frequency eddy current inspection for cracks of certain fastener holes, and corrective action if necessary. That NPRM also proposed to require repetitive replacements of the upper chords, straps (or angles), and radius fillers of certain upper deck floor beams, and, for any replacement that is done, detailed and open-hole HFEC inspections for cracks of the modified upper deck floor beams, and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received from the commenters.

Support for the NPRM

One commenter, Boeing, agrees with the contents of the NPRM.

Request To Clarify Compliance Time of Modification

One commenter, Northwest Airlines (NWA), requests that we clarify whether the modification that is mandated by paragraph (g) of AD 2005–07–21, Amendment 39–14046 (70 FR 18277, April 11, 2005), is required during the accomplishment of the initial 15,000-flight-cycle post-upper chord replacement inspection proposed by the NPRM. NWA notes that the NPRM would require replacing the upper deck floor beam upper chords before the accumulation of 21,000 total flight cycles, or within 1,500 flight cycles after the effective date of the AD, whichever is later. NWA also states that the proposed rule would mandate inspecting the upper deck floor beams within 15,000 flight cycles after replacement of the upper chords. NWA notes that the inspections are to be completed in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2429, Revision 2, dated October 16, 2008; and Boeing Alert Service Bulletin 747–53A2439, Revision 2, dated July 17, 2008. NWA notes that inspections per Boeing Alert Service Bulletins 747–53A2429 and 747–53A2439 were previously mandated. NWA points out that the Manager of the Seattle Aircraft Certification Office has previously approved the accomplishment of the applicable inspection, repair, and modification procedures contained in Boeing Alert Service Bulletin 747–53A2696, dated October 16, 2008, as an alternative method of compliance (AMOC) for paragraphs (f) and (g) of AD 2006–08–02, Amendment 39–14556 (71 FR 18618, April 12, 2006), and the inspection, repair, and modification requirements of paragraphs (a), (b), (c), (e), (g)(1), (h)(2), (i), (j), (k), and (l) of AD 2005–07–21.

We agree to provide clarification of the post-upper chord replacement actions. Paragraph (h) of this final rule requires detailed and HFEC inspections for cracks of the modified upper deck floor beams, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2696, dated October 16, 2008, within 15,000 flight cycles after the upper chord replacement, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later. In addition, paragraph (h) of this final rule requires a repeat accomplishment of the upper chord replacement within 6,000 flight cycles after doing the initial post-upper chord replacement inspections. Boeing Alert Service Bulletin 747–53A2696 in turn refers to Boeing Alert Service Bulletins 747–53A2429, Revision 2; and 747–53A2439, Revision 2; for inspection procedures only. Therefore, the modification in accordance with Boeing Alert Service Bulletin 747–53A2429, dated March 22, 2001, as mandated by paragraph (g) of AD 2005–07–21, is not required by this final rule. Operators should note that accomplishment of the actions per this AD has been approved as an AMOC to the corresponding requirements of AD 2005–07–21 and AD 2006–08–02 as described above. We have not changed the final rule in regard to this issue.

Explanation of Changes Made to This AD

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

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

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 25 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

TABLE—ESTIMATED COSTS

Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
663	$80	None	$53,040 per inspection/replacement cycle.	25	$1,326,000 per inspection/replacement cycle.

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

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.

You can find our regulatory evaluation and the estimated costs of compliance in the AD Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–03–05 The Boeing Company: Amendment 39–16188. Docket No. FAA–2009–0608; Directorate Identifier 2008–NM–215–AD.

Effective Date

(a) This airworthiness directive (AD) is effective March 11, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all The Boeing Company Model 747–200C and –200F series airplanes, certificated in any category.

Subject

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

Unsafe Condition

(e) This AD results from a report from the manufacturer that the accomplishment of certain existing inspections, repairs, and modifications is not adequate to ensure the structural integrity of the affected 7075 series aluminum alloy upper deck floor beam upper chords on airplanes that have exceeded certain thresholds. We are issuing this AD to prevent cracking of the upper chords and straps (or angles) of the floor beams, which could lead to failure of the floor beams and consequent loss of controllability, rapid decompression, and loss of structural integrity of the airplane.

Compliance

(f) Comply with this AD within the compliance times specified, unless already done.

Initial Inspection and Replacement

(g) Before the accumulation of 21,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later: Do an open-hole high frequency eddy current (HFEC) inspection of all the fastener holes accessed for upper chord removal for cracks, and replace the upper chords, straps (or angles), and radius fillers of the upper deck floor beams, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2696, dated October 16, 2008.

Repetitive Replacements and Post-Replacement Inspections

(h) Within 15,000 flight cycles after doing the replacement required by paragraph (g) of this AD, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later: Do detailed and HFEC inspections for cracks of the modified upper deck floor beams, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2696, dated October 16, 2008. Within 6,000 flight cycles after doing the detailed and HFEC inspections, repeat the replacement specified in paragraph (g) of this AD. Repeat the post-replacement inspections and replacement at the applicable times specified in paragraph 1.E. of Boeing Alert Service Bulletin 747–53A2696, dated October 16, 2008.

Repair of Cracks

(i) If any crack is found during any inspection required by this AD: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has

been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Material Incorporated by Reference

(k) You must use Boeing Alert Service Bulletin 747–53A2696, dated October 16, 2008, as applicable, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on January 21, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–1690 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1116; Directorate Identifier 2009–CE–061–AD; Amendment 39–16193; AD 2010–03–09]

RIN 2120–AA64

Airworthiness Directives; PIAGGIO AERO INDUSTRIES S.p.A Model PIAGGIO P–180 Airplanes

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

ACTION: Final rule.

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

Cracks have been detected on the upper flange (cap) of several "0" pressure bulkheads on the production line; none of the cracks had spread across the thickness of material.

Investigation revealed that all "0" pressure bulkheads installed on aircraft from MSN 1106 up to 1189 could have the same cracks.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 11, 2010.

On March 11, 2010, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 30, 2009 (74 FR 62516). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Cracks have been detected on the upper flange (cap) of several "0" pressure bulkheads on the production line; none of the cracks had spread across the thickness of material.

Investigation revealed that all "0" pressure bulkheads installed on aircraft from MSN 1106 up to 1189 could have the same cracks.

Although calculations confirm the low stress level in that area, a reinforcement of the "0" pressure bulkhead is suggested to avoid crack growth and the eventual failure of the bulkhead.

For the reasons stated above, this new Airworthiness Directive (AD) mandates a non-destructive inspection and a reinforcement—by installation of doublers—of the "0" pressure bulkhead. This AD also includes a reporting requirement of the inspection results.

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

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Mr. Carlo Cardu of Piaggio Aero Industries states that he understands owners/operators may comply with an AD before the specified compliance time; however, he also states it would be best for the owners/operators of the airplanes affected by this AD to do the inspection and modification of the pressure bulkhead during a D inspection, which is at 3,000 hours time-in-service (TIS).

Mr. Cardu requests changing the compliance time for the inspection and modification from "when the airplane reaches a total of 3,600 hours TIS * * *" to "before the airplane reaches a total of 3,600 hours TIS * * *."

We agree with the intent of the commenter. To make it clear that the owners/operators of the airplanes affected by this AD may comply with the AD before their airplane reaches 3,600 hours TIS, we will change the compliance time in the final rule AD action to allow the inspection and modification to be done before or when the airplane reaches a total of 3,600 hours TIS or within the next 30 days after the effective date of the AD, whichever occurs later.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the AD.

Costs of Compliance

We estimate that this AD will affect 63 products of U.S. registry. We also estimate that it would take about 120

work-hours per product to comply with the basic requirements of this AD. The design approval holder is providing warranty credit for parts and up to 120 work-hours of labor.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $0.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–03–09 Piaggio Aero Industries S.p.A.: Amendment 39–16193; Docket No. FAA–2009–1116; Directorate Identifier 2009–CE–061–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 11, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model PIAGGIO P–180 airplanes, manufacturer's serial numbers 1106 through 1189, certificated in any category.

Subject

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

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Cracks have been detected on the upper flange (cap) of several "0" pressure bulkheads on the production line; none of the cracks had spread across the thickness of material.

Investigation revealed that all "0" pressure bulkheads installed on aircraft from MSN 1106 up to 1189 could have the same cracks.

Although calculations confirm the low stress level in that area, a reinforcement of the "0" pressure bulkhead is suggested to avoid crack growth and the eventual failure of the bulkhead.

For the reasons stated above, this new Airworthiness Directive (AD) mandates a non-destructive inspection and a reinforcement—by installation of doublers—of the "0" pressure bulkhead. This AD also includes a reporting requirement of the inspection results.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) As of March 11, 2010 (the effective date of this AD), before or when the airplane reaches a total of 3,600 hours time-in-service or within the next days 30 after the effective date of the AD, whichever occurs later, inspect the "0" pressure bulkhead for cracks using a dye-penetrant inspection method. Do the inspection in accordance with Part A of the Accomplishment Instructions in PIAGGIO AERO INDUSTRIES S.p.A Service Bulletin (Mandatory) N.: SB–80–0267Rev.0, dated May 19, 2009; or PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: SB–80–0267Rev.1, dated June 16, 2009.

(2) Before further flight after the inspection required in paragraph (f)(1) of this AD (whether or not cracks were found), install doublers on the "0" pressure bulkhead. Do the modification in accordance with Part B and Part C of the Accomplishment Instructions in PIAGGIO AERO INDUSTRIES S.p.A Service Bulletin (Mandatory) N.: SB–80–0267Rev.0, dated May 19, 2009; or PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: SB–80–0267Rev.1, dated June 16, 2009.

(3) Within 30 days after doing the inspection required in paragraph (f)(1) of this AD, report all inspection results, negative or positive, to Piaggio Aero Industries S.p.a., Via Cibrario, 4—16154 Genoa, Italy; fax: +39 010 6481 881; e-mail: *airworthiness@piaggioaero.it.*

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection

requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2009–0211, dated October 6, 2009; PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: SB–80–0267Rev.0, dated May 19, 2009; and PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: SB–80–0267Rev.1, dated June 16, 2009, for related information.

Material Incorporated by Reference

(i) You must use PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: SB–80–0267Rev.0, dated May 19, 2009; and PIAGGIO AERO INDUSTRIES S.p.A. Service Bulletin (Mandatory) N.: SB–80–0267Rev.1, dated June 16, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Piaggio Aero Industries S.p.a., Via Cibrario, 4—16154 Genoa, Italy; fax: +39 010 6481 881; e-mail: *airworthiness@piaggioaero.it.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri, on January 26, 2010.

John Colomy,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–2001 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 314

RIN 2105–AD94

Employee Protection Program; Removal

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule removes the procedural regulations of the Department of Transportation Employee Protection Program. These regulations are removed because the underlying program was repealed by an act of Congress and the program has been terminated.

DATES: *Effective Date:* February 4, 2010.

FOR FURTHER INFORMATION CONTACT: Bernard Diederich, Office of the General Counsel, 1200 New Jersey Ave., SE., Washington, DC 20590, (202) 366–9159.

SUPPLEMENTARY INFORMATION: The Congress in 1978 established the Employee Protection Program, to be administered by the U.S. Department of Transportation. Section 43 of the Airline Deregulation Act of 1978, Public Law 95–504, 92 Stat. 1750, codified at 49 U.S.C. App. 1552 (1991).

The Program was intended to compensate covered airline employees who might have lost their employment or had their compensation reduced as a result of a bankruptcy or major employment contraction, if the major cause of the bankruptcy or major contraction was the change in regulatory structure provided by the Airline Deregulation Act. DOT established regulations to support the Program, based on the regulations previously established by the Civil Aeronautics Board, which previously handled the Program. 45 FR 49,291 (July 24, 1980); 47 FR 9,744 (March 5, 1982); 50 FR 2,426 (January 16, 1985). The regulations were codified at 14 CFR Part 314. DOT conducted hearings under the regulations and issued a final DOT order with findings in initial selected cases, finding no basis to support any compensation under the Program. DOT Order 91–9–20, dated September 18, 1991, in DOT dockets 40201, 39783, 38978, 38883, and 38571.

While appeals and processing of the Program were underway, the Program was repealed by Act of Congress, effective August 7, 1998. Section 199(a)(6) of the Workforce Investment Act of 1998, Public Law 105–220, 112 Stat. 1059. The Program was codified as subchapter I of chapter 421 of title 49, United States Code, which was repealed at subsection (a)(6) of the Workforce Investment Act. See also 144 Cong. Rec. H6689 (daily ed. July 29, 1998).

Accordingly, DOT has halted all action in the Program and is removing the Program regulations. DOT lacks a statutory basis for any further action on the Program.

Regulatory Analyses and Notices

A. Administrative Procedure Act

The Department has determined that this rule may be issued without a prior opportunity for notice and comment because providing prior notice and comment would be unnecessary, impracticable, or contrary to the public interest. The Program was repealed by an Act of Congress in 1998, thus there would not be any harm to any identifiable beneficiary by repealing the rule. The Department has ceased all actions under the regulations. Thus, this rule should be rescinded. For the same reasons, the Department finds that there is good cause to make the rule effective immediately.

B. Executive Order 12866 and Regulatory Flexibility Act

The Department has determined that this action is not considered a significant regulatory action for purposes of Executive Order 12866 or the Department's regulatory policies and procedures. This rule is being adopted solely to rescind a rule that is no longer necessary due to the Congress repealing the program's statutory authority. Given the absence of compliance costs to anyone, I certify that final rule does not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Paperwork Reduction Act

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

F. Unfunded Mandates Reform Act

The Department of Transportation has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 14 CFR Part 314

Administrative practice and procedure, Air transportation, Aviation safety, Hazardous materials transportation, Investigations, Law enforcement, Penalties.

■ Accordingly, under the authority of Section 199(a)(6) of the Workforce Investment Act of 1998, Public Law 105–220, 112 Stat. 1059, the Department of Transportation amends 14 CFR chapter 2 by removing part 314:

PART 314—[REMOVED AND RESERVED]

Issued in Washington, DC, on January 27, 2010.

Susan Kurland,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2010–2281 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–9X–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2009–0745; FRL–9110–2]

Approval and Promulgation of Implementation Plans; Albuquerque-Bernalillo County, NM; Excess Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the New Mexico State Implementation Plan (SIP) submitted by the Governor of New Mexico on behalf of the Albuquerque Environmental Health Department (AEHD) in a letter dated September 23, 2009 (the September 23, 2009 SIP submittal). The September 23, 2009 SIP submittal concerns revisions to New Mexico Administrative Code Title 20, Chapter 11, Part 49, Excess Emissions (20.11.49 NMAC—Excess Emissions) occurring during startup, shutdown, and malfunction related activities. We are approving the September 23, 2009 SIP submittal in accordance with the requirements of section 110 of the Clean Air Act (the Act).

DATES: This direct final rule will be effective April 5, 2010 without further notice unless EPA receives relevant adverse comments by March 8, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2008–0815, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.*
- Follow the online instructions for submitting comments.
- *EPA Region 6* "*Contact Us*" *Web site: http://epa.gov/region6/r6comment.htm.* Please click on "6PD (Multimedia)" and select "Air" before submitting comments.
- *E-mail:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7242.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2008–0815. The 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 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 Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas. The State submittal is also available for public inspection during official business hours, by appointment, at the State Air Agency listed below during official business hours by appointment: AEHD, Air Quality Division, One Civic Plaza, Albuquerque, NM 87102.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–6691, fax (214) 665–7263, e-mail address *shar.alan @epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to EPA.

Outline

I. Background
  A. What action are we taking in this document?
  B. What documents did we use in our evaluation of the September 23, 2009 SIP submittal?
  C. Why are we approving the September 23, 2009 SIP submittal?
II. Final Action
III. Statutory and Executive Order Reviews

I. Background

A. What actions are we taking in this document?

We are approving revisions to 20.11.49 NMAC—Excess Emissions occurring during startup, shutdown, and malfunction related activities as revisions to the New Mexico SIP for Albuquerque-Bernalillo County. We received this submittal with a September 23, 2009 letter from the Governor of New Mexico on behalf of the AEHD.

We are approving the repeal of the existing EPA-approved provisions of the New Mexico SIP for Albuquerque-Bernalillo County concerning excess emissions. The existing provisions were titled Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance. The existing provisions were approved into the New Mexico SIP for Albuquerque-Bernalillo County on April 10, 1980 (42 FR 24468) at 40 CFR 52.1620(c)(11). See Chapter A of our Technical Support Document (TSD) prepared in conjunction with this rulemaking action for more information.

The September 23, 2009 submittal included proposed revisions 20.11.65 NMAC—Volatile Organic Compounds to correct the Part 49-related cross-references, and was submitted as a revision to the New Mexico SIP for Albuquerque-Bernalillo County. We are approving the proposed revisions to 20.11.65 NMAC—Volatile Organic Compounds for Albuquerque-Bernalillo County. See Chapter C of our TSD prepared in conjunction with this rulemaking action for more information.

The September 23, 2009 submittal included proposed revisions to 20.11.90 NMAC-Source Surveillance, Administration and Enforcement to properly reflect repeal of the existing Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance provisions of the 20.11.90 NMAC. The revised 20.11.90 NMAC was submitted as revisions to the New Mexico SIP for Albuquerque-Bernalillo County. We are approving proposed revisions to 20.11.90 NMAC-Source Surveillance, Administration and Enforcement for Albuquerque-Bernalillo County. See Chapter E of our TSD prepared in conjunction with this rulemaking action for more information.

The September 23, 2009 submittal also included proposed revisions to NMAC 20.11.69—Pathological Waste Destructors. NMAC 20.11.69—Pathological Waste Destructors is not currently in the EPA-approved SIP for Albuquerque-Bernalillo County. We are not taking action on the proposed revisions to NMAC 20.11.69 as part of today's rulemaking action. The revisions to NMAC 20.11.69 for Albuquerque-Bernalillo County will be handled in a separate rulemaking action.

B. What documents did we use in our evaluation of the September 23, 2009 SIP submittal?

The EPA's interpretation of the Act on excess emissions occurring during periods of startup, shutdown, and malfunction is set forth in the following documents: A memorandum dated September 28, 1982, from Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation, entitled "Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions" (1982 Policy); EPA's clarification to the above policy memorandum dated February 15, 1983, from Kathleen M. Bennett, Assistant Administrator for Air, Noise, and Radiation (1983 Policy); EPA's policy memorandum reaffirming and supplementing the above policy, dated September 20, 1999, from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance and Robert Perciasepe, Assistant Administrator for Air and Radiation, entitled "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown" (1999 Policy); EPA's final rule for Utah's sulfur dioxide control strategy (Kennecott Copper), April 27, 1977 (42 FR 21472); EPA's final rule for Idaho's sulfur dioxide control strategy, November 8, 1977 (42 FR 58171); and the latest clarification of EPA's policy issued on December 5, 2001 (2001 Policy). You can find the 2001 Policy at: *http://www.epa.gov/ttn/oarpg/t1pgm.html* (URL dating July 22, 2008). The EPA's interpretation of the Act related to exclusions from emission limitations for sources in certain startup, shutdown, or malfunction situations was upheld by the United States Court of Appeals for the Sixth Circuit in *Michigan Mfrs. Ass'n* v. *Browner,* 230 F.3d 181 (6th Cir. 2000).

C. Why are we approving the September 23, 2009 SIP submittal?

Under section 110(a) of the Act, EPA views all excess emissions as violations of the applicable emission limitation because excess emissions have the potential to interfere with attainment and maintenance of the National Ambient Air Quality Standards, or with the protection of Prevention of Significant Deterioration increments. However, EPA recognizes that imposition of a penalty for sudden and unavoidable malfunctions, startups or shutdowns caused by circumstances entirely beyond the control of the owner or operator may not be appropriate. The EPA has provided guidance on two approaches for addressing excess emissions, the use of enforcement discretion and providing an affirmative defense to actions for civil penalties. Neither approach waives liability or reporting requirements for the violation. Excess emissions occurring during periods of startup, shutdown, maintenance, and malfunction must be included in determining compliance with SIP emission limitations. States are not required to provide an affirmative defense approach, but if they choose to do so, EPA will evaluate the State's SIP rules for consistency with our policy and guidance documents listed in section B of this document. Our reasons for approval of the September 23, 2009 SIP submittal are as follows:

The AEHD's September 23, 2009 SIP submittal adopts an affirmative defense approach to address excess emissions. This approach is permissible under the 1999 Policy.

The AEHD's September 23, 2009 SIP submittal clearly states that operation resulting in an excess emission is a violation of the air quality regulation or permit, and may be subject to potential enforcement action. This statement is consistent with the 1999 Policy.

The AEHD's September 23, 2009 SIP submittal adequately sets forth notification and reporting requirements for the owner or operator of a source having an excess emission. We believe that notification and reporting, including implementation of corrective action(s) when needed, of excess emissions will assist with the management of excess emissions and will enhance the New Mexico SIP for Albuquerque-Bernalillo County by reducing the amount or frequency of future potential excess emissions.

The AEHD's September 23, 2009 SIP submittal contains criteria to be considered when asserting an affirmative defense for an excess emission during startup or shutdown to claims for a civil penalty (but not the injunctive relief) that are similar, if not identical, to those in the 1999 Policy. We believe the criteria for asserting an affirmative defense are consistent with our guidance documents and should be approved. See 20.11.49.16(B) NMAC for these criteria.

The AEHD's September 23, 2009 SIP submittal contains criteria to be considered when asserting affirmative defense for an excess emission during a malfunction to claims for a civil penalty (but not the injunctive relief) that are similar, if not identical, to those in the 1999 Policy. We believe the criteria for

asserting an affirmative defense are consistent with our guidance documents and should be approved. See 20.11.49.16(A) NMAC for these criteria.

The AEHD's September 23, 2009 SIP submittal clearly states that AEHD's determinations concerning an owner or operator's assertion of the affirmative defense shall not preclude EPA or citizens' enforcement authority under the Act. This statement is consistent with 42 U.S.C. 7413 and 7604.

Section 20.11.49.16 NMAC of the AEHD's September 23, 2009 SIP submittal does not make affirmative defense available to an owner or operator of a source having an excess emission due to maintenance related activities. We believe that maintenance activities are predictable events that are subject to planning to minimize releases, unlike malfunctions or upsets, which are sudden, unavoidable or beyond the control of owner or operator. The owner or operator of a source should be able to plan maintenance that might otherwise lead to excess emissions to coincide with maintenance of production equipment or other facility shutdowns. This position is consistent with EPA's interpretation of section 110 of the Act, and with our guidance documents.

The AEHD's September 23, 2009 SIP submittal narrowly defines an emergency situation. An owner and operator may assert an affirmative defense for an emergency if certain criteria are met. See 20.11.49.16(C) NMAC for these criteria. In any enforcement proceeding, the owner or operator seeking to establish the occurrence of an emergency has the burden of proof. In addition, AEHD may require additional information reported within the time period specified by the department. See 20.11.49.16 NMAC. We believe this approach is consistent with our guidance documents.

Section 20.11.49.16 NMAC of the AEHD's September 23, 2009 SIP submittal prohibits availability of affirmative defense to an owner or operator of a source having an excess emission when exceeding federally-promulgated emissions limits, to an action for an injunctive relief, or when exceeding certain federally-approved SIP limits which were established by taking into account potential startup and shutdown emissions. See 20.11.49.16(D) NMAC. This requirement is consistent with our guidance documents.

For a section-by-section evaluation of the September 23, 2009 SIP submittal see Chapter B of our TSD. For these reasons we are approving 20.11.49 NMAC into New Mexico SIP for Albuquerque-Bernalillo County.

In addition, we are approving the repeal and replacement of the existing EPA-approved provisions of the New Mexico SIP for Albuquerque-Bernalillo County concerning excess emissions titled Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance. The existing EPA-approved provisions allowed affirmative defense for maintenance activities, and stated that excess emissions from such activities are not violations. The existing EPA-approved provisions did not conform with the 1999 Policy. The revised 20.11.49 NMAC contained in the September 23, 2009 SIP submittal conforms with the 1999 Policy, and its approval will enhance the New Mexico SIP for Albuquerque-Bernalillo County. As such this repeal and replacement meets and complies with section 110(l) of the Act. See Chapter A of our TSD.

II. Final Action

Today, we are approving revisions to New Mexico Administrative Code Title 20, Chapter 11, Part 49 Excess Emissions (20.11.49 NMAC—Excess Emissions), 20.11.65 NMAC—Volatile Organic Compounds, and 20.11.90 NMAC—Source Surveillance, Administration and Enforcement into New Mexico SIP for Albuquerque-Bernalillo County. We are approving the repeal of the existing excess emissions provisions titled Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance. We are not taking action on revisions to 20.11.69 NMAC—Pathological Waste Destructors for Albuquerque-Bernalillo County.

III. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;
- 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);
- 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; and
- Is not a "major rule" as defined by 5 U.S.C. 804(2) under the Congressional Review Act, 5 U.S.C. 801 *et seq.,* added by the Small Business Regulatory Enforcement Fairness Act of 1996. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule." Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 5, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*See* section 307(b)(2) of the Act.)

List of Subjects in 40 CFR Part 52

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

Dated: January 25, 2010.

Al Armendariz,

Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart GG—New Mexico

■ 2. The second table in § 52.1620(c) entitled "EPA Approved Albuquerque/Bernalillo County, NM Regulations" is amended by:

■ a. Adding a new entry for "Part 49 (20.11.49 NMAC) Excess Emissions" in numerical order by part number;

■ b. Revising the existing entry for "Part 65 (20.11.65 NMAC) Volatile Organic Compounds"; and

■ c. Revising the existing entry for "Part 90 (20.11.90 NMAC) Administration, Enforcement, and Inspection".

The additions and revisions read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
Albuquerque/Bernalillo County, Air Quality Control Regulations				
*	*	*	*	*
New Mexico Administrative Code (NMAC) Title 20—Environment Protection, Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board				
*	*	*	*	*
Part 49 (20.11.49 NMAC) ...	Excess Emissions	9/23/09	2/4/10 [Insert *FR* page number where document begins].	
*	*	*	*	*
Part 65 (20.11.65 NMAC) ...	Volatile Organic Compounds ..	9/23/09	2/4/10 [Insert *FR* page number where document begins].	
*	*	*	*	*
Part 90 (20.11.90 NMAC) ...	Source Surveillance, Administration and Enforcement.	9/23/09	2/4/10 [Insert *FR* page number where document begins].	
*	*	*	*	*

* * * * *

[FR Doc. 2010–2393 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 75, No. 23
Thursday, February 4, 2010

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–1105; Airspace Docket No. 09–ANM–23]

Proposed Amendment of Class D and E Airspace; Everett, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and Class E airspace at Snohomish County Airport (Paine Field), Everett, WA, by removing the specific dates and times established by a Notice to Airmen (NOTAM), and makes a minor correction to the geographic coordinates. The FAA is proposing this action to enhance the safety and management of aircraft operations at Snohomish County Airport (Paine Field).

DATES: Comments must be received on or before March 22, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone (202) 366–9826. You must identify FAA Docket No. FAA–2009–1105; Airspace Docket No. 09–ANM–23, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA 2009–1105 and Airspace Docket No. 09–ANM–23) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2009–1105 and Airspace Docket No. 09–ANM–23". The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending Class D airspace and Class E surface area airspace at Snohomish County Airport (Paine Field), Everett, WA. Controlled airspace would be continuous 24 hours, and no longer would be effective during the specific dates and times established in advance by a NOTAM, This action would enhance the safety and management of aircraft operations at Snohomish County Airport (Paine Field), Everett, WA.

Class D and Class E airspace designations are published in paragraph 5000 and 6002, respectively, of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designation listed in this document would be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would add additional controlled airspace at Snohomish County Airport (Paine Field), Everett, WA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ANM WA D Everett, WA [Amended]

Everett, Snohomish County Airport (Paine Field), WA

(Lat. 47°54′25″ N., long. 122°16′54″ W.)

That airspace extending upward from the surface to 3,100 feet MSL within a 4.5-mile radius of the Snohomish County Airport (Paine Field).

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM WA E2 Everett, WA [Amended]

Everett, Snohomish County Airport (Paine Field), WA

(Lat. 47°54′25″ N., long. 122°16′54″ W.)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4.5-mile radius of the Snohomish County Airport (Paine Field).

* * * * *

Issued in Seattle, Washington, on January 28, 2010.

William M. Buck,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2010–2469 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0008; Airspace Docket No. 09–ANM–21]

Proposed Modification of Jet Route J–3; Spokane, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Jet Route J–3 by terminating the route at the Spokane, WA, VHF omnidirectional range/tactical air navigation (VORTAC) instead of the Canadian border. This action is necessary for the safety and management of instrument flight rules (IFR) operations within the National Airspace System (NAS).

DATES: Comments must be received on or before March 22, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2010–0008 and Airspace Docket No. 09–ANM–21 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2010–0008 and Airspace Docket No. 09–ANM–21) and be submitted in triplicate to the Docket Management Facility (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2010–0008 and Airspace Docket No. 09–ANM–21." The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket

may also be examined during normal business hours at the office of the Western Service Center, Air Traffic Organization, Federal Aviation Administration, 1601 Lind Avenue, 15000 SW., Renton, WA 98055.

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to remove the segment of J–3 that extends from the Spokane VORTAC to Cranbrook, BC. The route terminates at the EDGES fix located on the United States and Canadian border. The FAA has determined that this segment of J–3 is not required since the Jet Route, as currently described, terminates or originates at a point in space on the international border and does not meet or connect to any corresponding airway within Canadian airspace. Additionally, the segment between the Spokane VORTAC and Cranbrook, BC VOR/DME causes confusion because it appears that pilots can file a flight plan all the way to the Cranbrook, BC VOR/DME, however, the computer rejects the flight plans filed to the Cranbrook, BC VOR/DME.

Jet Routes are published in paragraph 2004 of FAA Order 7400.9T, dated August 27, 2009 and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Jet Route listed in this document would be subsequently published in the Order.

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

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies a Jet Route from Oakland, CA, to Spokane, WA.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004 Jet Routes.

* * * * *

J–3 [Modified]

From Oakland, CA, via Red Bluff, CA; Lakeview, OR; Kimberly, OR; Spokane, WA.

* * * * *

Issued in Washington, DC, January 25, 2010.

Edith V. Parish,

Manager, Airspace and Rules Group.

[FR Doc. 2010–2471 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0003; Airspace Docket No. 09–ANE–104]

RIN 2120–AA66

Proposed Modification of Jet Routes J–37 and J–55; Northeast United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Jet Routes J–37 and J–55 in the Northeast United States (U.S.) by terminating the routes at a navigation aid prior to the U.S./Canadian Border. This change is proposed to resolve flight plan processing issues between U.S. and Canadian air traffic control (ATC) systems.

DATES: Comments must be received on or before March 22, 2010.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2010–0003 and Airspace Docket No. 09–ANE–104 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2010–0003 and Airspace Docket No. 09–

ANE–104) and be submitted in triplicate to the Docket Management Facility (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA–2010–0003 and Airspace Docket No. 09–ANE–104." The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

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

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify Jet Route J–37 by terminating the route at the Massena, NY, very high frequency omnidirectional range/tactical air navigation (VORTAC) aid. J–37 currently terminates at a point where the Massena VORTAC 037° (T) radial intersects the U.S./Canadian border. Wherein J–37 terminates at the international boundary rather than a navigation aid or fix imposes flight plan processing issues between U.S. En Route Automation Modernization (ERAM) and Canadian ATC facilities. The proposed change would eliminate the short segment of J–37 that extends between the Massena VORTAC and the U.S./Canadian border. Four other existing Jet Routes that terminate at the Massena VORTAC provide connectivity between J–37 and routes that extend into Canadian airspace.

The FAA is also proposing an amendment to 14 CFR part 71 to modify Jet Route J–55 by terminating that route at the Presque Isle, ME, VOR/distance measuring equipment (DME) aid. This would eliminate the segment of J–55 that extends between the Presque Isle VOR/DME and the Mont Joli, PQ, Canada VOR/DME.

All radials in the J–37 and J–55 legal descriptions in this NPRM are stated in reference to True North only.

Jet routes are published in paragraph 2004 of FAA Order 7400.9T dated August 27, 2009 and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The jet routes listed in this document would be subsequently published in the Order.

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

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

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as required to preserve the safe and efficient flow of air traffic.

Environmental Review

This proposal is not subject to environmental review because all proposed actions relate to flight above Flight Level 180 in accordance with FAA Memorandums dated January 17, 2001 and September 25, 2003 related to the altitude cut-off to be used in determining the study areas for environmental analyses. Additionally, if environmental review were required, this proposed action would qualify for categorical exclusion in accordance with FAA Order 1050.1, "Environmental Impacts: Policies and Procedures" Paragraph 311a.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2004 Jet Routes.

* * * * *

J–37 [Amended]

From Hobby, TX, via INT of the Hobby 090° and Harvey, LA, 266° radials; Harvey; Semmes, AL; Montgomery, AL; Spartanburg, SC; Lynchburg, VA; Gordonsville, VA; Brooke, VA; INT Brooke 067° and Coyle, NJ,

226° radials; to Coyle. From Kennedy, NY; Kingston, NY; Albany, NY; Massena, NY.

* * * * *

J–55 [Amended]

From Dolphin, FL; INT Dolphin 331° and Gators, FL, 160° radials; INT Gators 160° and Craig, FL, 192° radials; Craig; INT Craig 004° and Savannah, GA, 193° radials; Savannah; Charleston, SC; Florence, SC; INT Florence 003° and Raleigh-Durham, NC, 224° radials; Raleigh-Durham; INT Raleigh-Durham 035° and Hopewell, VA, 234° radials; Hopewell; INT Hopewell 030° and Nottingham, MD, 174° radials. From Sea Isle, NJ; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Providence, RI; Boston, MA; Kennebunk, ME; Presque Isle, ME.

* * * * *

Issued in Washington, DC, on January 26, 2010.

Edith V. Parish,

Manager, Airspace & Rules Group.

[FR Doc. 2010–2468 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 201 and 203

[Docket No. FR–5075–N–02]

RIN 2502–AI45

Federal Housing Administration: Insurance for Manufactured Housing: Reopening of Public Comment Period

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: On September 15, 2008, HUD published a proposed rule entitled "Federal Housing Administration: Insurance for Manufactured Housing." The comment period for the proposed rule ended on November 14, 2008. This notice identifies an additional issue related to the rule that has resulted from HUD's implementation of a June 2008 final rule pertaining to the federal manufactured home installation program. Accordingly, HUD reopens the comment period for the proposed rule to present this additional issue for consideration in relation to the September 2008 proposed rule and to solicit public comment only on this additional issue.

DATES: *Comment Due Date:* March 8, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0001.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Peter Gillispie, Home Valuation Policy Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9270, Washington, DC 20410–8000, telephone number 202–708–2121 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: HUD published a proposed rule on September 15, 2008 (73 FR 53346), that would amend HUD's regulations governing manufactured homes that are to be the security for Federal Housing Administration (FHA) Title I-insured loans and Title II-insured mortgages. The September 15, 2008 rule proposed to permit, as eligible for FHA insurance, mortgages on manufactured homes to be installed in accordance with the Model Installation Standards, which were the subject of notice and rulemaking that resulted in a final rule published on October 19, 2007. Current regulations provide that manufactured homes that are to be the security for FHA Title I-insured loans must be installed in accordance with the manufacturer's requirements or erected on a permanent foundation, and manufactured homes that are to be the security for Title II-insured mortgages must be erected on a permanent foundation. Acceptance of mortgages on manufactured homes installed in accordance with the Model Installation Standards would provide for greater flexibility of design, thereby permitting additional options for affordable housing. Under the proposal presented by the September 15, 2008 proposed rule, FHA mortgage insurance would become available for eligible manufactured homes in all states and territories, upon promulgation of a final rule.

On June 20, 2008, HUD published a final rule entitled "Manufactured Home Installation Program," which established a federal manufactured home installation program in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by the Manufactured Housing Act of 2000. The June 20, 2008, final rule governs the HUD-administered installation program that will operate in a state, unless that state certifies that it has its own qualifying program and HUD reviews the program and accepts it as meeting or exceeding the requirements HUD would apply in a HUD-administered state. The June 20, 2008 final rule also provides for HUD's conditional acceptance, rather than full acceptance, of a state program that meets some but not all of the minimum standards. However, there have been some delays in submissions of state certifications, in HUD's review and acceptance of state certifications, and in implementation of HUD's

program for states in which HUD will administer the installation program. As a result, there are several states in which there is not yet either a state-certified and fully accepted installation program or an operational HUD-administered installation program.

HUD has determined that, in order to protect against undue financial risk, a manufactured home that is installed in accordance with the Model Installation Standards (rather than erected on a permanent foundation) should not be permitted to be the security for FHA Title I-insured loans or Title II-insured mortgages, until there is operating in the state where the manufactured home is located either a state-certified and fully accepted installation program or a HUD-administered installation program. (This determination does not affect the eligibility of manufactured homes to be the security for Title I-insured loans if the manufacturer's installation requirements provide for compliance with the Model Installation Standards and the manufactured home is in fact installed with the Model Installation Standards.) An operational and fully compliant installation program is critical to ensure that a manufactured home that is to be the security for a Title I-insured loan or Title II-insured mortgage is in fact installed in accordance with the Model Installation Standards.

As a result, HUD submits that it would not be appropriate to promulgate a final rule based on the September 15, 2008 proposed rule, which assumed fully compliant installation programs would be operational in all states and territories, that does not take into consideration the implementation issues that have resulted from the June 2008 final rule. HUD submits for consideration and public comment that it would be appropriate for manufactured homes in a state with an operational state-certified and fully accepted installation program, or HUD-administered installation program, to be eligible for Title I and Title II insurance, even while review, full acceptance, or implementation of installation programs in other states and territories still is pending.

Accordingly, HUD is soliciting public comment on whether HUD should: (a) Promulgate a final rule based on the September 15, 2008 proposed rule, but that is applicable to a state only at such time that the state has an operational state-certified and fully accepted installation program or a HUD-administered installation program; or (b) delay promulgation of a final rule based on the September 15, 2008 proposed rule until all states and territories have an operational state-certified and fully accepted installation program or a HUD-administered installation program.

Dated: January 27, 2010.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2010–2367 Filed 2–3–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSH–2008–0034]

RIN No. 1218–AC08

Revising Standards Referenced in the Acetylene Standard

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; withdrawal.

SUMMARY: With this document, OSHA is withdrawing the proposed rule that accompanied its direct-final rule revising the Acetylene Standard for general industry.

DATES: As of February 4, 2010, the proposed rule published August 11, 2009 (74 FR 40450), is withdrawn.

FOR FURTHER INFORMATION CONTACT: *General information and press inquiries:* Contact Jennifer Ashley, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693–1999.

Technical information: Contact Ted Twardowski, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; *telephone:* (202) 693–2070; *fax:* (202) 693–1663.

Copies of this Federal Register notice: Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov*. This **Federal Register** notice, as well as news releases and other relevant information, are also available at OSHA's Webpage at *http://www.osha.gov*.

SUPPLEMENTARY INFORMATION: On August 11, 2009, OSHA published a direct-final rule to update the incorporated references in its Acetylene Standard for general industry at 29 CFR 1910.102 (74 FR 40442). OSHA also published a companion proposed rule along with the direct-final rule (74 FR 40450). In the direct-final rule, OSHA stated that it would withdraw the companion proposed rule and confirm the effective date of the direct-final rule if it received no significant adverse comments on the direct final rule by September 10, 2009. OSHA received eight comments on the direct-final rule by that date, which it determined were not significant adverse comments. OSHA subsequently published a notice announcing this determination and confirming the effective date of the direct-final rule as November 9, 2009 (74 FR 57883). Accordingly, OSHA is not proceeding with the proposed rule and is withdrawing it from the rulemaking process.

List of Subjects in 29 CFR Part 1910

Acetylene, General industry, Occupational safety and health, Safety.

Authority and Signature

David Michaels, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this document. OSHA is issuing this document pursuant to Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657), 5 U.S.C. 553, Secretary of Labor's Order 5–2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC, on January 29, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–2313 Filed 2–3–10; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2009–0745; FRL–9110–1]

Approval and Promulgation of Implementation Plans; Albuquerque-Bernalillo County, NM; Excess Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the New Mexico State Implementation Plan (SIP) submitted by the Governor of New Mexico on behalf of the Albuquerque Environmental Health Department (AEHD) in a letter dated September 23, 2009 (the September 23, 2009 SIP submittal). The September 23, 2009 SIP submittal concerns revisions to New

Mexico Administrative Code Title 20, Chapter 11, Part 49, Excess Emissions (20.11.49 NMAC—Excess Emissions) occurring during startup, shutdown, and malfunction related activities. We are proposing to approve the September 23, 2009 SIP submittal in accordance with the requirements of section 110 of the Clean Air Act.

DATES: Written comments must be received on or before *March 8, 2010*.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the Rules Section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–6691, fax (214) 665–7263, e-mail address *shar.alan@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant 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. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule, which is located in the Rules Section of this **Federal Register**.

Dated: January 25, 2010.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2010–2394 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R10–OW–2010–0086; FRL–9109–4]

Ocean Dumping; Designation of Ocean Dredged Material Disposal Sites Offshore of the Siuslaw River, OR

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to designate two new ocean dredged material disposal sites near the mouth of the Siuslaw River, Oregon, pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The new sites are needed primarily to serve the long-term need for a location to dispose of material dredged from the Siuslaw River navigation channel, and to provide a location for the disposal of dredged material for persons who have received a permit for such disposal. The newly designated sites will be subject to ongoing monitoring and management to ensure continued protection of the marine environment.

DATES: Comments on this proposed rule must be received no later than March 8, 2010.

ADDRESSES: For more information on this proposed rule, Docket ID No. EPA–R10–OW–2010–0086 use one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for accessing the docket and materials related to this proposed rule.
- *E-mail: Winkler.Jessica@epa.gov*.
- *Mail:* Jessica Winkler, U.S. Environmental Protection Agency, Region 10, Office of Ecosystems, Tribal and Public Affairs (ETPA–088), Environmental Review and Sediment Management Unit, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy during normal business hours for the regional library at the U.S. Environmental Protection Agency, Region 10, Library, 10th Floor, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101. For access to the documents at the Region 10 Library, contact the Region 10 Library Reference Desk at (206) 553–1289, between the hours of 9 a.m. to 12 p.m., and between the hours of 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, for an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica Winkler, U.S. Environmental Protection Agency, Region 10, Office of Ecosystems, Tribal and Public Affairs (ETPA–083), Environmental Review and Sediment Management Unit, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, phone number: (206) 553–7369, e-mail: *winkler.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION:

1. Potentially Affected Persons

Persons potentially affected by this action include those who seek or might seek permits or approval by EPA to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act, as amended (MPRSA), 33 U.S.C. 1401 to 1445. EPA's proposed action would be relevant to persons, including organizations and government bodies seeking to dispose of dredged material in ocean waters offshore of the Siuslaw River, Oregon. Currently, the U.S. Army Corps of Engineers (Corps) would be most affected by this action. Potentially affected categories and persons include:

Category	Examples of potentially regulated persons
Federal Government	U.S. Army Corps of Engineers Civil Works Projects, and other Federal Agencies.
Industry and General Public	Port Authorities, Marinas and Harbors, Shipyards and Marine Repair Facilities, Berth Owners.
State, local and tribal governments	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

2. Background

a. History of Disposal Sites Offshore of the Siuslaw River, Oregon

Historically, three ocean dredged material disposal sites, an Interim Site and two selected sites were used by the U.S. Army Corps of Engineers (Corps) for the disposal of sediments dredged from the Siuslaw River navigation project. The "Interim Site," former Site A, was included in the list of approved interim ocean disposal sites for dredged material in the **Federal Register** in 1977 (42 FR 2461), a status superseded by later statutory changes to the MPRSA. Mounding at Site A and concern over the potential for ocean currents to move sediments from Site A back into the dredged channel resulted in a selection of disposal Sites B and C by the Corps pursuant to Section 103 of the MPRSA. That authority allows the Corps to select a site or sites for disposal when a site has not been designated by EPA. The selection of Sites B and C was intended to reduce potential hazards associated with mounding at Site A. The selection of Sites B and C was also intended to increase long-term disposal site capacity near the mouth of the Siuslaw River. EPA concurred on the selection and approved the Corps' request to continue to use Sites B and C through the end of the 2009 dredging season. Sites B and C, as selected, are not suitable for designation by EPA pursuant to Section 102 of the MPRSA because of mounding taking place in both sites. To provide for sufficient disposal capacity over the long term, EPA proposes to designate two sites, a North Site and a South Site, for the ocean disposal of dredged material near the Siuslaw River in the vicinity of former Sites A, B and C.

The proposed designation of the two ocean disposal sites for dredged material does not mean the Corps or EPA has approved of the use of the sites for open water disposal of dredged material from any specific project. Before disposal of dredged material at either of the proposed Siuslaw River Sites can commence by any person, EPA and the Corps must evaluate the project according to the ocean dumping regulatory criteria (40 CFR part 227) and authorize disposal. EPA independently evaluates proposed dumping and has the right to restrict and/or disapprove of the actual disposal of dredged material if EPA determines that environmental requirements under the MPRSA have not been met.

b. Location and Configuration of Siuslaw River Ocean Dredged Material Disposal Sites

This action proposes the designation of two Siuslaw River ocean dredged material sites to the north and south, respectively, of the mouth of the Siuslaw River. The coordinates, listed below, and Figure 1, below, show the location of the two proposed Siuslaw River ocean dredged material disposal sites (Siuslaw River ODMD Sites, North and South Sites, or Sites). The configuration of the North Site is expected to allow dredged material disposed in shallower portions of the Site to naturally disperse into the littoral zone and augment shoreline building processes. The proposed designation of two Sites will allow EPA to adaptively manage the Sites to avoid creating mounding conditions that could contribute to adverse impacts to navigation.

The coordinates for the two Siuslaw River ODMD Sites are, in North American Datum 83 (NAD 83):

North Siuslaw ODMD site	South Siuslaw ODMD site
44°01′31.03″ N, 124°10′12.92″ W	44°00′46.72″ N, 124°10′26.55″ W.
44°01′49.39″ N, 124°10′02.85″ W	44°01′06.41″ N, 124°10′24.45″ W.
44°01′31.97″ N, 124°09′01.86″ W	44°01′04.12″ N, 124°09′43.52″ W.
44°01′13.45″ N, 124°09′11.41″ W	44°00′44.45″ N, 124°09′45.63″ W.

The two Sites would be situated in approximately 30 to 125 feet of water located to the north and south of the entrance to the Siuslaw River on the southern Oregon Coast (*see* Figure 1). The dimensions of the proposed Sites are 4,800 by 2,000 feet and 3,000 by 2,000 feet, respectively.

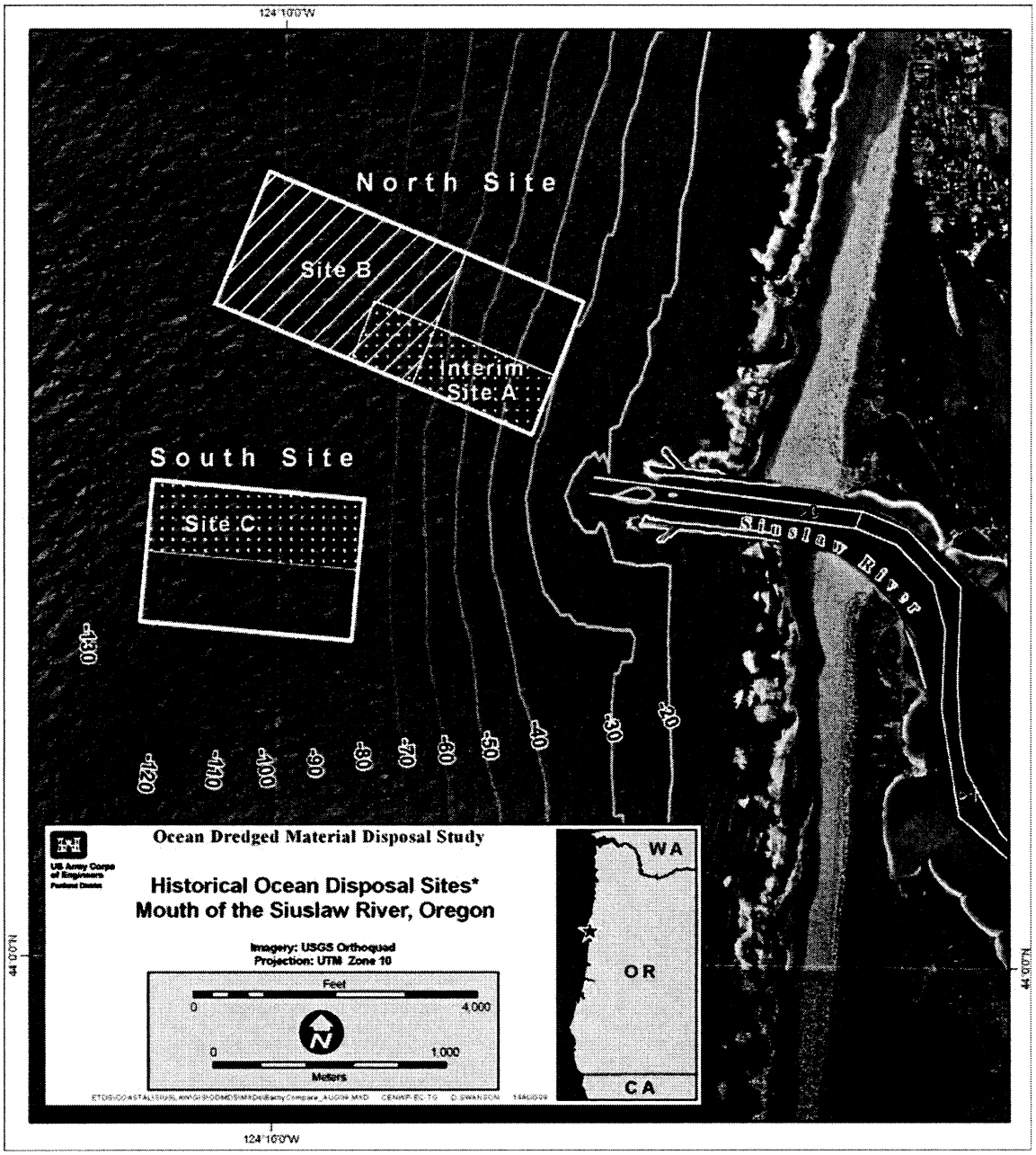

Figure 1. Proposed North and South Siuslaw Sites

c. Management and Monitoring of the Sites

The proposed Siuslaw Sites are expected to receive sediments dredged by the Corps to maintain the federally authorized navigation project at the Siuslaw River, Oregon and dredged material from other persons who have obtained a permit for the disposal of dredged material at the Sites. All persons using the Sites are required to follow a Site Management and Monitoring Plan (SMMP) for the Sites. The SMMP includes management and monitoring requirements to ensure that dredged materials disposed at the Sites are suitable for disposal in the ocean and that adverse impacts of disposal, if any, are addressed to the maximum extent practicable. The SMMP for the Siuslaw River Sites, in addition to the aforementioned, also addresses management of the Sites to ensure adverse mounding does not occur and to ensure that disposal events are timed to minimize interference with other uses of ocean waters in the vicinity of the proposed Sites. The SMMP is available as a draft document for review and comment at this time. The public is encouraged to take advantage of this opportunity to read and submit comments on the draft SMMP.

d. MPRSA Criteria

In proposing to designate these Sites, EPA assessed the proposed Sites against the criteria of the MPRSA, with particular emphasis on the general and specific regulatory criteria of 40 CFR part 228, to determine whether the proposed site designations satisfy those criteria. EPA's draft *Siuslaw River, Oregon Ocean Dredged Material Disposal Sites Evaluation Study and Environmental Assessment* (EA),

provides an extensive evaluation of the criteria and other related factors for the designation of these Sites. The EA is available as a draft document for review and comment at this time. The public is encouraged to take advantage of this opportunity to read and submit comments on the draft EA.

General Criteria (40 CFR 228.5)

(1) *Sites must be selected to minimize interference with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation (40 CFR 228.5(a)).*

EPA reviewed the potential for the Sites to interfere with navigation, recreation, shellfisheries, aquatic resources, commercial fisheries, protected geologic features, and cultural and/or historically significant areas and found low potential for conflicts. The proposed Sites would be located close to the approach to the Siuslaw River entrance channel but are unlikely to cause interference with navigation or other uses near the mouth of the Siuslaw River provided close communication and coordination is maintained with other users, vessel traffic control and the U.S. Coast Guard (USCG). Based on the past history of fishing and disposal operations near the mouth of the Siuslaw River use conflicts are not expected to occur. There is the potential for other recreational users, for example, surfers, boaters, boarders, and divers, to use the near-shore area in the vicinity of the Sites, but EPA does not expect disposal operations at the Sites to conflict with recreationists. The draft SMMP outlines site management objectives, including minimizing interference with other uses of the ocean. Should a site use conflict be identified, site use could be modified according to the SMMP to minimize that conflict.

(2) *Sites must be situated such that temporary perturbations to water quality or other environmental conditions during initial mixing caused by disposal operations would be reduced to normal ambient levels or undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery (40 CFR 228.5(b)).*

Based on EPA's review of modeling, monitoring data, analysis of sediment quality, and history of use, no detectable contaminant concentrations or water quality effects, e.g., suspended solids, would be expected to reach any beach or shoreline from disposal activities at the Sites. The primary impact of disposal activities on water quality is expected to be temporary turbidity caused by the physical movement of sediment through the water column. All dredged material proposed for disposal will be evaluated according to the ocean dumping regulations at 40 CFR 227.13 and guidance developed by EPA and the Corps. In general, dredged material which meets the criteria under 40 CFR 227.13(b) is deemed environmentally acceptable for ocean dumping without further testing. Dredged material which does not meet the criteria of 40 CFR 227.13(b) must be further tested as required by 40 CFR 227.13(c).

Disposal of suitable material meeting the regulatory criteria and deemed environmentally acceptable for ocean dumping will be allowed at the proposed Sites. Most of the dredged material (approximately 97%) to be disposed of at the Sites is expected to be sandy material, while a small amount of material (up to 3% of the material) would be classified as fine-grained. Occasionally, naturally occurring debris may be present in the dredged material. Hopper dredges, which are used for the Corps' annual navigational dredging, are not capable of removing debris from the dredge site. However, specific projects may utilize a clamshell dredge, in which case there is the potential for the occasional placement of naturally occurring debris at the disposal Sites.

Sediment movement in the littoral zone consists of two mechanisms depending upon the size of the sediment. Material that is finer than sand size is carried in suspension in the water and moves offshore relatively quickly. Sediments sand size or coarser may be occasionally suspended by wave action near the bottom, and are moved by bottom currents or directly as bedload. Tidal, wind and wave forces contribute to generating bottom currents, which act in relation to the sediment grain size and water depth to transport sediment.

(3) *The sizes of disposal sites will be limited in order to localize for identification and control any immediate adverse impacts, and to permit the implementation of effective monitoring and surveillance to prevent adverse long-range impacts. Size, configuration, and location are to be determined as part of the disposal site evaluation (40 CFR 228.5(d)).*

To ensure site managers can be responsive to the specifics of each dredging season based on dredge schedules and recorded seasonal sediment transport patterns north and south along the Oregon coast, EPA proposes to designate two Sites which nearly double the footprints of former Section 103 sites B and C. The larger Site footprints are needed to include nearshore areas where material can disperse into the active littoral zone, limit wave effects due to mounding, and keep material from reentering the navigation channel. Use of the shallower portion of the North Site will facilitate increased sediment transport thereby increasing long-term site capacity. Preferential utilization of the shallow portions of the North Site also meets the management goal of keeping material in the littoral system. However, as seen in the 1977 Interim Site, mounding could occur if too much material is placed too quickly in shallow water. The designation of multiple sites with deeper areas within the sites, allows site managers to be responsive to annual and long-term sediment transport patterns. Effective monitoring of the Sites is necessary and required. EPA will require annual bathymetric surveys for each Site to monitor each Site for site capacity and potential mounding concerns. These surveys will inform the active management of the proposed Sites.

(4) EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites where historical disposal has occurred (40 CFR 228.5(e)).

Locations off the continental shelf in the Pacific Ocean are generally inhabited by stable benthic and pelagic ecosystems on steeper gradients that are not well adapted to the type of frequent disturbance events that are typical of dredged material disposal in ocean waters. The proposed Sites will incorporate historic disposal locations within the footprint of each Site and will not be located off the continental shelf. Disposal off the continental shelf would remove natural sediments from the nearshore littoral transport system, a system that functions with largely non-renewable quantities of sand in Oregon. Some of the material disposed at the proposed Sites is expected to be available to the littoral system. The loss of the present volumes of Siuslaw River dredged material if disposed off of the continental shelf would be unlikely to result in disruption of the mass balance of the existing littoral system but keeping this material in the littoral system with the potential to sustain a dynamic equilibrium along the Oregon coast is considered a benefit.

Specific Criteria (40 CFR 228.6)

(1) Geographical Position, Depth of Water, Bottom Topography and Distance from Coast (40 CFR 228.6(a)(1)).

EPA does not anticipate that the geographical position, including the depth, bottom topography and distance from the coastline in the vicinity of the proposed Sites will cause adverse effects to the marine environment. As EPA understands the currents at the proposed Sites and the influence of those currents on the movement of material in the area, there is a high likelihood that some of the material disposed at the Sites, especially within the shallower portion of the North site, will be transported to the littoral sediment circulation system.

To help avoid adverse mounding at the Sites, site management may include establishing "cells" along the nearshore portions of each Site and assigning numbers of "dumps" to each cell to minimize material accumulation and avoid excessive or persistent mounding. Disposal may also alternate as necessary between the two Sites to allow for maximum dispersal of material and minimal impact to each Site.

(2) Location in Relation to Breeding, Spawning, Nursery, Feeding, or Passage Areas of Living Resources in Adult or Juvenile Phases (40 CFR 228.6(a)(2)).

The proposed Sites are not located in exclusive breeding, spawning, nursery, feeding or passage areas for adult or juvenile phases of living resources. Near the Sites, a variety of pelagic and demersal fish species, including salmon, as well as shellfish, are found. The benthic fauna at the sites is common to nearshore, sandy, wave-influenced regions of the Pacific Coast in Oregon and Washington.

(3) Location in Relation to Beaches and Other Amenity Areas (40 CFR 228.6(a)(3)).

The Sites, although located in close proximity to the Siuslaw River navigation channel, and near the northern boundary of the Oregon Dunes National Recreation Area, are located a sufficient distance offshore to avoid adverse impacts to beaches and other amenity areas. Two public recreation areas located to the north of the Siuslaw River, Heceta Beach Park and Harbor Vista Park, are not expected to be impacted by the designation of the Sites. Transportation of dredges or barges to and from the Sites to dispose of dredged material will be coordinated to avoid disturbance of other activities near the Siuslaw River entrance channel. There are no rocks or pinnacles in the vicinity of either Site. The Sites are sized and located to provide long-term capacity for the disposal of dredged material without causing any impacts to the wave environment at, or near, the Sites. Site monitoring and adaptive management are components of the proposed SMMP.

(4) Types and Quantities of Wastes Proposed to be Disposed of, and Proposed Methods of Release, including Methods of Packing the Waste, if any (40 CFR 228.6(a)(4)).

Dredged material found suitable for ocean disposal pursuant to the regulatory criteria for dredged material or characterized by chemical and biological testing and found suitable for disposal into ocean waters will be the only material allowed to be disposed of at the Sites. No material defined as "waste" under the MPRSA will be allowed to be disposed of at the Sites. The dredged material to be disposed of at the Sites will be predominantly marine sand, far removed from known sources of contamination. Generally, disposal is expected to occur from a hopper dredge, in which case, material will be released just below the surface and the disposal vessel will be required to be under power and to slowly transit the disposal location during disposal. This method of release is expected to spread material at the Sites to minimize mounding and to minimize impacts to the benthic community and to species at the Sites at the time of a disposal event.

(5) Feasibility of Surveillance and Monitoring (40 CFR 228.6(a)(5)).

EPA expects monitoring and surveillance at the Sites to be feasible and readily performed from small surface research vessels. The Sites are accessible for bathymetric and side-scan sonar surveys. At a minimum, annual bathymetric surveys will be conducted at each of the Sites to confirm that no unacceptable mounding is taking place within the Sites or in their immediate vicinity.

(6) Dispersal, Horizontal Transport and Vertical Mixing Characteristics of the Area, Including Prevailing Current Direction and Velocity, if any (40 CFR 228.6(a)(6)).

Dispersal, horizontal transport and vertical mixing characteristics of the area at and in the vicinity of the Sites indicate that the marine sands and fluvial gravels from the Siuslaw River distribute away from the river mouth rapidly. The beaches do not show significant accretion or loss. The bottom current records suggest a bias in transport to the north. Fine grained material tends to remain in suspension and to experience rapid offshore transport compared to other sediment sizes. Sediment transport of sand-sized or coarser material tends to move directly as bedload, but is occasionally suspended by wave action near the seafloor. The proposed Sites are not expected to change these characteristics.

(7) Existence and Effects of Current and Previous Discharges and Dumping in the Area (including Cumulative Effects) (40 CFR 228.6(a)(7)).

Portions of the two proposed Sites have been historically used for disposal activity. Disposal of dredged material is not expected to result in unacceptable environmental degradation at the Sites or in the vicinity of the Sites, however mounding will be closely monitored in those previously used portions and preferential use of the shallower portions of the North Site is expected. The proposed SMMP includes monitoring and adaptive management measures to address potential mounding issues.

(8) Interference with Shipping, Fishing, Recreation, Mineral Extraction, Desalination, Fish and Shellfish Culture, Areas of Special Scientific Importance and Other Legitimate Uses of the Ocean (40 CFR 228.6(a)(8)).

The proposed Sites are not expected to interfere with shipping, fishing, recreation or other legitimate uses of the ocean. Disposals at the Sites will be managed according to the SMMP to minimize interference with other legitimate uses of the ocean through careful timing and staggering of disposals in the Sites. Commercial and recreational fishing and commercial navigation are the primary concerns for which such timing will be needed. EPA is not aware of any plans for mineral extraction offshore of the Siuslaw River at this time. EPA would expect to revise the SMMP if necessary in the event wave energy projects or other renewable or traditional energy projects were proposed and potential conflicts seemed likely. Fish and shellfish culture operations are not under consideration for the area. There are no known areas of scientific importance in the vicinity of the Sites.

(9) The Existing Water Quality and Ecology of the Sites as Determined by Available Data or Trend Assessment of Baseline Surveys (40 CFR 228.6(a)(9)).

EPA has not identified any potential adverse water quality impacts from the proposed ocean disposal of dredged material at the Sites based on water and sediment quality analyses conducted in the study area of the Sites and based on experience with past disposals near the mouth of the Siuslaw River. Fisheries and benthic data show the ecology of the area to be that of a mobile sand community typical of the Oregon Coast.

(10) Potentiality for the Development or Recruitment of Nuisance Species in the Disposal Site (40 CFR 228.6(a)(10)).

Nuisance species, considered as any undesirable organism not previously existing at a location, have not been

observed at, or in the vicinity of, the Sites. Material expected to be disposed at the Sites will be uncontaminated marine sands similar to the sediment present at the Sites. Some fine-grained material, finer than natural background, may also be disposed. While this finer-grained material could have the potential to attract nuisance species to the Sites, no such recruitment is known to have taken place in the former Interim Site A or in the 103-selected sites B and C. The proposed SMMP includes biological monitoring requirements, which will act to identify any nuisance species and allow EPA to direct special studies and/or operational changes to address the issue if it arises.

(11) Existence at or in Close Proximity to the Site of any Significant Natural or Cultural Feature of Historical Importance (40 CFR 228.6(a)(11)).

No significant cultural features have been identified at, or in the vicinity of, the proposed Sites at this time. EPA is coordinating with Oregon's State Historic Preservation Officer and with Tribes in the vicinity of the Sites to identify any cultural features. EPA expects to complete that coordination effort before making a final decision on the proposed Sites. No shipwrecks have been observed or documented within the proposed Sites or their immediate vicinity.

3. Environmental Statutory Review—National Environmental Policy Act (NEPA); Magnuson-Stevens Act (MSA); Marine Mammal Protection Act (MMPA); Coastal Zone Management Act (CZMA); Endangered Species Act (ESA); National Historic Preservation Act (NHPA)

a. NEPA

Section 102 of the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. 4321 to 4370f, requires Federal agencies to prepare an Environmental Impact Statement (EIS) for major federal actions significantly affecting the quality of the human environment. NEPA does not apply to EPA designations of ocean disposal sites under the MPRSA because the courts have exempted EPA's actions under the MPRSA from the procedural requirements of NEPA through the functional equivalence doctrine. EPA has, by policy, determined that the preparation of non-EIS NEPA documents for certain EPA regulatory actions, including actions under the MPRSA, is appropriate. EPA's "Notice of Policy and Procedures for Voluntary Preparation of NEPA Documents," (Voluntary NEPA Policy), 63 FR 58045, (October 29, 1998), sets out both the policy and procedures EPA uses when preparing such environmental review documents. EPA's primary voluntary NEPA document for designating the Sites is the draft *Siuslaw River, Oregon Ocean Dredged Material Disposal Sites Evaluation Study and Environmental Assessment, December 2009* (EA), jointly prepared by EPA and the Corps. The draft EA and its Technical Appendices, which are part of the docket for this action, provide the threshold environmental review for designation of the two Sites. The information from the proposed EA is used extensively, above, in the discussion of the ocean dumping criteria.

b. MSA and MMPA

EPA prepared an essential fish habitat (EFH) assessment pursuant to Section 305(b), 16 U.S.C. 1855(b)(2), of the Magnuson-Stevens Act, as amended (MSA), 16 U.S.C. 1801 to 1891d, and submitted that assessment to the National Marine Fisheries Service in July, 2009. NMFS is reviewing EPA's EFH assessment and an Endangered Species Act (ESA) Biological Assessment and addendum thereto for purposes of the Marine Mammal Protection Act of 1972, as amended (MMPA), 16 U.S.C. 1361 to 1389. EPA will not take final action on the proposed Sites until the NMFS review is complete.

c. CZMA

The Coastal Zone Management Act, as amended (CZMA), 16 U.S.C. 1451 to 1465, requires Federal agencies to determine whether their actions will be consistent with the enforceable policies of approved state programs. EPA prepared a consistency determination for the Oregon Ocean and Coastal Management Program (OCMP), the approved state program in Oregon, to meet the requirements of the CZMA and submitted that determination to the Oregon Department of Land Conservation and Development (DLCD) for review on January 19, 2010. EPA will not take final action on the proposed Sites until the DLCD review of EPA's consistency determination is complete.

d. ESA

The Endangered Species Act, as amended (ESA), 16 U.S.C. 1531 to 1544, requires Federal agencies to consult with NMFS and the U.S. Fish and Wildlife Service (USFWS) to ensure that any action authorized, funded, or carried out by the Federal agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of any critical habitat. EPA prepared a Biological Assessment (BA) to assess the potential effects of designating the two Siuslaw River Sites on aquatic and wildlife species and submitted that BA to the NMFS and USFWS in July, 2009. Subsequent to preparation of the BA, EPA prepared an addendum to the BA, which was submitted in December, 2009. EPA found that site designation does not have a direct impact on any of the identified ESA species but also found that indirect impacts associated with reasonably foreseeable future disposal activities had to be considered. These indirect impacts included a short-term increase in suspended solids and turbidity in the water column when dredged material was disposed at the new Sites and an accumulation of material on the ocean floor when material was disposed at the Sites. EPA concluded that while its action may affect ESA-listed species, the action would not be likely to adversely affect ESA-listed species or critical habitat. EPA will not take final action on the proposed Sites until consultation under the ESA is complete.

e. NHPA

EPA initiated consultation with the State of Oregon's Historic Preservation Officer (SHPO) on November 24, 2009, to address the National Historic Preservation Act, as amended (NHPA), 16 U.S.C. 470 to 470a–2, which requires Federal agencies to take into account the effect of their actions on districts, sites, buildings, structures, or objects, included in, or eligible for inclusion in the National Register. EPA determined that no historic properties were affected, or would be affected, by designation of the Sites. EPA did not find any historic properties within the geographic area of the Sites. This determination was based on an extensive review of the National Register of Historic Districts in Oregon, the Oregon National Register list and an assessment of cultural resources near the Sites. EPA will not take final action on the proposed Sites until the coordination with the SHPO is complete.

4. Statutory and Executive Order Reviews

This rule proposes the designation of two ocean dredged material disposal sites pursuant to Section 102 of the MPRSA. This proposed action complies with applicable executive orders and statutory provisions as follows:

a. Executive Order 12866

This proposed 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. We welcome comments on the assessment of this EO.

b. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.,* because this rule does not establish or modify any information or recordkeeping requirements for the regulated community.

c. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires Federal agencies 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 this rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size 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. EPA determined that this proposed action will not have a significant economic impact on small entities because the proposed rule will only have the effect of regulating the location of sites to be used for the disposal of dredged material in ocean waters. After considering the economic impacts of this proposed rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

d. Unfunded Mandates Reform Act

This proposed action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1531 to 1538, for State, local, or tribal governments or the private sector. This action imposes no new 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 the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities. Those entities are already subject to existing permitting requirements for the disposal of dredged material in ocean waters.

e. Executive Order 13132: Federalism

This proposed action does not have federalism implications. 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 various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

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

This proposed action does not have tribal implications, as specified in Executive Order 13175 because the designation of the two ocean dredged material disposal Sites will not have a direct effect on 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. Thus, Executive Order 13175 does not apply to this action. Although Executive Order 13175 does not apply to this proposed action EPA consulted with tribal officials in the development of this action, particularly as the action relates to potential impacts to historic or cultural resources. EPA specifically solicits additional comment on this proposed action from tribal officials.

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

EPA interprets Executive Order 13045 (62 FR 19885) 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 proposed action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. The proposed action concerns the designation of two ocean dredged material disposal Sites and only has the effect of providing designated locations to use for ocean disposal of dredged material pursuant to Section 102(c) of the MPRSA. We welcome comments on this proposed action related to this Executive Order.

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

This proposed action is not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355) because it is not a "significant regulatory action" as defined under Executive Order 12866. We welcome comments on this proposed action related to this Executive Order.

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, 12(d) (15 U.S.C. 272), 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 bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed action includes environmental monitoring and measurement as described in EPA's proposed SMMP. EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the designated Sites. The Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the proposed SMMP. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this proposed action.

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

Executive Order 12898 (59 FR 7629) 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 determined that this proposed 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 has assessed the overall protectiveness of designating the disposal Sites against the criteria established pursuant to the MPRSA to ensure that any adverse impact to the environment will be mitigated to the greatest extent practicable. We welcome comments on this proposed action related to this Executive Order.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: This action is issued under the authority of Section 102 of the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401, 1411, 1412.

Dated: January 25, 2010.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

For the reasons set out in the preamble, EPA proposes to amend chapter I, title 40 of the Code of Federal Register as follows:

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is amended by adding paragraph (n)(14) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(n) * * *

(14) Siuslaw River, OR—North and South Dredged Material Disposal Sites.

(i) North Siuslaw River Site.

(A) *Location:* 44°01′31.03″ N, 124°10′12.92″ W
44°01′49.39″ N, 124°10′02.85″ W
44°01′31.97″ N, 124°09′01.86″ W
44°01′13.45″ N, 124°09′11.41″ W

(B) *Size:* Approximately 1.5 kilometers long and 0.6 kilometers wide.

(C) *Depth:* Ranges from approximately 9 to 35 meters.

(D) *Primary Use:* Dredged material.

(E) *Period of Use:* Continuing Use.

(F) *Restrictions:* (*1*) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13 from the Siuslaw River navigation channel and adjacent areas;

(*2*) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(*3*) Monitoring, as specified in the SMMP, is required.

(ii) South Siuslaw River Site.

(A) *Location:* 44°00′46.72″ N, 124°10′26.55″ W
44°01′06.41″ N, 124°10′24.45″ W
44°01′04.12″ N, 124°09′43.52″ W
44°00′44.45″ N, 124°09′45.63″ W

(B) *Size:* Approximately 0.9 kilometers long and 0.6 kilometers wide.

(C) *Depth:* Ranges from approximately 24 to 38 meters.

(D) *Primary Use:* Dredged material.

(E) *Period of Use:* Continuing Use.

(F) *Restrictions:* (*1*) Disposal shall be limited to dredged material determined to be suitable for ocean disposal according to 40 CFR 227.13, from the Siuslaw River navigation channel and adjacent areas;

(*2*) Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP);

(*3*) Monitoring, as specified in the SMMP, is required.

* * * * *

[FR Doc. 2010–2395 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 320

[EPA–HQ–SFUND–2009–0834; FRL–9109–5]

RIN 2050–AG56

Identification of Additional Classes of Facilities for Development of Financial Responsibility Requirements Under CERCLA Section 108(b)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking (ANPRM); extension of comment period and correction of docket identification number.

SUMMARY: EPA is extending, until April 6, 2010, the comment period for the Advance Notice of Proposed Rulemaking (ANPRM) published in the **Federal Register** on January 6, 2010. In the ANPRM, the Agency identified the classes of facilities within three industries—the Chemical Manufacturing industry (NAICS 325), the Petroleum and Coal Products Manufacturing industry (NAICS 324), and the Electric Power Generation, Transmission, and Distribution industry (NAICS 2211)—as those for which the Agency plans to develop, as necessary, proposed regulations identifying appropriate financial responsibility requirements under section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In addition, the Agency identified the Waste Management and Remediation Services industry (NAICS 562), the Wood Product Manufacturing industry (NAICS 321), the Fabricated Metal Product Manufacturing industry (NAICS 332), the Electronics and Electrical Equipment Manufacturing industry (NAICS 334 and 335), as well as facilities engaged in the recycling of materials containing CERCLA hazardous substances as requiring further study before EPA decides whether to begin the regulatory development process. EPA also wants to clarify the proper Docket Identification Number for the January 2010 ANPRM.

DATES: Submit comments on or before April 6, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2009–0834, by one of the following methods:

- *Electronic docket at: http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *superfund.docket@epa.gov,* Attention Docket ID No. EPA–HQ–SFUND–2009–0834. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

• *Fax:* Comments may be faxed to 202–566–0272; Attention Docket ID No. EPA–HQ–SFUND–2009–0834.

• *Mail:* Send your comments to the Identification of Additional Classes of Facilities for Development of Financial Responsibility Requirements under CERCLA Section 108(b) Docket, Attention Docket ID No., EPA–HQ–SFUND–2009–0834, Environmental Protection Agency, Mailcode: 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.

• *Hand Delivery:* Deliver two copies of your comments to the Identification of Additional Classes of Facilities for Development of Financial Responsibility Requirements under CERCLA Section 108(b) Docket, Attention Docket ID No., EPA–HQ–SFUND–2009–0834, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2009–0834. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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 Identification of Additional Classes of Facilities for Development of Financial Responsibility Requirements under CERCLA Section 108(b) Docket, Docket ID No. EPA–HQ–SFUND–2009–0834, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (202) 566–0276. The Public Reading Room 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.

FOR FURTHER INFORMATION CONTACT: For more information on this notice, contact Ben Lesser, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, Mail Code 5302P, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308–0314; or (e-mail) *lesser.ben@epa.gov;* or Barbara Foster, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, Mail Code 5303P, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308–7057; or (e-mail) *foster.barbara@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 6, 2010, the Agency published in the **Federal Register** (75 FR 816) an Advance Notice of Proposed Rulemaking (ANPRM) that identified the classes of facilities within three industries—the Chemical Manufacturing industry (NAICS 325), the Petroleum and Coal Products Manufacturing industry (NAICS 324), and the Electric Power Generation, Transmission, and Distribution industry (NAICS 2211)—as those for which the Agency plans to develop, as necessary, proposed regulations identifying appropriate financial responsibility requirements under section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In addition, the Agency identified the Waste Management and Remediation Services industry (NAICS 562), the Wood Product Manufacturing industry (NAICS 321), the Fabricated Metal Product Manufacturing industry (NAICS 332), the Electronics and Electrical Equipment Manufacturing industry (NAICS 334 and 335), as well as facilities engaged in the recycling of materials containing CERCLA hazardous substances as requiring further study before EPA decides whether to begin the regulatory development process.

Following publication of the ANPRM, several members of the public requested that the Agency extend the comment period. The Agency received extension requests for 30 days, 45 days, and 60 days. In response to these requests, the Agency is extending the comment period for 60 days, until April 6, 2010. Members of the public also will be able to provide additional comments to EPA after it publishes any proposed rules.

In addition, the Agency wants to clarify the proper Docket Identification Number (Docket ID No.) associated with the January 2010 ANPRM. The heading of the ANPRM included an incorrect Docket Identification Number. Subsequent references to the docket, within the text of the ANPRM, were correct; the correct Docket ID No. (EPA–HQ–SFUND–2009–0834) is included in this extension notice of the comment period.

Dated: January 29, 2010.

Matthew Hale,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2010–2385 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 3, 5, 6, 7, 8, 12, 13, 15, 16, 17, 19, 22, 23, 28, 32, 36, 42, 43, 50, and 52

[FAR Case 2008–024; Docket 2010–0079, Sequence 1]

RIN 9000–AL51

Federal Acquisition Regulation; FAR Case 2008–024, Inflation Adjustment of Acquisition-Related Thresholds

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to implement Section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. The Act requires an adjustment every 5 years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for Davis-Bacon Act, Service Contract Act, and trade agreements thresholds. The Councils are also proposing to use the same methodology to change nonstatutory FAR acquisition-related thresholds for adjustment in 2010.

DATES: Interested parties should submit written comments to the Regulatory Secretariat on or before April 5, 2010 to be considered in the formulation of a final rule.

ADDRESSES: Submit comments identified by FAR case 2008–024 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting "FAR Case 2008–024" under the heading "Comment or Submission." Select the link "Send a Comment or Submission" that corresponds with FAR Case 2008–024. Follow the instructions provided to complete the "Public Comment and Submission Form." Please include your name, company name (if any), and "FAR Case 2008–024" on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVPR), 1800 F Street, NW., Room 4041, ATTN: Hada Flowers, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2008–024 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: Mr. Michael Jackson, Procurement Analyst, at (202) 208–4949 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAR case 2008–024.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes to amend multiple FAR parts to implement Section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 (Pub. L. 108–375). Section 807 requires an adjustment every 5 years (in years evenly divisible by 5) of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for Davis-Bacon Act, Service Contract Act, and trade agreements thresholds (see FAR 1.109). The Councils are also proposing to use the same methodology to change nonstatutory FAR acquisition-related thresholds for adjustment in 2010.

This is the second review of FAR acquisition-related thresholds. The last review was conducted under FAR case 2004–033 during FY 2005. The final rule was published in the **Federal Register** on September 28, 2006 (71 FR 57363).

B. Analysis

1. What is an acquisition-related threshold?

This case builds on the review of FAR thresholds in FY 2005 and uses the same interpretation of the statutory definition of acquisition-related threshold. The statute defines an acquisition-related dollar threshold as a dollar threshold that is specified *in law* as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided *in that law* to the procurement of property or services by an executive agency, as determined by the FAR Council.

There are other thresholds in the FAR that, while not meeting this statutory definition of "acquisition-related," nevertheless meet all the other criteria. These thresholds may have their origin in executive order or regulation.

Therefore, as used in this case, an acquisition-related threshold is a threshold that is specified *in law, executive order, or regulation* as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided *in that law, executive order, or regulation* to the procurement of property or services by an executive agency, as determined by the FAR Council. The Councils conclude from this definition that acquisition-related thresholds are generally tied to the value of a contract, subcontract, or modification.

Examples of thresholds that are not viewed as "acquisition-related" as defined in this case are thresholds relating to claims, penalties, withholding, payments, required levels of insurance, small business size standards, liquidated damages, *etc.* This report does not address thresholds that are not acquisition-related.

2. What acquisition-related thresholds are not subject to escalation adjustment under this case?

The statute does not permit escalation of acquisition-related thresholds established by the Davis-Bacon Act, the Service Contract Act, or the United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979.

The statute does not authorize the FAR to escalate thresholds originating in executive order or the implementing agency (such as the Department of Labor or the Small Business Administration), unless the executive order or agency regulations are first amended.

3. How do the Councils analyze a statutory acquisition-related threshold?

If an acquisition-related threshold is based on statute, the matrix at *http://www.regulations.gov* (search FAR case 2008–024) identifies the statute, and the statutory threshold, both the original threshold and any revision to it in 2006.

With the exception of thresholds set by the Davis-Bacon Act, Service Contract Act, and the United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979, the statute requires that the FAR Council adjust the acquisition-related thresholds for inflation using the Consumer Price Index (CPI) for all-urban consumers. Acquisition-related thresholds in statutes that were in effect on October 1, 2000 are only subject to escalation from that date forward. For purposes of this proposed rule, the matrix includes calculation of escalation based on the CPI from October 2000 to April 2010. Inflation from the average CPI value for 2007 to the average value for 2008 was 3.8 percent. The Councils have currently estimated the inflation for the next year at 4.2 percent, but will subsequently adjust as necessary before issuance of the final rule. Acquisition-related thresholds in statutes that took effect after October 1, 2000 are escalated from the date that they took effect.

Once the escalation factor is applied to the acquisition-related threshold, then the threshold must be rounded as follows:

< $10,000	Nearest $500.
$10,000–< $100,000	Nearest $5,000.
$100,000– < $1,000,000.	Nearest $50,000.
$1,000,000 or more ...	Nearest $500,000.

The calculations in this proposed rule are all based on the base year amount, because escalated amounts in the 2005 rule were subject to rounding and using them as the base would distort future calculations.

In 2005, thresholds of $1,000, $10,000, $100,000, and $1,000,000, although subject to inflation calculation, did not actually change, because the inflation in 2005 was insufficient to overcome the rounding requirements—the escalation factor, when applied, did not cause the escalated values to be high enough to round to the next higher value. However, in FY 2010, these thresholds will now escalate because of 5 additional years of inflation.

Section 807(c) of the statute states that this statute supersedes the applicability of any other provision of law that provides for the adjustment of any acquisition-related threshold that is adjustable under this statute.

The thresholds for defining a major system were previously stated in Fiscal Year 1990 constant dollars for DoD and in Fiscal Year 1980 constant dollars for civilian agencies. The 2005 rule converted these major system thresholds to current year dollars, as of the date that the statute was enacted, that will now be adjusted every 5 years and both DoD and civilian agencies now abide by these thresholds.

This proposed rule has been coordinated with the Department of Labor and the Small Business Administration in areas of the regulation for which they are the lead agency. As appropriate, changes to cost accounting standards (CAS) thresholds will be dealt with under a separate case.

4. How do the Councils analyze a nonstatutory acquisition-related threshold?

No statutory authorization is required to escalate thresholds that were set as policy within the FAR. Escalation of the FAR policy acquisition-related thresholds is recommended using the same formula applied to the statutory thresholds, unless a reason has been provided for not doing so. Escalation is calculated using the same procedures as were explained for the statutory thresholds, to provide consistency.

In one case where a non-acquisition-related threshold was intended to equal the micro-purchase threshold, the Councils have revised it to specifically reference the micro-purchase threshold, in order to provide future escalation under follow-on cases (FAR 52.209–5).

5. What is the effect of this proposed rule on the most heavily-used thresholds?

This rule includes the following proposed changes to heavily-used thresholds:

- The micro-purchase base threshold of $3,000 (FAR 2.101) will not be changed.
- The simplified acquisition threshold (FAR 2.101) will be raised from $100,000 to $150,000.
- The FedBizOpps preaward and post-award notices (FAR Part 5) remain at $25,000 because of trade agreements.
- Commercial items test program ceiling (FAR 13.500) will be raised from $5,500,000 to $6,500,000.
- The cost and pricing data threshold (FAR 15.403–4) will be raised from $650,000 to $700,000.
- The prime contractor subcontracting plan (FAR 19.702) floor will be raised from $550,000 to $650,000, and the construction threshold of $1,000,000 increases to $1,500,000.

This proposed rule is based on a projected CPI of 222 in April 2010. If the actual CPI in April 2010 is higher than 222, then additional statutory thresholds will be subject to escalation in the final rule, even though not included in the proposed rule. For example, if the CPI is 224 in April 2010 (an inflation rate of about 5 percent), the following statutory thresholds will increase as indicated in the table, although not included in the text of this proposed rule:

FAR 2.101(b) "micro-purchase threshold"	$15,000	$20,000
FAR 2.101(b) "small business subcontractor"	10,000	15,000
FAR 13.003(b), FAR 13.201(g), and FAR 19.502–1(b)	15,000	20,000

This proposed rule is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the adjustment of acquisition-related thresholds for inflation is intended to maintain the status quo. The Councils note that the set-aside threshold of $100,000 increases to $150,000, which is not believed to be a detriment to small business. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. The Councils invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

The Councils will also consider comments from small entities concerning the existing regulations in parts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2008–024) in correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act does apply. The proposed changes to the FAR do not impose new information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq*. By adjusting the thresholds for inflation, they maintain at the status quo the current information collection requirements under the following OMB clearance numbers: 9000–0006, Subcontracting Plans/Subcontracting Report for Individual Contract (SF 294)—Sections Affected: Subpart 19.7, 52.219–9; 9000–0007, Summary Subcontract Report—FAR Sections Affected: Subpart 19.7, 53.219, SF 295; 9000–0013, Cost or Pricing Data Exemption—FAR Sections Affected: Subparts 15.4, 42.7, 52.214–28, 52.215–12, 52.215–13, 52.215–20, 52.215–21; 9000–0018, Certification of Independent Price Determination and Parent Company and Identifying Data—Sections Affected: 3.103, 3.302; 9000–0022, Duty-Free Entry—FAR 48 CFR 52.225–8—FAR Section Affected: 52.225–8; 9000–0026, Change Order Accounting—43.205(f), 52.243–6; 9000–0027, Value Engineering Requirements—FAR Sections Affected: Subparts 48.1 and 48.2, 52.248–1, 52.248–2, 52.248–3; 9000–0034, Examination of Records 5 CFR 1320.5(b) by Comptroller General and Contract Audit—Sections Affected: 52.215–2, 52.212–5, 52.214–26; 9000–0045, Bid, Performance, and Payment Bonds—FAR Sections Affected: Subparts 28.1 and 28.2, 52.228–1, 52.228–2, 52.228–13, 52.228–15, 52.228–16; 9000–0058, Schedules for Construction Contracts—FAR Section Affected: 52.236–15; 9000–0060, Accident Prevention 48 CFR, 52.236–13, Plans and Recordkeeping—FAR Section Affected: 52.236–13; 9000–0065, Overtime—FAR Sections Affected: 22.103, 52.222–2; 9000–0066, Professional Employee Compensation Plan, Subpart 22.11, 52.222–46; 9000–0073, Advance Payments—FAR Sections Affected: Subpart 32.4 and 52.232–12; 9000–0077, Quality Assurance Requirements—FAR Sections Affected: Subparts 46.1 through 46.3, 52.246–2 through 52.246–8, 52.246–10, 52.246–12, 52.246–15; 9000–0080, Integrity of Unit Prices—Sections Affected: 15.408(f) and 52.215–14;

9000–0091, Anti-Kickback Procedures—FAR Sections Affected: 3.502, 52.203–7; 9000–0094, Debarment and Suspension, FAR Sections Affected: 9.1, 9.4, 52.209–5, 52.212–3(h); 9000–0101, Drug-Free Workplace—FAR Section Affected: 52.223–6(b)(5); 9000–0115, Notification of Ownership Changes—FAR Sections Affected: 15.408(k), 52.215–19; 9000–0133, Defense Production Act Amendments—FAR Sections Affected: 34.1 and 52.234–1; 9000–0134, Environmentally Sound Products—FAR Sections Affected: 23.406 and 52.223–4; 9000–0135, Prospective Subcontractor Requests for Bonds, FAR 28.106–4(b), 52.228–12; 1215–0072, OFCCP Recordkeeping and Reporting Requirements—Supply and Service; and 1215–0119, Requirements of a Bona Fide Thrift or Savings Plan (29 CFR part 547) and Requirements of a Bona Fide Profit-Sharing Plan or Trust (29 CFR part 549).

List of Subjects in 48 CFR Parts 1, 2, 3, 5, 6, 7, 8, 12, 13, 15, 16, 17, 19, 22, 23, 28, 32, 36, 42, 43, 50, and 52

Government procurement.

Dated: January 29, 2010.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 1, 2, 3, 5, 6, 7, 8, 12, 13, 15, 16, 17, 19, 22, 23, 28, 32, 36, 42, 43, 50, and 52 as set forth below:

1. The authority citation for 48 CFR parts 1, 2, 3, 5, 6, 7, 8, 12, 13, 15, 16, 17, 19, 22, 23, 28, 32, 36, 42, 43, 50, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.109 [Amended]

2. Amend section 1.109 by removing from paragraph (d) "*http://acquisition.gov/far/facsframe.html*" and adding "*http://www.regulations.gov* (search FAR case 2008–024)" in its place.

PART 2—DEFINITIONS OF WORDS AND TERMS

2.101 [Amended]

3. Amend section 2.101 in paragraph (b) by—

a. Amending the definition "Major system" by removing from paragraph (1) "$173.5 million" and adding "$193.5 million" in its place, removing "$814.5 million" and adding "$907.5 million" in its place; and removing from paragraph (2) "$1.8 million" and adding "$2 million" in its place;

b. Amending the definition "Micro-purchase threshold" by removing from paragraph (3)(ii) "$25,000" and adding "$30,000" in its place; and

c. Amending the definition "Simplified acquisition threshold" by removing from the introductory paragraph "$100,000" and adding "$150,000" in its place; and removing from paragraph (1) "$250,000" and adding "$300,000" in its place.

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3.502–2 [Amended]

4. Amend section 3.502–2 by removing from paragraph (i) "$100,000" and adding "$150,000" in its place.

3.804 [Amended]

5. Amend section 3.804 by removing "$100,000" and adding "$150,000" in its place.

3.808 [Amended]

6. Amend section 3.808 by removing from paragraphs (a) and (b) "$100,000" and adding "$150,000" in its place.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.101 [Amended]

7. Amend section 5.101 by removing from the introductory text of paragraph (a)(2) "$10,000" and adding "$15,000" in its place.

5.205 [Amended]

8. Amend section 5.205 by removing from paragraph (d)(2) "$10,000" and adding "$15,000" in its place.

5.206 [Amended]

9. Amend section 5.206 by—

a. Removing from paragraph (a)(1) "$100,000" and adding "$150,000" in its place; and

b. Removing from paragraph (a)(2) "$100,000" and adding "$150,000" in its place, and removing "$10,000" and adding "$15,000" in its place.

5.303 [Amended]

10. Amend section 5.303 by removing from the introductory text of paragraph (a) "$3.5 million" and adding "$4 million" in its place.

PART 6—COMPETITION REQUIREMENTS

6.304 [Amended]

11. Amend section 6.304 by—

a. Removing from paragraph (a)(1) "$550,000" and adding "$650,000" in its place;

b. Removing from paragraph (a)(2) "$550,000" and adding "$650,000" in its place, and removing "$11.5 million" and adding "$13 million" in its place;

c. Removing from the introductory text of paragraph (a)(3) "$11.5 million" and adding "$13 million" in its place, removing "$57 million" and adding "$64 million" in its place, and removing "$78.5 million" and adding "$87 million" in its place; and

d. Removing from paragraph (a)(4) "$57 million" and adding "$64 million" in its place, and removing "$78.5 million" and adding "$87 million" in its place.

PART 7—ACQUISITION PLANNING

7.104 [Amended]

12. Amend section 7.104 by—

a. Removing from paragraph (d)(2)(i)(A) "$7.5 million" and adding "$8 million" in its place;

b. Removing from paragraph (d)(2)(i)(B) "$5.5 million" and adding "$6 million" in its place; and

c. Removing from paragraph (d)(2)(i)(C) "$2 million" and adding "$2.5 million" in its place.

7.107 [Amended]

13. Amend section 7.107 by—

a. Removing from paragraph (b)(1) "$86 million" and adding "$95.5 million" in its place; and

b. Removing from paragraph (b)(2) "$8.6 million" and adding "$9.5 million" in its place, and removing "$86 million" and adding "$95.5 million" in its place.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.405–6 [Amended]

14. Amend section 8.405–6 by—

a. Removing from paragraph (h)(1) "$550,000" and adding "$650,000" in its place;

b. Removing from paragraph (h)(2) "$550,000" and adding "$650,000" in its place, and removing "$11.5 million" and adding "$13 million" in its place;

c. Removing from the introductory text of paragraph (h)(3) "$11.5 million" and adding "$13.5 million" in its place, removing "$57 million" and adding "$64 million" in its place, and removing "$78.5 million" and adding "$87 million" in its place; and

d. Removing from paragraph (h)(4) "$57 million" and adding "$64 million" in its place, and removing "$78.5 million" and adding "$87 million" in its place.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.102 [Amended]

15. Amend section 12.102 by removing from the introductory text of

paragraph (f)(2) "$16 million" and adding "$18 million" in its place; and removing from paragraph (g)(1)(ii) "$27 million" and adding "$30 million" in its place.

12.203 [Amended]

16. Amend section 12.203 by removing "$5.5 million" and adding "$6.5 million" in its place, and removing "$11 million" and adding "$12 million" in its place.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

13.000 [Amended]

17. Amend section 13.000 by removing "$5.5 million" and adding "$6.5 million" in its place, and removing "$11 million" and adding "$12 million" in its place.

13.003 [Amended]

18. Amend section 13.003 by—

a. Removing from paragraph (b)(1) "$100,000" and adding "$150,000" in its place, and removing "$250,000" and adding "$300,000" in its place;

b. Removing from paragraph (c)(1)(ii) "$5.5 million" and adding "$6.5 million" in its place, and removing "$11 million" and adding "$12 million" in its place; and

c. Removing from paragraph (g)(2) "$5.5 million" and adding "$6.5 million", and removing "$11 million" and adding "$12 million" in its place.

13.005 [Amended]

19. Amend section 13.005 by removing from paragraph (a)(5) "$100,000" and adding "$150,000" in its place.

13.201 [Amended]

20. Amend section 13.201 by removing from paragraph (g)(1)(ii) "$25,000" and adding "$30,000" in its place.

13.303–5 [Amended]

21. Amend section 13.303–5 by—

a. Removing from paragraph (b)(1) "$5.5 million" and adding "$6.5 million" in its place, and removing "$11 million" and adding "$12 million" in its place; and

b. Removing from paragraph (b)(2) "$5.5 million" and adding "$6.5 million" in its place, and removing "$11 million" and adding "$12 million" in its place.

13.500 [Amended]

22. Amend section 13.500 by—

a. Removing from paragraph (a) "$5.5 million" and adding "$6.5 million" in its place, and removing "$11 million" and adding "$12 million" in its place; and

b. Removing from the introductory text of paragraph (e) "$11 million" and adding "$12 million" in its place.

13.501 [Amended]

23. Amend section 13.501 by—

a. Removing from paragraph (a)(2)(i) "$100,000" and adding "$150,000" in its place, and removing "$550,000" and adding "$650,000" in its place;

b. Removing from paragraph (a)(2)(ii) "$550,000" and adding "$650,000" in its place, and removing "$11.5 million" and adding "$13 million" in its place;

c. Removing from paragraph (a)(2)(iii) "$11.5 million" and adding "$13 million" in its place, removing "$57 million" and adding "$64 million" in its place, and removing "$78.5 million" and adding "$87 million" in its place; and

d. Removing from paragraph (a)(2)(iv) "$57 million" and adding "$64 million" in its place, and removing "$78.5 million" and adding "$87 million" in its place.

PART 15—CONTRACTING BY NEGOTIATION

15.304 [Amended]

24. Amend section 15.304 by removing from paragraph (c)(4) "$550,000" and adding "$650,000" in its place, and by removing "$1,000,000" and adding "$1.5 million" in its place.

15.403–1 [Amended]

25. Amend section 15.403–1 by removing from paragraph (c)(3)(iv) "$16 million" and adding "$18 million" in its place.

15.403–4 [Amended]

26. Amend section 15.403–4 by removing from the introductory texts of paragraphs (a)(1) and (a)(1)(iii) "$650,000" and adding "$700,000" in its place.

15.404–3 [Amended]

27. Amend section 15.404–3 by removing from paragraph (c)(1)(i) "$11.5 million" and adding "$13 million" in its place.

15.407–2 [Amended]

28. Amend section 15.407–2 by removing from paragraph (c)(1) and the introductory text of paragraph (c)(2) "$11.5 million" and adding "$13 million" in its place.

15.408 [Amended]

29. Amend section 15.408 in Table 15–2, "II. Cost Elements" which follows paragraph (n)(2)(iii), by removing from paragraph "A(2)" "$11.5 million" and adding "$13 million".

PART 16—TYPES OF CONTRACTS

16.206–2 [Amended]

30. Amend section 16.206–2 by removing from the introductory paragraph "$100,000" and adding "$150,000" in its place.

16.206–3 [Amended]

31. Amend section 16.206–3 by removing from paragraph (a) "$100,000" and adding "$150,000" in its place.

16.207–3 [Amended]

32. Amend section 16.207–3 by removing from paragraph (d) "$100,000" and adding "$150,000" in its place.

16.503 [Amended]

33. Amend section 16.503 by removing from paragraph (b)(2) "$100 million" and adding "$105 million" in its place; and removing from paragraph (d)(1) "$11.5 million" and adding "$13 million" in its place.

16.504 [Amended]

34. Amend section 16.504 by removing from the introductory texts of paragraphs (c)(1)(ii)(D)(*1*) and (c)(1)(ii)(D)(*3*) "$100 million" and adding "$105 million" in its place; and removing from the introductory text of paragraph (c)(2)(i) "$11.5 million" and adding "$13 million" in its place.

16.505 [Amended]

35. Amend section 16.505 by—

a. Removing from the introductory text of paragraph (b)(1)(ii) "$5 million" and adding "$5.5 million" in its place;

b. Removing from the heading of paragraph (b)(1)(iii) "*$5 million*" and adding "*$5.5 million*" in its place, and removing "$5 million" and adding "$5.5 million" in its place; and

c. Removing from the heading of paragraph (b)(4) "*$5 million*" and adding "*$5.5 million*" in its place, and removing "$5 million" and adding "$5.5 million" in its place.

16.506 [Amended]

36. Amend section 16.506 by removing from paragraphs (f) and (g) "$11.5 million" and adding "$13 million" in its place.

PART 17—SPECIAL CONTRACTING METHODS

17.108 [Amended]

37. Amend section 17.108 by removing from paragraph (a) "$11.5 million" and adding "$13 million" in its place; and removing from paragraph (b) "$114.5 million" and adding "$127.5 million" in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.502–2 [Amended]

38. Amend section 19.502–2 by—

a. Removing from paragraph (a) "$100,000" and adding "$150,000" in its place each time it appears (twice), and removing "$250,000" and adding "$300,000" in its place; and

b. Removing from paragraph (b) "$100,000" and adding "$150,000" in its place.

19.508 [Amended]

39. Amend section 19.508 by removing from paragraph (e) "$100,000" and adding "$150,000" in its place.

19.702 [Amended]

40. Amend section 19.702 by—

a. Removing from paragraph (a)(1) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place; and

b. Removing from paragraph (a)(2) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place.

19.704 [Amended]

41. Amend section 19.704 by removing from paragraph (a)(9) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place.

19.708 [Amended]

42. Amend section 19.708 by removing from paragraph (b)(1) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place.

19.805–1 [Amended]

43. Amend section 19.805–1 by removing from paragraph (a)(2) "$5.5 million" and adding "$6.5 million" in its place, and removing "$3.5 million" and adding "$4 million" in its place.

19.1202–2 [Amended]

44. Amend section 19.1202–2 by removing from paragraph (a) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place.

19.1306 [Amended]

45. Amend section 19.1306 by removing from paragraph (a)(2)(i) "$5.5 million" and adding "$6.5 million" in its place; and removing from paragraph (a)(2)(ii) "$3.5 million" and adding "$4 million" in its place.

19.1406 [Amended]

46. Amend section 19.1406 by removing from paragraph (a)(2)(i) "$5.5 million" and adding "$6 million" in its place; and removing from paragraph (a)(2)(ii) "$3 million" and adding "$3.5 million" in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.305 [Amended]

47. Amend section 22.305 by removing from paragraph (a) "$100,000" and adding "$150,000" in its place.

22.602 [Amended]

48. Amend section 22.602 by removing "$10,000" and adding "$15,000" in its place.

22.603 [Amended]

49. Amend section 22.603 by removing from paragraph (b) "$10,000" and adding "$15,000" in its place.

22.605 [Amended]

50. Amend section 22.605 by removing from paragraphs (a)(1), (a)(2), (a)(3), and (a)(5) "$10,000" and adding "$15,000" in its place each time it appears (six times).

22.1103 [Amended]

51. Amend section 22.1103 by removing "$550,000" and adding "$650,000" in its place.

22.1402 [Amended]

52. Amend section 22.1402 by removing from paragraph (a) "$10,000" and adding "$15,000" in its place.

22.1408 [Amended]

53. Amend section 22.1408 by removing from the introductory text of paragraph (a) "$10,000" and adding "$15,000" in its place.

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

23.406 [Amended]

54. Amend section 23.406 by removing from paragraph (d) "$100,000" and adding "$150,000" in its place.

PART 28—BONDS AND INSURANCE

28.102–1 [Amended]

55. Amend section 28.102–1 by removing from paragraphs (a) and (b)(1) "$100,000" and adding "$150,000" in its place.

28.102–2 [Amended]

56. Amend section 28.102–2 by removing from the headings of paragraphs (b) and (c) "*$100,000*" and adding "*$150,000*" in its place.

28.102–3 [Amended]

57. Amend section 28.102–3 by removing from paragraphs (a) and (b) "$100,000" and adding "$150,000" in its place.

PART 32—CONTRACT FINANCING

32.404 [Amended]

58. Amend section 32.404 by removing from paragraph (a)(7)(i) "$10,000" and adding "$15,000" in its place.

PART 36—CONSTRUCTION AND ARCHITECT—ENGINEER CONTRACTS

36.501 [Amended]

59. Amend section 36.501 by removing from paragraph (b) "$1,000,000" and adding "$1.5 million" in its place each time it appears (twice).

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.709 [Amended]

60. Amend section 42.709 by removing from paragraph (b) "$650,000" and adding "$700,000" in its place.

42.709–6 [Amended]

61. Amend section 42.709–6 by removing "$650,000" and adding "$700,000" in its place.

42.1502 [Amended]

62. Amend section 42.1502 by removing from paragraph (e) "$550,000" and adding "$650,000" in its place each time it appears (twice).

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

50.102–1 [Amended]

63. Amend section 50.102–1 by removing from paragraph (b) "$55,000" and adding "$65,000" in its place.

50.102–3 [Amended]

64. Amend section 50.102–3 by removing from paragraph (b)(4) "$28.5 million" and adding "$32 million" in its place; and removing from paragraphs (e)(1)(i) and (e)(1)(ii) "$55,000" and adding "$65,000" in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.203–7 [Amended]

65. Amend section 52.203–7 by removing from the clause heading "(Jul 1995)" and adding "(Date)" in its place; and removing from paragraph (c)(5) "$100,000" and adding "$150,000" in its place.

52.203–12 [Amended]

66. Amend section 52.203–12 by removing from the clause heading "(Sep 2007)" and adding "(Date)" in its place; and removing from paragraphs (g)(1) and (g)(3) "$100,000" and adding "$150,000" in its place.

52.204–8 [Amended]

67. Amend section 52.204–8 by removing from the provision heading "(Feb 2009)" and adding "(Date)" in its place; and removing from paragraph (c)(1)(ii) "$100,000" and adding "$150,000" in its place.

52.212–3 [Amended]

68. Amend section 52.212–3 by removing from the provision heading "(Aug 2009)" and adding "(Date)" in its place; and removing from paragraph (e) "$100,000" and adding "$150,000" in its place.

52.212–5 [Amended]

69. Amend section 52.212–5 by—

a. Removing from the clause heading "(Dec 2009)" and adding "(Date)" in its place;

b. Removing from paragraph (b)(11)(i) "(Apr 2008)" and adding "(Date)" in its place;

c. Removing from paragraph (b)(24) "(Jun 1998)" and adding "(Date)" in its place;

d. Removing from paragraph (e)(1)(ii) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place;

e. Removing from paragraph (e)(1)(vi) "(Jun 1998)" and adding "(Date)" in its place; and

f. In Alternate II by—

1. Removing from the Alternate heading "(Dec 2009)" and adding "(Date)" in its place;

2. Removing from paragraph (e)(1)(ii)(C) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place; and

3. Removing from paragraph (e)(1)(ii)(F) "(June 1998)" and adding "(Date)" in its place.

52.213–4 [Amended]

70. Amend section 52.213–4 by—

a. Removing from the clause heading "(Dec 2009)" and adding "(Date)" in its place;

b. Removing from paragraph (a)(2)(vi) "(Dec 2009)" and adding "(Date)" in its place;

c. Removing from paragraph (b)(1)(ii) "(Dec 1996)" and adding "(Date)" in its place, and removing "$10,000" and adding "$15,000" in its place; and

d. Removing from paragraph (b)(1)(iv) "(June 1998)" and adding "(Date)" in its place, and removing "$10,000" and adding "$15,000" in its place.

52.219–9 [Amended]

71. Amend section 52.219–9 by—

a. Removing from the clause heading "(Apr 2008)" and adding "(Date)" in its place;

b. Removing from paragraph (d)(9) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place;

c. Removing from the introductory text of paragraph (d)(11)(iii) "$100,000" and adding "$150,000" in its place; and

d. Removing from paragraph (l)(2)(i)(C) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place.

52.222–20 [Amended]

72. Amend section 52.222–20 by removing from the clause heading "(Dec 1996)" and adding "(Date)" in its place; and removing from the introductory paragraph "$10,000" and adding "$15,000" in its place.

52.222–36 [Amended]

73. Amend section 52.222–36 by removing from the clause heading "(Jun 1998)" and adding "(Date)" in its place; and removing from paragraph (d) "$10,000" and adding "$15,000" in its place.

52.225–8 [Amended]

74. Amend section 52.225–8 by removing from the clause heading "(Feb 2000)" and adding "(Date)" in its place; and removing from the introductory texts of paragraphs (c)(1) and (j)(2) "$10,000" and adding "$15,000" in its place.

52.228–15 [Amended]

75. Amend section 52.228–15 by removing from the clause heading "(Nov 2006)" and adding "(Date)" in its place; and removing from the introductory text of paragraph (b) "$100,000" and adding "$150,000" in its place.

52.244–6 [Amended]

76. Amend section 52.244–6 by—

a. Removing from the clause heading "(Dec 2009)" and adding "(Date)" in its place;

b. Removing from paragraph (c)(1)(iii) "$550,000" and adding "$650,000" in its place, and removing "$1,000,000" and adding "$1.5 million" in its place; and

c. Removing from paragraph (c)(1)(vi) "(Jun 1998)" and adding "(Date)" in its place.

52.248–1 [Amended]

77. Amend section 52.248–1 by removing from the clause heading "(Feb 2000)" and adding "(Date)" in its place; and removing from paragraph (l) "$100,000" and adding "$150,000" in its place.

52.248–3 [Amended]

78. Amend section 52.248–3 by removing from the clause heading "(Sep 2006)" and adding "(Date)" in its place; and removing from paragraph (h) "$55,000" and adding "$65,000" in its place.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket OST–2010–0026]

RIN 2105–AD95

Procedures for Transportation Workplace Drug and Alcohol Testing Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation is proposing to amend certain provisions of its drug testing procedures dealing with laboratory testing of urine specimens. Some of the proposed changes will also affect the roles and standards applying to collectors and Medical Review Officers. The proposed changes are intended to create consistency with new requirements established by the U.S. Department of Health and Human Services Mandatory Guidelines.

DATES: Comments to the notice of proposed rulemaking should be submitted by April 5, 2010. Late-filed comments will be considered to the extent practicable.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor Room W12–140, Washington, DC 20590–0001;
- *Hand Delivery:* West Building Ground Floor, Room W–12–140 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329;

Instructions: You must include the agency name and docket number DOT–OST—or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided

FOR FURTHER INFORMATION CONTACT:

Mark Snider, Senior Policy Advisor (S–1), Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Ave., SE., Washington, DC 20590; telephone number 202–366–3784 (voice), 202–366–3897 (fax), or *mark.snider@dot.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

Purpose

In its final rule of December 2000 [65 FR 79562, Dec. 19, 2000], the U.S. Department of Transportation (DOT) made significant changes to the drug testing rules to include making specimen validity testing (SVT) mandatory for the transportation industry contingent upon U.S. Department of Health and Human Services (HHS) publishing its Mandatory Guidelines on SVT. In late 2001, the DOT amended part 40 [66 FR 41944, Aug. 9, 2001] to remove the mandatory requirement because HHS had not finalized its Mandatory Guidelines regarding SVT. We said that SVT would remain authorized but not required.

On April 13, 2004, HHS published a **Federal Register** notice revising its Mandatory Guidelines [69 FR 19644] with an effective date of November 1, 2004. Among the revisions contained in the HHS Mandatory Guidelines were the requirements that laboratories modify substituted specimen and diluted specimen testing and reporting criteria. HHS revised laboratory requirements for adulterated specimen testing. HHS also required each Federal agency to conduct SVT to determine if urine specimens collected under HHS Federal Workplace Drug Testing Programs have been adulterated or substituted.

In an interim final rule (IFR) [69 FR 64865, Nov. 9, 2004], the DOT changed a number of items in its regulation to make part 40 and the HHS Mandatory Guidelines consistent. We did this to avoid conflicting requirements that implementation of both rules would have had on laboratories and Medical Review Officers (MROs).

In the 2004 IFR, we indicated that we intended to fully address all aspects of the HHS changes to their Mandatory Guidelines in a future DOT notice of proposed rulemaking (NPRM). In an NPRM [70 FR 62276, Oct. 31, 2005], the DOT sought comments to include SVT mandatory for the transportation industry, and the instructions that were given to MROs, laboratories, and employers with respect to adulterated, substituted, diluted, and invalid drug testing results. In a final rulemaking [73 FR 35961, Jun. 25, 2008] the DOT finalized these requirements to include making SVT mandatory for the transportation industry.

On November 25, 2008, HHS issued a Notice of Revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Revisions to Mandatory Guidelines) [73 FR 71858, Nov 28, 2008]. The HHS revised some of their requirements for collecting and testing urine specimens, initiated requirements for the certification of Instrumented Initial Test Facilities (IITFs), and expanded upon the roles of and standards for collectors and MROs.

We are issuing this notice of proposed rulemaking to offer changes to 49 CFR Part 40 in an effort to create consistency with this latest set of requirements established by HHS.

Principal Policy Issues

Harmonization With HHS

In this NPRM we are seeking to harmonize our proposals for laboratories, collectors, MROs, and employers with the new requirements contained in the revised HHS Mandatory Guidelines. Here are the most noteworthy of the coordinated proposals:

1. We propose to modify some of our definitions and add a few new definitions in order to make them consistent with the HHS Mandatory Guidelines definitions.

2. We propose to allow DOT employers to choose between a full service laboratory and an IITF. An IITF would only be able to provide results to employers for negative and negative dilute specimens, as well as specimens they reject for testing. All other specimens would be forwarded to an HHS certified laboratory.

3. We propose to modify regulations to add IITFs to the laboratory section of this regulation and spell-out how an IITF should perform urine testing. An ITTF could conduct Initial Tests and SVT for all DOT employer programs. When an IITF discovers a non-negative drug test result, it will have to forward that result to a full service laboratory to perform a full analysis of the specimen and report the results to the employer's MRO.

4. The DOT is also proposing to adopt the following HHS laboratory testing requirements:

- Conduct Initial Testing for Methylenedioxymethamphetamine (MDMA);
- Conduct Confirmatory Testing for MDMA, Methylenedioxyamphetamine (MDA), and Methylenedioxyethylamphetamine (MDEA);
- Conduct Initial Testing for 6–Acetylmorphines.
- Lower the Initial Test and Confirmatory Test cutoff concentrations for Amphetamines; and
- Lower the Initial Test and Confirmatory Test cutoff concentrations for Cocaine.

We would note here that past experience has shown that DOT has never deviated from HHS on laboratory testing matters—the drugs for which we test, the specimens we test, specimen validity testing values, initial and confirmatory cutoff values, and laboratory testing processes and procedures, among others. Also, DOT is required by the Omnibus Transportation Employee Testing Act of 1991 to adhere with the HHS on these important laboratory testing matters.

5. We are also proposing to amend Appendix B so that IITFs will be required to report semi-annual test reports to employers, as appropriate. Appendix C would also be modified to require IITFs to report semi-annual test data to the DOT.

6. Finally, the HHS Mandatory Guidelines will require that nationally-recognized MRO certification entities or subspecialty boards for medical practitioners in the field of medical review must have their qualifications, training programs, and examinations approved by HHS on an annual basis. The DOT is seeking comment on whether part 40 should require these groups to be approved. Would the DOT program be better served if we sought a shared approval process with the HHS? In addition, the DOT is seeking comments on whether part 40, at 49 CFR Part 40.121(d), should be amended by removing the requirement that MROs must complete 12 Continuing Education Units (CEUs) pertaining to DOT and MRO practices every three years, and instead require MROs to be recertified every five years by an MRO certification board or subspecialty board. We believe this is a cost neutral proposition, and may even prove less costly because many MROs obtain both the 12 CEUs every 3 years and the MRO recertification every 5 years.

While we have sought to harmonize our proposed regulations with the new

HHS requirements, there remain some for which we have not proposed changes to some of our longstanding procedures. For items left unchanged in the HHS Guidelines from previous iterations, we believe there is no need to address them again. We have found that our procedures have worked well within and for the transportation industries. In addition, we must consider program costs and the value added in adopting some of the new HHS Mandatory Guidelines procedures.

For example, the DOT does not propose to require observers to receive advanced formalized training to learn about the steps necessary to perform a direct observation collection (DO collection). The current process of having a qualified and trained collector provide immediate, precise, and relevant instructions to an observer at the time of a DO collection is very appropriate and has been for years. That way, the Department can be assured that the requisite instructions are provided each time that a DO collection is required, no matter how many, or few, an observer has already accomplished. In addition, the costs associated with formally training observers (and the resulting limitation on available observers) do not outweigh any minimal benefits to arguably be obtained by training observers in advance instead of providing timely and relevant instructions on site at the time of the DO collection. The DOT is not aware of any cases where it was not effective to have the qualified and trained collector instruct the observer at the time the DO collection is to occur, and to do so each time a DO collection is required.

Also, the DOT does not propose to change our longstanding regulatory position that a collector need not obtain prior approval from collection site supervisor before performing a DO collection. Requiring collectors to get approval from collection site supervisors would create difficult logistical issues that would complicate the process. There are numerous instances where the collector is alone or does not have immediate access to a collection site supervisor. In fact, the collector may be the site supervisor. Many collections occur off-site or in the middle of the night where and when supervisors would not be available, and requiring consultation with an unavailable supervisor would prove onerous and serve only to delay unnecessarily the DO process. We believe the collectors should continue to make these DO collection decisions and to continue basing those decision upon the clear requirements set forth in part 40.

Also, we will not propose to change the duration of the paperwork retention requirement for collectors. HHS will require collectors to keep Copy 3 for two years. The DOT believes the current 30 days is sufficient in the DOT program. Retention for 30 days has proven a sufficient amount of time in which ensure that a CCF copy with the employee's signature would be available to the MRO's CCF copy were not available. Requiring document retention for three years would greatly increase the paperwork burden without any added safety or efficiency benefit.

Under the revised HHS Mandatory Guidelines, Federal agencies will be required to audit 5 percent or a maximum of 50 of their collection sites. DOT believes that creating a parallel requirement for transportation industry employers would be very expensive to employers in the DOT program in terms of time and resources, with few efficiency and/or safety benefits. The DOT would anticipate seeing more effective monitoring by the collection site parent organizations in an effort to ensure employers that sites under their organization umbrellas, with which employers are contracting, are properly conducting collections. The DOT Agencies and United States Coast Guard also provide on-site audits and inspections of collection sites. They have also increased their efforts to include mock collections and more clandestine inspections. All of these provide added oversight to determine whether collection site personnel are properly performing collections and whether collection sites adhere to the DOT's security and integrity requirements.

The revised HHS Mandatory Guidelines will require at least 3 percent blind specimen testing, compared to DOT's current 1 percent. We believe our current requirements represent a good balance between considerations of reducing burdens and maintaining an effective check upon laboratory performance. We have had few if any laboratory accuracy problems over the history of the program, and we believe that we can continue to ensure that this pattern continues while reducing burdens and costs on participants. Coupled with the HHS requirements and the additional proficiency testing required for laboratory certification, the blinds submitted via the DOT requirements are quite ample.

The new HHS Mandatory Guidelines require MROs to retain records for two years. The current DOT regulations currently require that MROs to follow the employer's recordkeeping requirements, one year for negative results and 5 years for non-negative results. The DOT is comfortable with the existing provision, but seeks comments about what types of MRO records should be covered under the record keeping requirements. Is it normal practice for an MRO to include in his or her paperwork personal notes and conversations with laboratory personnel? What other types of records would MROs normally be required to keep as part of this paperwork requirement? The DOT would like for MROs to provide comment upon what they believe are records DOT inspectors or auditors could expect to see when reviewing MROs records as part of the overall compliance audit of a DOT-regulated employer.

In addition, we propose to limit IITF and MRO relationships similar to the limits placed upon laboratory and MRO relationships. We are also proposing that MROs treat MDMA positives like any other Schedule I drug for which we test: MROs must not accept an assertion that there is a legitimate medical explanation for the presence of MDMA in a specimen.

Section-by-Section NPRM Issues

1. *Index Changes*—We would modify some existing section headings and add new section headings in order to reflect regulation text changes. All told, 39 sections of our regulation are proposed to be modified or added.

2. *Definition changes*—In order to align our definitions section (§ 40.3) more closely with definitions contained in the HHS Mandatory Guidelines, we propose to modify some of our existing definitions and add some new ones. We revised the definitions of "adulterated specimen," "blind specimen or blind performance test specimen," "cancelled test," "confirmatory drug test," "confirmatory validity test," "initial drug test (also known as a screening drug test," "invalid result," "laboratory," "limit of detection (LOD)," "performance testing (PT) sample," "primary specimen," and "split specimen." We also added several new definitions.

3. *Appendix Items*—At Appendix B, we propose to modify the semi-annual laboratory report to employers so that it will have the same information required by the HHS Mandatory Guidelines. The report will also require laboratories to report the number of positive results for MDMA. We also provide additional clarification to IITFs about what data they should report and how they are to report it to employers. The proposed changes, while not dramatic, will help laboratories and IITFs avoid needing

two different report formats, one for DOT and one for HHS.

At Appendix C, we provide clarification to IITFs about what data they should report and how they are to report it to the DOT on a semi-annual basis.

Other Issues

The Department is aware that HHS is preparing an NPRM which will propose changes to the current Federal Drug Testing Custody and Control Form (CCF). If changes are adopted by HHS, they would likely have some impact upon the DOT procedural requirements for collectors, laboratories, and MRO's. When the HHS rule on the revised CCF is published, the Department will make necessary changes to part 40.

Some individuals have recently raised issues about screening and confirmation of 6–AM at 10 ng/mL without the need show the presence of morphine in the specimen. If there are factual, evidence-based concerns, we would like to hear them. If there are such valid concerns, are there viable laboratory testing resolutions to the issue? Or must the regulation provide additional instruction to MROs about how to deal with a positive heroin result? What would that instruction be?

Regulatory Analyses and Notices

The statutory authority for this rule derives from the Omnibus Transportation Employee Testing Act of 1991 (49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 45101 *et seq.*) and the Department of Transportation Act (49 U.S.C. 322).

This rule is not significant for purposes of Executive Order 12866 or the DOT's regulatory policies and procedures. It proposes modifications to our overall part 40 procedures and is intended only to further align our laboratory procedures and processes, as well as a few collection and MRO procedures, with those requirements that are being directed by the HHS Guidelines which were considered non-significant. Their economic effects will be negligible for DOT regulated employers. Consequently, the DOT certifies, under the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities.

We would note that all HHS-certified laboratories must have the capability to accurately test for MDMA in order to pass certification requirements of the National Laboratory Certification Program. In addition, Federal Agency employee testing programs will have to test for MDMA, as well as amphetamine and cocaine at the new cutoffs. Our harmonizing on these matters will only bring clarity and consistency to the efforts of the Federal testing programs, programs that are internal to the Federal Government and those that are regulated by the Federal Government.

HHS has estimated that there may be 10% more users of amphetamine and cocaine identified using the lowered cutoffs and testing for new drugs. HHS says the incidence and prevalence of amphetamines and cocaine use is very low. Our data supports this fact. From July 1, 2008 through June 30, 2009, the DOT's regulated-transportation industry program had 14,440 amphetamine positive and 15,675 cocaine positive laboratory results in the 5,444,255 total test results reported. These relatively small numbers mean that MRO review costs and burdens resulting from additional requirements in the proposed rule should be minimal.

In the DOT-regulated industries, more positive results should not impose a significant economic impact or burdens on testing laboratories. The Department has obtained information on costs for MDMA and 6–AM testing at 11 laboratories representing about 3.6 million DOT tests, approximately 67 percent of the 5,444,255 tests mentioned above for the July 2008—June 2009 period. Because the cost per test varies among laboratories (from a low of $0.06 per MDMA or 6–AM test to a high of $1.27 per test for MDMA tests and $2.27 per test for 6–AM tests), appearing to depend in part on the volume of tests at each laboratory, the Department calculated a weighted average cost per test for the industry. Given the number of tests conducted by each laboratory, MDMA tests would have cost a weighted average of $0.09 per test; 6–AM tests would have a weighted average cost of $0.26 per test. The actual dollar cost of the tests at the 11 laboratories would have been $392,125 for MDMA, $569,024 for 6–AM, and $961,419 combined. Extrapolating the weighted average costs per test to the 100 percent of the DOT tests would result in an estimated cost of $489,982 for MDMA tests, $871,081 for 6–AM tests, and $1,361,063 combined.

We have concluded that this rule is not significant for purposes of Executive Order 12866 or the DOT's regulatory policies and procedures. In addition to its low costs, it proposes modifications to our overall part 40 procedures and is intended only to further align our laboratory procedures and processes, as well as some collection and MRO procedures, in order to harmonize DOT procedures with requirements that are being directed by HHS Mandatory Guidelines, which were themselves deemed to be non-significant rules.

List of Subjects in 49 CFR Part 40

Administrative practice and procedures, Alcohol abuse, Alcohol testing, Drug abuse, Drug testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

Issued this 20th day of January 2010 at Washington, DC.

Ray LaHood,

Secretary of Transportation.

For reasons discussed in the preamble, the Department of Transportation proposes to amend part 40 of Title 49 Code of Federal Regulations, as follows:

PART 40—PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

1. The authority citation for 49 CFR Part 40 continues to read as follows:

Authority: 40 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 54101 *et seq.*

2. Section 40.3 is amended as follows:

A. Revise the definitions of *Adulterated specimen, Blind Specimen or blind performance test specimen, Cancelled test, Confirmatory drug test, Initial drug test, Invalid result, Laboratory, and Limit of Detection.*

B. Add definitions of Alternate Responsible Technician, Certifying Scientist (CS), Certifying Technician (CT), Instrumented Initial Test Facility (IITF), Limit of Quantitation, Negative result, Positive result, Reconfirmed, Rejected for testing, Responsible Person (RP), Responsible Technician (RT), and Split specimen collection in alphabetical order.

The revisions and additions read as follows:

§ 40.3 What do the terms used in this regulation mean?

* * * * *

Adulterated specimen. A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

* * * * *

Alternate Responsible Technician. The person who assumes professional, organizational, educational, and administrative responsibility for the day-to-day management of the HHS-certified IITF when the responsible

technician is unable to fill these obligations.

* * * * *

Blind Specimen or blind performance test specimen. A specimen submitted to an HHS-certified laboratory or an HHS-certified IITF for quality control testing purposes, with a fictitious identifier, so that the laboratory or IITF cannot distinguish it from an employee specimen.

* * * * *

Cancelled test. The result reported by the MRO to the employer when a specimen has been reported to the MRO as invalid result (and the donor has no legitimate explanation) or rejected for testing, when a split specimen fails to reconfirm, or when the MRO determines that a fatal flaw or unrecovered correctable error exists in the forensic records.

Certifying Scientist (CS). The individual responsible for verifying the chain of custody and scientific reliability of any test result reported by an HHS-certified laboratory.

Certifying Technician (CT). The individual responsible for verifying the chain of custody and scientific reliability of negative, negative/dilute, and rejected for testing results reported by a laboratory or IITF.

* * * * *

Confirmatory drug test. A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or drug metabolite.

* * * * *

Initial drug test. The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

* * * * *

Instrumented Initial Test Facility (IITF). A permanent location where initial testing, reporting of results, and recordkeeping are performed under the supervision of a responsible technician. Any U.S. IITF certified by HHS under the National Laboratory Certification Program as meeting the IITF minimum standards of Subpart I of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, an IITF approved for participation by DOT under this part. (The HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs are available on the Internet at *http://www.health.org/workpl.htm* or from the Division of Workplace Programs, 1 Choke Cherry Road, Room 2–1035, Rockville, MD 20857).

* * * * *

Invalid result. The result reported by an HHS-certified laboratory in accordance with the criteria established in HHS Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory. A permanent location where initial and confirmatory testing, reporting of results, and recordkeeping is performed under the supervision of a responsible person. Any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the laboratory minimum standards of Subpart I of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection. The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

* * * * *

Limit of Quantitation. For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

* * * * *

Negative result. The result reported by an HHS-certified laboratory or an HHS-certified IITF to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for that drug or drug class and the specimen is a valid specimen.

* * * * *

Positive result. The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentration.

* * * * *

Reconfirmed. The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

* * * * *

Rejected for testing. The result reported by an HHS-certified laboratory or HHS-certified IITF when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that is not corrected.

Responsible Person (RP). The person who assumes professional, organizational, educational, and administrative responsibility for the day-to-day management of the HHS-certified laboratory.

Responsible Technician (RT). The person who assumes professional, organizational, educational, and administrative responsibility for the day-to-day management of the HHS-certified IITF.

* * * * *

Split specimen collection. A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

* * * * *

3. In § 40.13, paragraph (c) is revised, to read as follows:

§ 40.13 How do DOT drug and alcohol tests relate to non-DOT tests?

* * * * *

(c) Except as provided in paragraph (d) of this section, you must not perform any tests on DOT urine or breath specimens other than those specifically authorized by this part or DOT agency regulations. For example, you must not test a DOT urine specimen for additional drugs; and a laboratory or IITF is prohibited from making a DOT urine specimen available for a DNA test or other types of specimen identity testing.

* * * * *

4. Section 40.27 is revised, to read as follows:

§ 40.27 May an employer require an employee to sign a consent or release in connection with the DOT drug and alcohol testing program?

No, as an employer, you must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory or IITF testing, MRO and SAP services).

5. In § 40. 41, paragraph (c) is revised, to read as follows:

§ 40.41 Where does a urine collection for a DOT drug test take place?

* * * * *

(c) If you are operating a collection site, you must have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, temporary storage, and shipping of urine specimens to a laboratory or IITF, and a suitable clean surface for writing.

* * * * *

6. In § 40.45, paragraphs (b) and (d) are revised, to read as follows:

§ 40.45 What form is used to document a DOT urine collection?

* * * * *

(b) You must not use a non-Federal form or an expired Federal form to

conduct a DOT urine collection. As a laboratory or IITF, C/TPA or other party that provides CCFs to employers, collection sites, or other customers, you must not provide copies of an expired Federal form to these participants. You must also notify these participants that they must not use an expired Federal form.

* * * * *

(d) Under no circumstances may the CCF transmit personal identifying information about an employee (other than a social security number (SSN) or other employee identification (ID number)) to a laboratory or IITF.

* * * * *

7. Section 40.51 is revised, to read as follows:

§ 40.51 What materials are used to send urine specimens to the laboratory or IITF?

(a) Except as provided in paragraph (b) of this section, you must use a shipping container that adequately protects the specimen bottles from shipment damage in the transport of specimens from the collection site to the laboratory or IITF.

(b) You are not required to use a shipping container if a laboratory or IITF courier hand-delivers the specimens from the collection site to the laboratory or IITF.

8. In § 40.73, paragraphs (a)(2), (a)(8)(iii), and (b) are revised, to read as follows:

§ 40.73 How is the collection process completed?

(a) * * *

(2) Complete the chain of custody on the CCF (Step 4) by printing your name (**Note:** You may pre-print your name), recording the time and date of the collection, signing the statement, and entering the name of the delivery service transferring the specimen to the laboratory or IITF,

(8) * * *

(iii) If a laboratory or IITF courier hand-delivers the specimens from the collection site to the laboratory or IITF, prepare the sealed plastic bag for shipment as directed by the courier service.

* * * * *

(b) As a collector or collection site, you must ensure that each specimen you collect is shipped to a laboratory or IITF as quickly as possible, but in any case within 24 hours or during the next business day.

9. In § 40.81, the section heading and paragraphs (b) through (d) are revised, and paragraphs (e) and (f) are added, to read as follows:

§ 40.81 What laboratories or IITFs may be used for DOT drug testing?

* * * * *

(b) As an IITF located in the U.S., you are permitted to participate in DOT drug testing only if you are certified by HHS under the NLCP for initial testing required under this part.

(c) As a drug testing laboratory located in Canada or Mexico which is not certified by HHS under the NLCP, you are permitted to participate in DOT drug testing only if:

(1) The DOT, based on a written recommendation from HHS, has approved your laboratory as meeting HHS laboratory verification standards, or deemed your laboratory or IITF fully equivalent to a laboratory meeting HHS laboratory certification standards for testing required under this part; or

(2) The DOT, based on a written recommendation from HHS, has recognized a Canadian or Mexican certifying organization as having equivalent laboratory certification standards and procedures to those of HHS, and the Canadian or Mexican certifying organization has certified your laboratory under those equivalent standards and procedures.

(d) As an IITF located in Canada or Mexico which is not certified by HHS under the NLCP, you are permitted to participate in DOT drug testing only if:

(1) The DOT, based on a written recommendation from HHS, has approved your IITF as meeting HHS laboratory verification standards, or deemed your laboratory or IITF fully equivalent to a laboratory meeting HHS laboratory certification standards for testing required under this part; or

(2) The DOT, based on a written recommendation from HHS, has recognized a Canadian or Mexican certifying organization as having equivalent IITF certification standards and procedures to those of HHS, and the Canadian or Mexican certifying organization has certified your IITF under those equivalent standards and procedures.

(e) As a laboratory or IITF participating in the DOT drug testing program, you must comply with the requirements of this part. You must also comply with all applicable requirements of HHS in testing DOT specimens, whether or not the HHS requirements are explicitly stated in this part.

(f) If DOT determines that you are in noncompliance with this part, you could be subject to PIE proceedings under Subpart R of this part. If the Department issues a PIE with respect to you, you are ineligible to participate in the DOT drug testing program even if you continue to meet the requirements of paragraph (a), (b), (c), or (d) of this section.

10. In § 40.83, the section heading, the introductory text, and paragraphs (h)(1)(i), (h)(1)(iii), (h)(1)(iv), (h)(2), and (i) are revised, to read as follows:

§ 40.83 How do laboratories or IITFs process incoming specimens?

As the laboratory or IITF, you must do the following when you receive a DOT specimen from a collection site:

(a) You are authorized to receive only copy (1) of the CCF. You are not authorized to receive other copies of the CCF nor any copies of the alcohol testing form.

* * * * *

(h) * * *

(1) * * *

(i) The primary specimen appears to have leaked out of its sealed bottle and the laboratory believes a sufficient amount of urine exists in the split specimen to conduct all appropriate primary laboratory or IITF testing; or

(ii) * * *

(iii) The laboratory or IITF opens the split specimen instead of the primary specimen, the primary specimen remains sealed, and the laboratory or IITF believes a sufficient amount of urine exists in the split specimen to conduct all appropriate primary laboratory or IITF testing; or

(iv) The primary specimen seal is broken but the split specimen remains sealed and the laboratory or IITF believes a sufficient amount of urine exists in the split specimen to conduct all appropriate primary laboratory testing.

(2) In situations outlined in paragraph (h)(1) of this section, the laboratory or IITF shall mark through the "A" and write "B," then initial and date the change. A corresponding change shall be made to the other bottle by marking through the "B" and writing "A," and initialing and dating the change.

(i) A notation shall be made on Copy 1 of the CCF (Step 5a) and on any laboratory or IITF internal chain of custody documents, as appropriate, for any fatal or correctable flaw.

11. A new § 40.84 is added, to read as follows:

§ 40.84 How do laboratories process and test specimens received from an IITF?

(a) As a laboratory, you must process each specimen received from an IITF you must do so following the appropriate procedures outlined in the HHS Mandatory Guidelines.

(b) You must test each specimen received from an IITF in the same manner as if it had not been previously tested.

12. Section 40.85 is revised, to read as follows:

§ 40.85 For what drugs do laboratories or IITFs test?

As a laboratory or IITF, you must test for the following five drugs or classes of drugs in a DOT drug test. You must not test "DOT specimens" for any other drugs.

(a) Marijuana metabolites.

(b) Cocaine metabolites.

(c) Amphetamines.

(d) Opiate metabolites.

(e) Phencyclidine (PCP).

13. Section 40.87 is revised, to read as follows:

§ 40.87 What are the cutoff concentrations for initial and confirmation tests?

(a) As a laboratory, you must use the Initial Test and Confirmatory Test cutoff concentrations displayed in the following table. As an IITF, you must use the Initial Test cutoff concentrations displayed in the following table. All cutoff concentrations are expressed in nanograms per milliliter (ng/mL). The table follows:

Initial test analyte	Initial test cutoff concentration	Confirmatory test analyte	Confirmatory test cutoff concentration
Marijuana metabolites	50 ng/mL	THCA [1]	15 ng/mL.
Cocaine metabolites	150 ng/mL	Benzoylecgonine	100 ng/mL.
Opiate metabolites:			
Codeine/Morphine [2]	2000 ng/mL	Codeine	2000 ng/mL.
		Morphine	2000 ng/mL.
6-Acetylmorphine	10 ng/mL	6-Acetylmorphine	10 ng/mL.
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL.
Amphetamines: [3]			
AMP/MAMP [4]	500 ng/mL	Amphetamine	250 ng/mL.
		Methamphetamine [5]	250 ng/mL.
MDMA [6]	500 ng/mL	MDMA	250 ng/mL.
		MDA [7]	250 ng/mL.
		MDEA [8]	250 ng/mL.

[1] Delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA).
[2] Morphine is the target analyte for codeine/morphine testing.
[3] Either a single initial test kit or multiple initial test kits may be used provided the single test kit detects each target analyte independently at the specified cutoff.
[4] Methamphetamine is the target analyte for amphetamine/methamphetamine testing.
[5] To be reported positive for methamphetamine, a specimen must also contain amphetamine at a concentration equal to or greater than 100 ng/mL.
[6] Methylenedioxymethamphetamine (MDMA).
[7] Methylenedioxyamphetamine (MDA).
[8] Methylenedioxyethylamphetamine (MDEA).

(b) As a laboratory or IITF, on an initial drug test you must report a result below the cutoff concentration as negative.

(c) If the result is at or above the cutoff concentration:

(1) As a laboratory, you must conduct a confirmation test.

(2) As an IITF, you must forward the specimen and its split to an HHS-certified laboratory; and you must do so following the appropriate procedures outlined in the HHS Mandatory Guidelines.

(d) As a laboratory, on a confirmation drug test you must report a result below the cutoff concentration as negative and a result at or above the cutoff concentration as confirmed positive.

(e) As a laboratory, you must report quantitative values for morphine or codeine at 15,000 ng/mL or above.

14. In § 40.89, the section heading and paragraph (b) are revised, to read as follows:

§ 40.89 What is validity testing, and are laboratories or IITFs required to conduct it?

* * * * *

(b) As a laboratory or IITF you must conduct validity testing.

15. Section 40.91 is revised to read as follows:

§ 40.91 What validity tests must laboratories and IITFs conduct on primary specimens?

As a laboratory or IITF, when you conduct validity testing under § 40.89, you must conduct it in accordance with the requirements of this section; and you must ensure that the following specimen validity tests are conducted on each specimen:

(a) You must determine the creatinine concentration on every specimen;

(b) You must determine the specific gravity on every specimen for which the creatinine concentration is less than 20 mg/dL;

(c) You must determine the pH on every specimen; and

(d) You must perform one or more specimen validity tests for oxidizing adulterants on every specimen.

(e) If a specimen exhibits abnormal physical characteristics (*e.g.,* unusual odor or color, semi-solid characteristics), causes reactions or responses characteristic of an adulterant during initial or confirmatory drug tests (*e.g.,* non-recovery of standards, unusual response), or contains an unidentified substance that interferes with the confirmatory analysis, then additional testing may be performed.

(f) As a laboratory, if you determine that the specimen is invalid and HHS Guidelines direct you to contact the MRO, you must contact the MRO and together decide if testing the primary specimen by another HHS certified laboratory would be useful in being able to report a positive or adulterated test result.

(g) As an IITF, if you determine that a specimen is adulterated, substituted, or invalid you must forward that specimen and its split to a HHS certified laboratory.

16. A new § 40.92 is added to read as follows:

§ 40.92 What specimen validity test criteria must be met in order for an IITF to send specimens to an HHS-certified laboratory?

(a) As an IITF, you must forward specimens to an HHS-certified laboratory when the creatinine test result is equal to or less than 5.0 mg/dL or when the screening specific gravity test result is less than 1.002.

(b) As an IITF, you must forward specimens to an HHS-certified

laboratory when the pH is less than 4.5 or equal to or greater than 9.0.

(c) As an IITF, your must forward specimens to an HHS-certified laboratory when the nitrite concentration is equal to or greater than 200 mcg/mL must be forwarded to an HHS-certified laboratory.

(d) As an IITF, you must forward specimens to an HHS-certified laboratory if the oxidizing adulterant result is equal to or greater than the cutoff.

(e) As an IITF, you must forward specimens to an HHS-certified laboratory in accordance with the invalid test result criteria required by the HHS Guidelines.

17. A new § 40.98 is added to read as follows:

§ 40.98 What do IITFs report and how do they report it?

(a) As an IITF, you may only report negative results and rejected for testing results.

(b) When a specimen is found to be negative, you must report the test result as being one of the following:

(1) Negative, or

(2) Negative-dilute, with numerical values for creatinine and specific gravity. The creatinine values must be greater than 5 mg/dL but less than 20 mg/dL; and the specific gravity values must be equal to or greater than 1.002 but less than 1.003.

(c) As an IITF, you must report the results directly, and only, to the MRO at his or her place of business. You must not report results to or through the DER or a service agent (*e.g.,* C/TPA).

(1) You must fax, courier, mail, or electronically transmit a legible image or copy of the fully-completed Copy 1 of the CCF which has been signed by the certifying technician, or you may provide the IITF results report electronically (*i.e.,* computer data file).

(i) If you elect to provide electronically the IITF results report, you must include the following elements, as a minimum, in the report format:

(A) IITF name and address;

(B) Employer's name (you may include I.D. or account number);

(C) Medical review officer's name;

(D) Specimen I.D. number;

(E) Donor's SSN or employee I.D. number, if provided;

(F) Reason for test, if provided;

(G) Collector's name and telephone number;

(H) Date of the collection;

(I) Date received at the IITF;

(J) Certifying Technician's name;

(K) Date Certifying Technician released the results;

(L) Results (*i.e.,* Negative, Negative-Dilute (with values for creatinine and specific gravity), or Rejected for Testing (with reason).

(ii) [Reserved]

(2) [Reserved]

(d) As an IITF, any primary specimen that tested positive, adulterated, substituted, or invalid you must forward the remaining specimen and split specimen to a HHS certified laboratory, following the procedures outlined in the HHS Mandatory Guidelines.

18. A new § 40.100 is added to read as follows

§ 40.100 How long must an IITF retain a specimen?

A specimen that is negative, negative-dilute, or rejected for testing is discarded.

19. Section 40.101 is revised, to read as follows:

§ 40.101 What relationship may a laboratory or IITF have with an MRO?

(a) As a laboratory or IITF, you must not enter into any relationship with an MRO that creates a conflict of interest or the appearance of a conflict of interest with the MRO's responsibilities for the employer. You must not derive any financial benefit by having an employer use a specific MRO.

(b) The following are examples of relationships between laboratories or IITFs and MROs that the Department regards as creating conflicts of interest, or the appearance of such conflicts. This following list of examples is not intended to be exclusive or exhaustive:

(1) The laboratory or IITF employs an MRO who reviews test results produced by the laboratory or IITF;

(2) The laboratory or IITF has a contract or retainer with the MRO for the review of test results produced by the laboratory or IITF;

(3) The laboratory or IITF designates which MRO the employer is to use, gives the employer a slate of MROs from which to choose, or recommends certain MROs;

(4) The laboratory or ITTF gives the employer a discount or other incentive to use a particular MRO;

(5) The laboratory or IITF has its place of business co-located with that of an MRO or MRO staff who review test results produced by the laboratory or IITF; or

(6) The laboratory or IITF permits an MRO, or an MRO's organization, to have a financial interest in the laboratory or IITF.

20. In § 40.103, the section heading, paragraphs (a) and (b), paragraph (c) introductory text, paragraph (d) introductory text, and paragraph (d)(1) are revised, to read as follows:

§ 40.103 What are the requirements for submitting blind specimens to a laboratory or IITF?

(a) As an employer or C/TPA with an aggregate of 2000 or more DOT-covered employees, you must send blind specimens to laboratories or IITFs you use. If you have an aggregate of fewer than 2000 DOT-covered employees, you are not required to provide blind specimens.

(b) To each laboratory or IITF to which you send at least 100 specimens in a year, you must transmit a number of blind specimen's equivalent to one percent of the specimens you send to that laboratory or IITF, up to a maximum of 50 blind specimens in each quarter (*i.e.,* January–March, April–June, July–September, October–December). As a C/TPA, you must apply this percentage to the total number of DOT-covered employees' specimens you send to the laboratory or IITF. Your blind specimen submissions must be evenly spread throughout the year. The following examples illustrate how this requirement works:

Example 1 to Paragraph (b). You send 2500 specimens to Lab or IITF X in Year 1. In this case, you would send 25 blind specimens to Lab or IITF X in Year 1. To meet the even distribution requirement, you would send 6 in each of three quarters and 7 in the other.

Example 2 to Paragraph (b). You send 2000 specimens to Lab or IITF X and 1000 specimens to Lab or IITF Y in Year 1. In this case, you would send 20 blind specimens to Lab or IITF X and 10 to Lab or IITF Y in Year 1. The even distribution requirement would apply in a similar way to that described in Example 1.

Example 3 to Paragraph (b). Same as Example 2, except that you also send 20 specimens to Lab or IITF Z. In this case, you would send blind specimens to Labs or IITFs X and Y as in Example 2. You would not have to send any blind specimens to Lab or IITF Z, because you sent fewer than 100 specimens to Lab or IITF Z.

Example 4 to Paragraph (b). You are a C/TPA sending 2000 specimens to Lab or IITF X in Year 1. These 2000 specimens represent 200 small employers who have an average of 10 covered employees each. In this case you—not the individual employers—send 20 blind specimens to Lab or IITF X in Year 1, again ensuring even distribution. The individual employers you represent are not required to provide any blind specimens on their own.

Example 5 to Paragraph (b). You are a large C/TPA that sends 40,000 specimens to Lab or IITF Y in Year 1. One percent of that figure is 400. However, the 50 blind specimen per quarter "cap" means that you need send only 50 blind specimens per quarter, rather than the 100 per quarter you would have to send to meet the one percent rate. Your annual total would be 200, rather than 400, blind specimens.

(c) Approximately 75 percent of the specimens you submit must be negative

(*i.e.,* containing no drugs, nor adulterated or substituted). Approximately 15 percent must be positive for one or more of the five drugs involved in DOT tests, and approximately 10 percent must either be adulterated with a substance cited in HHS guidance or substituted (*i.e.,* having specific gravity and creatinine meeting the criteria of § 40.93(b)).

* * * * *

(d) You must ensure that each blind specimen is indistinguishable to the laboratory or IITF from a normal specimen.

(1) You must submit blind specimens to the laboratory or IITF using the same channels (*e.g.,* via a regular collection site) through which employees' specimens are sent to the laboratory or IITF.

* * * * *

21. In § 40.105, the section heading and paragraphs (b) and (c) are revised, to read as follows:

§ 40.105 What happens if the laboratory or IITF reports a result different from that expected for a blind specimen?

* * * * *

(b) If the unexpected result is a false negative, you must provide the laboratory or IITF with the expected results (obtained from the supplier of the blind specimen), and direct the laboratory or IITF to determine the reason for the discrepancy.

(c) If the unexpected result is a false positive, adulterated, or substituted result, you must provide the laboratory or IITF with the expected results (obtained from the supplier of the blind specimen), and direct the laboratory or IITF to determine the reason for the discrepancy. You must also notify ODAPC of the discrepancy by telephone (202–366–3784) or e-mail (addresses are listed on the ODAPC Web site, *http://www.dot.gov/ost/dapc*). ODAPC will notify HHS who will take appropriate action.

22. Section 40.107 is revised, to read as follows:

§ 40.107 Who may inspect laboratories or IITFs?

As a laboratory or IITF, you must permit an inspection, with or without prior notice, by ODAPC, a DOT agency, or a DOT-regulated employer that contracts with the laboratory or IITF for drug testing under the DOT drug testing program, or the designee of such an employer.

23. Section 40.109 is revised, to read as follows:

§ 40.109 What documentation must the laboratory or IITF keep and for how long?

(a) As a laboratory or IITF, you must retain all records pertaining to each employee urine specimen for a minimum of two years.

(b) As a laboratory or IITF, you must also keep for two years employer-specific data required in § 40.111.

(c) Within the two-year period, the MRO, the employee, the employer, or a DOT agency may request in writing that you retain the records for an additional period of time (*e.g.,* for the purpose of preserving evidence for litigation or a safety investigation). If you receive such a request, you must comply with it. If you do not receive such a request, you may discard the records at the end of the two-year period.

24. Section 40.111 is revised, to read as follows:

§ 40.111 When and how must a laboratory or IITF disclose statistical summaries and other information it maintains?

(a) As a laboratory or IITF, you must transmit an aggregate statistical summary, by employer, of the data listed in Appendix B to this part to the employer on a semi-annual basis.

(1) The summary must not reveal the identity of any employee.

(2) In order to avoid sending data from which it is likely that information about an employee's test result can be readily inferred, you must not send a summary if the employer has fewer than five aggregate tests results.

(3) The summary must be sent by January 20 of each year for July 1 through December 31 of the prior year.

(4) The summary must also be sent by July 20 of each year for January 1 through June 30 of the current year.

(b) When the employer requests a summary in response to an inspection, audit, or review by a DOT agency, you must provide it unless the employer had fewer than five aggregate test results. In that case, you must send the employer a report indicating that not enough testing was conducted to warrant a summary. You may transmit the summary or report by hard copy, fax, or other electronic means.

(c) You must also release information to appropriate parties as provided in §§ 40.329 and 40.331.

(d) As a laboratory or IITF, you must transmit an aggregate statistical summary of the data listed in Appendix C to this part to DOT on a semi-annual basis. The summary must be sent by January 31 of each year for July 1 through December 31 of the prior year; it must be sent by July 31 of each year for January 1 through June 30 of the current year.

25. Section 40.113 is revised, to read as follows:

§ 40.113 Where is other information concerning laboratories or IITFs found in this regulation?

You can find more information concerning laboratories in several sections of this part:

Sec.
40.3 Definition.
40.13 Prohibition on making specimens available for other purposes.
40.31 Conflicts of interest concerning collectors.
40.47 Laboratory or IITF rejections of test for improper form.
40.125 Conflicts of interest concerning MROs.
40.175 Role of first laboratory in split specimen tests.
40.177 Role of second laboratory in split specimen tests (drugs).
40.179 Role of second laboratory in split specimen tests (adulterants).
40.181 Role of second laboratory in split specimen tests (substitution).
40.183–40.185 Transmission of split specimen test results to MRO.
40.201–40.205 Role in correcting errors.
40.329 Release of information to employees.
40.331 Limits on release of information.
40.355 Role with respect to other service agents.

26. In § 40.123, paragraph (b)(1) is revised, to read as follows:

§ 40.123 What are the MRO's responsibilities in the DOT drug testing program?

* * * * *

(b) * * *

(1) Ensuring the review of the CCF on all specimen collections for the purposes of determining whether there is a problem that may cause a test to be cancelled (see §§ 40.199–40.203). As an MRO, you are not required to review laboratory or IITF internal chain of custody documentation. No one is permitted to cancel a test because you have not reviewed this documentation;

* * * * *

27. Section 40.125 is revised, to read as follows:

§ 40.125 What relationship may an MRO have with a laboratory or IITF?

As an MRO, you must not enter into any relationship with an employer's laboratory or IITF that creates a conflict of interest or the appearance of a conflict of interest with your responsibilities to that employer. You must not derive any financial benefit by having an employer use a specific laboratory or IITF. For examples of relationships between laboratories and MROs that the Department views as creating a conflict of interest or the appearance of such a conflict, see § 40.101(b).

28. In § 40.127, the introductory text and paragraphs (b), (c)(2), (d), (g) introductory text, and (g)(3) to read as follows:

§ 40.127 What are the MRO's functions in reviewing negative test results?

As the MRO, you must do the following with respect to negative drug test results you receive from a laboratory or IITF, prior to verifying the result and releasing it to the DER:

* * * * *

(b) Review the negative laboratory or IITF test result and ensure that it is consistent with the information contained on the CCF.

(c) * * *

(2) A legible copy (fax, photocopy, image) of Copy 1 of the CCF or the electronic laboratory or IITF results report that conveys the negative laboratory test result.

(d) If the copy of the documentation provided to you by the collector or laboratory or IITF appears unclear, you must request that the collector or laboratory or IITF send you a legible copy.

* * * * *

(g) Staff under your direct, personal supervision may perform the administrative functions of this section for you, but only you can cancel a test. If you cancel a laboratory or IITF-confirmed negative result, check the "Test Cancelled" box (Step 6) on Copy 2 of the CCF, make appropriate annotation in the "Remarks" line, provide your name, and sign, initial or stamp and date the verification statement.

* * * * *

(3) Your review must, as a minimum, include the CCF, negative laboratory or IITF test result, any accompanying corrective documents, and the report sent to the employer. You must correct any errors that you discover. You must take action as necessary to ensure compliance by your staff with this part and document your corrective action. You must attest to the quality assurance review by initialing the CCFs that you review.

* * * * *

29. In § 40.151, paragraph (g) is revised, to read as follows:

§ 40.151 What are MROs prohibited from doing as part of the verification process?

* * * * *

(g) You must not accept an assertion that there is a legitimate medical explanation for the presence of PCP, 6–AM, or MDMA in a specimen. There are no legitimate medical explanations for the presence of these substances

* * * * *

30. In § 40.155, paragraph (a) is revised, to read as follows:

§ 40.155 What does the MRO do when a negative or positive test result is also dilute?

(a) When the laboratory or IITF reports that a specimen is dilute, you must, as the MRO, report to the DER that the specimen, in addition to being negative or positive, is dilute.

* * * * *

31. In § 40.161, the introductory text is revised, to read as follows:

§ 40.161 What does the MRO do when a drug test specimen is rejected for testing?

As the MRO, when the laboratory or IITF reports that the specimen is rejected for testing (*e.g.,* because of a fatal or uncorrected flaw), you must do the following:

* * * * *

32. In § 40.203, paragraphs (a) and (d)(3) are revised, to read as follows:

§ 40.203 What problems cause a drug test to be cancelled unless they are corrected?

(a) As the MRO, when a laboratory or IITF discovers a "correctable flaw" during its processing of incoming specimens (see § 40.83), the laboratory or IITF will attempt to correct it. If the laboratory or IITF is unsuccessful in this attempt, it will report to you that the specimen has been "Rejected for Testing" (with the reason stated).

* * * * *

(d) * * *

(3) The collector uses a non-Federal form or an expired Federal form for the test. This flaw may be corrected through the procedure set forth in § 40.205(b)(2), provided that the collection testing process has been conducted in accordance with the procedures of this part in an HHS-certified laboratory or IITF. If the problem is not corrected, you must cancel the test.

33. In § 40.205, paragraphs (b) introductory text and (b)(2) are revised, to read as follows:

§ 40.205 How are drug test problems corrected?

* * * * *

(b) If, as a collector, laboratory or IITF, MRO, employer, or other person implementing these drug testing regulations, you become aware of a problem that can be corrected (*see* § 40.203), but which has not already been corrected under paragraph (a) of this section, you must take all practicable action to correct the problem so that the test is not cancelled.

* * * * *

(2) If the problem is the use of a non-Federal form or an expired Federal form, you must provide a signed statement (*i.e.,* a memorandum for the record). It must state that the incorrect form contains all the information needed for a valid DOT drug test, and that the incorrect form was used inadvertently or as the only means of conducting a test, in circumstances beyond your control. The statement must also list the steps you have taken to prevent future use of non-Federal forms or expired Federal forms for DOT tests. For this flaw to be corrected, the test of the specimen must have occurred at a HHS-certified laboratory or IITF where it was tested consistent with the requirements of this part. You must supply this information on the same business day on which you are notified of the problem, transmitting it by fax or courier.

* * * * *

34. In § 40.208, paragraph (a) is revised, to read as follows:

§ 40.208 What problem requires corrective action but does not result in the cancellation of a test?

(a) If, as a laboratory or IITF, collector, employer, or other person implementing the DOT drug testing program, you become aware that the specimen temperature on the CCF was not checked and the "Remarks" line did not contain an entry regarding the temperature being out of range, you must take corrective action, including securing a memorandum for the record explaining the problem and taking appropriate action to ensure that the problem does not recur.

* * * * *

35. In § 40.209, the section heading and paragraphs (a) and (b)(9) are revised, to read as follows:

§ 40.209 What procedural problems do not result in the cancellation of a test and do not require corrective action?

(a) As a collector, laboratory or IITF, MRO, employer or other person administering the drug testing process, you must document any errors in the testing process of which you become aware, even if they are not considered problems that will cause a test to be cancelled as listed in this subpart. Decision about the ultimate impact of these errors will be determined by other administrative or legal proceeding, subject to limitation of paragraph (b) of this section.

(b) * * *

(9) Personal identifying information is inadvertently contained on the CCF (*e.g.,* the employee signs his or her name on the laboratory or IITF copy 1); or

* * * * *

36. In § 40.329, the section heading and paragraph (b) are revised, to read as follows:

§ 40.329 What information must laboratories, MROs, and other service agents release to employees?

* * * * *

(b) As a laboratory or IITF, you must provide, within 10 business days of receiving a written request from an employee, and made through the MRO, the records relating to the results of the employee's drug test (*i.e.,* laboratory or IITF) report and data package). You may charge no more than the cost of preparation and reproduction for copies of these records.

* * * * *

37. In § 40.355, the introductory text, paragraphs (a) through (c), and paragraph (l) are revised, to read as follows:

§ 40.355 What limitations apply to the activities of service agents?

As a service agent, you are subject to the following limitations concerning your activities in the DOT drug and alcohol testing program.

(a) You must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory or IITF testing, MRO, and SAP services). No one may do so on behalf of a service agent.

(b) You must not act as an intermediary in the transmission of drug test results from the laboratory or IITF to the MRO. That is, the laboratory or IITF must not send results to you, with you in turn sending them to the MRO for verification. For example, a practice in which the laboratory or IITF transmits results to your computer system, and you then assign the results to a particular MRO is not permitted.

(c) You must not transmit drug test results directly from the laboratory or IITF to the employer (by electronic or other means) or to a service agent who forwards them to the employer. All confirmed laboratory or IITF results must be processed by the MRO before they are released to any other party.

* * * * *

(l) In transmitting documents to laboratories or IITFs, you must ensure that you send to the laboratory or IITF that conducts testing only the laboratory copy of the CCF. You must not transmit other copies of the CCF or any ATFs to the laboratory or IITF.

* * * * *

38. Appendix B is revised, to read as follows:

Appendix B to Part 40—DOT Drug Testing Semi-Annual Laboratory or IITF Report to Employers

Laboratory Report to Employer

The following items are required on each laboratory report:

Reporting Period: (inclusive dates)
Laboratory Identification: (name and address)
Employer Identification: (name; may include Billing Code or ID code)
C/TPA Identification: (where applicable; name and address)
1. Specimen Results Reported (total number)
By Test Reason:
(a) Pre-employment (number)
(b) Post-Accident (number)
(c) Random (number)
(d) Reasonable Suspicion/Cause (number)
(e) Return-to-Duty (number)
(f) Follow-up (number)
(g) Type of Test Not Noted on CCF (number)
2. Specimens Reported
(a) Negative (number)
(b) Negative and Dilute (number)
3. Specimens Reported as Rejected for Testing (total number)
By Reason
(a) Fatal flaw (number)
(b) Uncorrected Flaw (number)
4. Specimens Reported as Positive (total number) By Drug
(a) Marijuana Metabolite (number)
(b) Cocaine Metabolite (number)
(c) Opiates (number)
(1) Codeine (number)
(2) Morphine (number)
(3) 6–AM (number)
(d) Phencyclidine (number)
(e) Amphetamines (number)
(1) Amphetamine (number)
(2) Methamphetamine (number)
(3) MDMA (number)
(4) MDA (number)
(5) MDEA (number)
5. Adulterated (number)
6. Substituted (number)
7. Invalid Result (number)

IITF Report to Employer

The following items are required on each IITF report:

Reporting Period: (inclusive dates)
IITF Identification: (name and address)
Employer Identification: (name; may include Billing Code or ID code)
C/TPA Identification: (where applicable; name and address)
1. Specimen Results Reported (total number)
By Test Reason:
(a) Pre-employment (number)
(b) Post-Accident (number)
(c) Random (number)
(d) Reasonable Suspicion/Cause (number)
(e) Return-to-Duty (number)
(f) Follow-up (number)
(g) Type of Test Not Noted on CCF (number)
2. Specimens Reported
(a) Negative (number)
(b) Negative and Dilute (number)
3. Specimens Reported as Rejected for Testing (total number)
By Reason
(a) Fatal flaw (number)
(b) Uncorrected Flaw (number)
4. Number of specimens forwarded to an HHS-certified laboratory for additional drug testing and/or specimen validity testing.

39. Appendix C is revised, to read as follows:

Appendix C to Part 40—DOT Drug Testing Semi-Annual Laboratory or IITF Report to DOT

Mail, fax, or e-mail to: U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, W62–300, 1200 New Jersey Avenue, SE., Washington, DC 20590, Fax: (202) 366–3897, E-mail: *ODAPCWebMail@dot.gov.*

The following items are required on each laboratory report:

Reporting Period: (inclusive dates)
Laboratory Identification: (name and address)
1. DOT Specimen Results Reported (number)
2. Negative Results Reported (number)
Negative (number)
Negative-Dilute (number)
3. Rejected for Testing Reported (number)
By Reason (number)
4. Positive Results Reported (number)
By Drug (number)
5. Adulterated Results Reported (number)
By Reason (number)
6. Substituted Results Reported (number)
7. Invalid Results Reported (number)
By Reason (number)

The following items are required on each IITF report:

Reporting Period: (inclusive dates)
IITF Identification: (name and address)
1. DOT Specimen Results Reported (number)
2. Negative Results Reported (number)
Negative (number)
Negative-Dilute (number)
3. Rejected for Testing Reported (number)
By Reason (number)
4. Specimens forwarded to an HHS-certified laboratory for additional testing (number)
For Drugs (number)
For SVT (number)

[FR Doc. 2010–2315 Filed 2–3–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R2–ES–2009–0077; 92220–1113–0000; ABC Code: C3]

RIN 1018–AW63

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Sonoran Pronghorn in Southwestern Arizona

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; public hearing, and availability of draft environmental assessment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to reestablish the Sonoran pronghorn, a federally listed endangered mammal, into its historical habitat in King Valley, Kofa National Wildlife Refuge (Kofa NWR), in Yuma County, and to the Barry M. Goldwater Range—East (BMGR–E), in Maricopa County, in southwestern Arizona. We propose to reestablish the Sonoran pronghorn under section 10(j) of the Endangered Species Act of 1973, as amended (Act), and to classify that reestablished population as a nonessential experimental population (NEP). This proposed rule provides a plan for establishing the NEP and provides for allowable legal incidental taking of Sonoran pronghorn within the defined NEP area. We have prepared a draft environmental assessment (EA) on this proposed action.

DATES: We request that you send us comments on this proposal by the close of business on April 5, 2010, or at the public hearing. We will hold a public information session from 4:30 p.m. to 5:30 p.m., followed by a public hearing from 7 p.m. to 8:30 p.m., on February 23, 2010.

ADDRESSES: *Written Comments:* You may submit information by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for docket FWS–R2–ES–2009–0077 and then follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R2–ES–2009–0077; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the **INFORMATION REQUESTED** section below for more details).

Copies of Documents: The proposed rule and draft EA are on *http://www.regulations.gov* and available from our Web site at *http://www.fws.gov/southwest/es/Library/.* In addition, the supporting file for this proposed rule will be available for public inspection, by appointment, during normal business hours, at the Arizona Ecological Services Office, 201 North Bonita Avenue, Suite 141, Tucson, AZ 85745, telephone 520–670–6144. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 800–877–8339.

Public Hearing: We will hold our public hearing at Logan Auditorium, Gila Bend High School, 308 North Martin Avenue, Gila Bend, AZ 85337. For information requesting reasonable accommodations to attend the information session or hearing, see the **PUBLIC COMMENTS** section.

FOR FURTHER INFORMATION CONTACT: Curtis McCasland, Refuge Manager, Cabeza Prieta National Wildlife Refuge, 1611 North Second Avenue, Ajo, AZ 85321; by telephone (520–387–6483) or by facsimile (520–387–5359).

SUPPLEMENTARY INFORMATION:

Public Comments

We want the final rule to be as effective as possible and the final EA on the proposed action to evaluate all potential issues associated with this action. Therefore, we invite tribal and governmental agencies, the scientific community, industry, and other interested parties to submit comments or recommendations concerning any aspect of this proposed rule and the draft EA. Comments should be as specific as possible.

To issue a final rule to implement this proposed action and to determine whether to prepare a finding of no significant impact or an environmental impact statement, we will take into consideration all comments and any additional information we receive. Such communications may lead to a final rule that differs from this proposal. All comments, including commenters' names and addresses, if provided to us, will become part of the supporting record.

You may submit your comments and materials concerning the proposed rule and draft EA by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section. Comments must be submitted to *http://www.regulations.gov* before midnight (Eastern Time) on the date specified in the **DATES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If your written comment includes your street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the Cabeza Prieta NWR or the Arizona Ecological Services Office (*see* **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Persons needing reasonable accommodations in order to attend and participate in a public hearing should contact the Refuge Manager, Cabeza Prieta NWR, at the address or phone number listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing. Information regarding this proposal is available in alternative formats upon request.

Background

Regulatory

We listed the Sonoran pronghorn subspecies (*Antilocapra americana sonoriensis*) as endangered throughout its range on March 11, 1967 (32 FR 4001), under the Endangered Species Preservation Act of October 15, 1966, without critical habitat. This subspecies was included as an endangered species when the Act was signed into law in 1973. The Act provides that species listed as endangered are afforded protection primarily through the prohibitions of section 9 and the requirements of section 7. Section 9 of the Act, among other things, prohibits the take of endangered wildlife. "Take" is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Service regulations (50 CFR 17.31) generally extend the prohibitions of take to threatened wildlife. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitat. It mandates that all Federal agencies use their existing authorities to further the purposes of the Act by carrying out programs for the conservation of listed species. It also states that Federal agencies will, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not

affect activities undertaken on private land unless they are authorized, funded, or carried out by a Federal agency.

Under section 10(j) of the Act, the Secretary of the Department of the Interior can designate reestablished populations outside the species' current range as "experimental." With the experimental population designation, the relevant population is treated as threatened for purposes of section 9 of the Act, regardless of the species' designation elsewhere in its range. Threatened designation allows us discretion in devising management programs and special regulations for such a population. Section 4(d) of the Act allows us to adopt whatever regulations are necessary and advisable to provide for the conservation of a threatened species. In these situations, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species, and the 10(j) rule contains the prohibitions and exemptions necessary and appropriate to conserve that species.

Based on the best scientific and commercial data available, we must determine whether the experimental population is *essential* or *nonessential* to the continued existence of the species. The regulations (50 CFR 17.80(b)) state that an experimental population is considered essential if its loss would be likely to appreciably reduce the likelihood of survival of that species in the wild. All other populations are considered nonessential. We have determined that this experimental population would not be essential to the continued existence of the species in the wild (*see Status of Proposed Population* section below). Therefore, the Service is proposing to designate a nonessential experimental population (NEP) for the species in this area.

For the purposes of section 7 of the Act, we treat an NEP as a threatened species when the NEP is located within a National Wildlife Refuge or unit of the National Park Service, and section 7(a)(1) and the consultation requirements of section 7(a)(2) of the Act apply. Section 7(a)(1) requires all Federal agencies to use their authorities to carry out programs for the conservation of listed species. Section 7(a)(2) requires that Federal agencies, in consultation with the Service, ensure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. When NEPs are located outside a National Wildlife Refuge or National Park Service unit, then for the purposes of section 7, we treat the population as proposed for listing and only two provisions of section 7 apply—section 7(a)(1) and section 7(a)(4). In these instances, NEPs provide additional flexibility because Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed to be listed. The results of a conference are in the form of conservation recommendations that are optional as the agencies carry out, fund, or authorize activities. Because the NEP is, by definition, not essential to the continued existence of the species, then the effects of proposed actions affecting the NEP will generally not rise to the level of jeopardizing the continued existence of the species. Section 10(j)(2)(c)(ii) precludes the designation of critical habitat for non-essential populations. As a result, a formal conference will likely never be required for Sonoran pronghorn established within the NEP area. Nonetheless, some agencies (*e.g.,* Bureau of Land Management (BLM)) voluntarily confer with the Service on actions that may affect a proposed species. Activities that are not carried out, funded, or authorized by Federal agencies are not subject to provisions or requirements in section 7.

Sonoran pronghorn used to establish an experimental population would come from a captive-rearing pen on Cabeza Prieta NWR, provided appropriate permits are issued in accordance with our regulations (50 CFR 17.22) prior to their removal. The donor population is a captive-bred population derived primarily from wild stock at Cabeza Prieta NWR and from a wild Sonoran pronghorn population in northwestern Sonora, Mexico. The purpose of the captive population is to provide stock for augmenting existing U.S. and Mexican populations of Sonoran pronghorn, as well as supplying founder animals for establishment of an additional U.S. herd(s), in accordance with recovery actions 2.1–2.4 of the Sonoran Pronghorn Recovery Plan (USFWS 2002). The proposed population establishment would involve two phases: (1) Construction and operation of a captive-breeding pen at Kofa NWR, with subsequent releases to establish a second herd; and (2) relocation of excess Sonoran pronghorn from the existing breeding pen at Cabeza Prieta NWR to the eastern portion of the BMGR–E, east of Highway 85 and south of Interstate 8, with the intent of establishing a separate herd in that area, as well.

We have not designated critical habitat for the Sonoran pronghorn. Section 10(j)(2)(C)(ii) of the Act states that critical habitat shall not be designated for any experimental population that is determined to be nonessential. Accordingly, we cannot designate critical habitat in areas where we establish an NEP.

Biological

The Sonoran subspecies of pronghorn (*Antilocapra americana sonoriensis*) was first described by Goldman (1945) and is small in terms of cranial measurements compared to other subspecies of pronghorn (Nowak and Paradiso 1983, p. 857). Historically, the Sonoran pronghorn ranged in the United States from approximately the Santa Cruz River, Arizona, in the east, to the Gila Bend and Kofa Mountains, Arizona, to the north, and to Imperial Valley, California, to the west. In northwestern Sonora, Mexico, the subspecies is thought to have occurred historically as far south as Bahia Kino and east to Santa Ana and Nogales. In Baja California, Mexico, the subspecies occurred in the northeast from the U.S. Border south to the vicinity of Punta Estrella (Phelps and Webb 1981, pp. 20–21; Service 2002, Fig. 2). Currently, three populations of the Sonoran pronghorn are extant: (1) A U.S. population in southwestern Arizona, south of Interstate 8, west of Highway 85, and east of the Copper and Cabeza Prieta mountains (76 wild pronghorn), (2) a population in the El Pinacate Region of northwestern Sonora (50 pronghorn), and (3) a population south and east of Mexico Highway 8 and west and north of Caborca, Sonora (354 pronghorn). The three populations are geographically isolated due to barriers such as roads and fences (Service 2002, pp. 4–10, Fig. 1). The 'current range' as used at 10(j)(2)(A)—"The Secretary may authorize the release (and the related transportation) of any population (including eggs, propagules, or individuals) of an endangered species or a threatened species outside the current range of such species * * *" is defined by the boundaries described in part (1). Consistent with years of survey data, we are confident that no Sonoran pronghorn population occurs outside of the current range as defined in part (1) (Phelps 1981, pp. 23–24; Service 2002, pp. 16 and 47).

Threats to the Sonoran pronghorn include (1) highways, fences, railroads, developed areas, and irrigation canals that block access to essential forage or water resources; (2) a variety of human

activities that disturb pronghorn or degrade habitat, including livestock grazing in the United States and Mexico; military activities; recreation; poaching and hunting; clearing of desert scrub and planting of buffelgrass (*Pennisetum ciliare*) in Sonora; gold mining southeast of Sonoyta, Sonora; dewatering and development along the Gila River and Río Sonoyta; and high levels of undocumented immigration and drug trafficking across the international border and associated law enforcement response; (3) wildfire fueled by nonnative perennial and ephemeral plants that have increased fine fuels and allowed fire to become a much more frequent event in the Sonoran Desert; (4) drought and associated limited food and water; and (5) small population size and random changes in demographics. Populations at low levels may experience random variations in sex ratios, age distributions, and birth and death rates among individuals, which can cause fluctuations in population size and possibly extinction (Service 2002, pp. 14–35; Roughgarden 1998, pp. 84–86). In very sparse populations, males may have trouble finding females, reducing productivity (Brewer 1988, p. 138). In 2002, a severe drought was the primary cause in a major die off of Sonoran pronghorn. The U.S. population declined in 2002 by 83 percent to 21 animals (Bright and Hervert 2005, p. 46). The Mexican populations declined at the same time, but not to the same degree. The population southeast of Highway 8 declined by 18 percent, while the El Pinacate population declined by 26 percent. The differences between the rates of decline north and south of the border may be due to high levels of human disturbance on the U.S. side due primarily to heightened levels of illegal immigration, smuggling, and law enforcement response (Service 2008, p. 55).

Recovery Efforts

Restoring an endangered or threatened species to the point where it is recovered is a primary goal of our endangered species program. Thus, in 1982 we published the Sonoran Pronghorn Recovery Plan (Plan) (Service 1982), which was produced by a Recovery Team comprised of representatives from the Arizona Game and Fish Department (AGFD), Cabeza Prieta NWR, BLM, Organ Pipe Cactus National Monument (OPCNM), Commission of Ecology and Sustainable Development for the State of Sonora (CEDES), and National Commission for Protected Natural Areas (CONANP). The Plan was subsequently revised in 1994, 1998, and 2002. Major recovery actions include: (1) Enhance present populations of Sonoran pronghorn by providing supplemental forage and/or water, (2) determine habitat needs and protect present range; (3) investigate and address potential barriers to expansion of presently used range, and investigate, evaluate, and prioritize present and potential future reintroduction sites within the historical range; (4) establish and monitor a new, separate herd(s) to guard against catastrophes decimating the core population; (5) continue monitoring populations and maintain a protocol for a repeatable and comparable survey technique; and (6) examine additional specimen evidence to assist in verification of taxonomic status (Service 1998, pp. iii–iv). The 2002 Supplement did not include delisting criteria; however, eight short-term recovery actions were identified as necessary to downlist the species to threatened. The supplement goes on to say that accomplishing these actions would provide the information necessary to determine delisting criteria. One of the short-term recovery actions was "evaluating potential transplant locations, establishing methodology and protocols, developing interagency agreements (including with Mexico as required), acquiring funding, and initiating reestablishment projects" (Service 2002, p. 38).

After the catastrophic die off of Sonoran pronghorn in 2002, the Service and its partners embarked on a number of aggressive recovery actions to ensure the species' continued existence and to begin to rebuild populations. The cornerstone of these actions was a semi-captive breeding facility, constructed in Childs Valley, Cabeza Prieta NWR, in 2003, and stocked with wild Sonoran pronghorn in 2004. As of March 2009, 63 Sonoran pronghorn reside in the pen. Limited releases from the pen to the U.S. herd occurred in 2007 and 2008; however, the objective is to produce 10 to 25 fawns each year for release to the current U.S. population, to newly established population(s) in the United States, and to augment Mexican populations. This target number of fawn production will likely be met in 2009. A number of other projects are underway to increase availability of green forage and water during dry periods and seasons, offsetting to some extent the effects of drought and barriers that prevent Sonoran pronghorn from accessing greenbelts and water, such as the Gila River and Río Sonoyta. Nine emergency water sources (six on Cabeza Prieta NWR, one on OPCNM, and two on BMGR-West) have been constructed in recent years throughout the range of the U.S. population. Four forage enhancement plots, each consisting of a well, pump, pipelines, and irrigation lines, have been developed to irrigate the desert and produce forage for pronghorn. Another plot is nearing completion, and two additional plots will be installed over the next 5 years. These crucial projects, intended to pull the U.S. population back from the brink of extinction, have been cooperative efforts among the Service, AGFD, Marine Corps Air Station—Yuma, Luke Air Force Base, BLM, and OPCNM, with volunteer efforts from the Arizona Desert Bighorn Sheep Society, Arizona Antelope Foundation, and the Yuma Rod and Gun Club.

The U.S. wild population of Sonoran pronghorn has rebounded from 21 in 2002 to 76 in 2008; this increase has been facilitated by the collaborative recovery efforts for this species. However, at 76 animals currently, the U.S. population is far from being secure. We have begun to work with our Mexican partners on recovery of the Sonoran pronghorn in Sonora; although the number of pronghorn in Sonora (404 animals) is significantly greater than in the United States, the safety net of waters and forage plots are not in place there, and a severe drought could decimate those populations.

Reestablishment Areas

O'Brien *et al.* (2005) used landscape-level classification and regression tree and logistic regression models to assess potential Sonoran pronghorn habitat in southwestern Arizona, including current and historical range, as a means of beginning the process of identifying potential locations for establishing a second U.S. Sonoran pronghorn herd. Both models identified greater than 4,632 square miles (sq mi) (greater than 12,000 square kilometers (sq km)) of potential habitat (O'Brien *et al.* 2005, pp. 28–30). The largest blocks of potential habitat outside of the current range, which were identified by both models, were the Ranegras and Harquahala plains, King Valley at Kofa NWR north of Interstate 8; Sentinel Plain and other areas to the west between Interstate 8 and the Gila River; and areas not currently occupied south of Interstate 8 and immediately west of Highway 85. The models also identified a large habitat block east of Highway 85 and south of Interstate 8 as potential habitat. The authors did not evaluate potential habitats in the far eastern portions of the historical range of the pronghorn in Arizona (O'Brien et al. 2005, Figs. 3 and 4). O'Brien *et al.* (2005, p. 32) further explained that their

models were an initial step towards identifying and evaluating potential translocation sites. They recommended soliciting public input, reviewing predator presence and density, fencing, and the presence of preferred forage and water as additional steps in the evaluation process (O'Brien *et al.* 2005, p. 32).

An Interdisciplinary Team (IDT), comprised of members of the Sonoran Pronghorn Recovery Team, as well as representatives from land management agencies located in southwestern Arizona, was convened in 2008 to address these and other issues and considerations, and to recommend specific areas for establishing an additional U.S. herd or herds. Development of alternatives for population establishment entailed consideration of three key variables: (1) Geographical areas for establishing populations outside of the current range; (2) potential establishment techniques; and (3) legal status of established populations under the Act. Each of these three key variables had a range of options. The IDT evaluated the three key variables to arrive at the most effective combinations of geographical areas, establishment techniques, and legal status options. The IDT conducted a mapping exercise, to identify areas within the historical range of Sonoran pronghorn in the United States that were under Federal or State ownership and that contained suitable habitat for the species. The result of this exercise was identification of seven potential reestablishment areas, designated Areas A through G. The seven areas were then ranked by the IDT, using seven selection criteria, to determine the best areas for translocation. Area A (King Valley at Kofa NWR, and adjacent portions of primarily Yuma Proving Grounds and BLM lands) and Area D (primarily portions of the BMGR–E, BLM lands, and a portion of the Tohono O'odham Nation, all east of Highway 85) were ranked 1 and 2, respectively. Public scoping for the Sonoran pronghorn population establishment project included three open houses held on successive evenings at Yuma, Tucson, and Phoenix, AZ, and was conducted in November 2008. After consideration of public input, two alternatives were carried forward in the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) process, including establishment of Sonoran pronghorn in Areas A and D, which is what we are proposing in this document. Specific population establishment techniques are described for both areas (*see Release Procedures,* below), and we propose to establish Sonoran pronghorn as a nonessential experimental population in these areas under section 10(j) of the Act.

The NEP encompasses Areas A and D, as well as all areas into which Sonoran pronghorn are likely to disperse. The NEP is defined as follows: In Arizona, an area north of Interstate 8 and south of Interstate 10, bounded by the Colorado River on the west and Interstate 10 on the east; and an area south of Interstate 8, bounded by Highway 85 on the west, Interstates 10 and 19 on the east, and the United States-Mexico border on the south.

Section 10(j) of the Act requires that an experimental population be wholly separate geographically from other wild populations of the same species. The Colorado River; Interstates 8, 10, and 19; and Highway 85, which form the boundaries of the NEP, are barriers to movement. Interstate 8 separates Area A from the current U.S. population, and Highway 85 forms a boundary between Area D and the current U.S. population. We do not expect Sonoran pronghorn to cross these barriers. Brown and Ockenfels (2007, pg. 29) found that high-speed highways with right-of-way fences, such as these, were virtually Sonoran pronghorn-proof due to stringent fencing and high volume traffic and that interstate highways are nothing short of impassable for the species. Only once has a pronghorn been known to cross Interstate 8 (1973, Phelps 1981, p. 27) and only once has a pronghorn been known to cross Highway 85 and its associated right-of-way fences into BMGR–E (2008; Howard 2008, p. 1).

Nonetheless, in the unlikely event that a pronghorn moves outside the NEP, the individual, lone pronghorn does not constitute a population. The Department defines "population" as a potentially self-sustaining group "in common spatial arrangement," (*50 CFR 17.3*) and thus determined a "geographic separation" is any area outside the area in which a particular population sustains itself. *See Wyoming Farm Bureau Fed'n, 987 F. Supp. at 1373; 59 FR at 60256.* These definitions preclude the possibility of population overlap as a result of the presence of individual dispersing pronghorn—by definition lone dispersers do not constitute a population or even part of a population, since they are not in "common spatial arrangement" sufficient to interbreed with other members of a population. The evidence suggests that the likelihood of a lone pronghorn crossing the NEP boundary is very low, so it follows that the probability of that lone disperser encountering another pronghorn of the opposite sex and reproducing is even more remote.

The status, as endangered or a member of the NEP, of any dispersing pronghorn that manages to cross Highway 85 or other barriers between the NEP and the current range would be defined geographically. Any Sonoran pronghorn within the NEP area would be considered a member of the nonessential experimental population (including any dispersing animals from within the current range that cross into the NEP area), whereas any Sonoran pronghorn outside of the NEP would be fully protected under the Act as an endangered species.

The geographical extent that we are proposing for NEP designation is larger than needed, as only portions of this proposed NEP area contain suitable habitat. Within the NEP, Sonoran pronghorn habitat is limited to valleys. Mountainous areas, such as the Kofa, Castle Dome, Palomas, and Gila Bend mountains, do not provide habitat for this species; nor do developed areas within the valleys, such as agricultural areas and towns and cities. However, the NEP area represents what we believe to be the maximum geographical extent to which Sonoran pronghorn could move if released in Areas A and D. Once released into these areas, we expect the Sonoran pronghorn population(s) to grow and expand into adjacent suitable habitats, potentially moving to the boundaries of the NEP. However, mountainous areas and developed agriculture and urban areas in the NEP would not be occupied because these areas are not considered habitat for Sonoran pronghorn. In the unlikely event that any of the released Sonoran pronghorn, or their offspring, move across interstate highways or other barriers (*e.g.,* river or mountainous areas, developed agriculture areas, or urban areas) to outside the designated NEP area (but not into the area occupied by the wild population), then the Service would evaluate the need, in the context of the 10(j) requirements, to amend the 10(j) rule to enlarge the boundaries of the NEP area to include the area of the expanded population. As discussed above, the likelihood of pronghorn moving from the NEP area into the current range is very low.

Release Procedures

The IDT developed the methods of release of Sonoran pronghorn into Areas A and D with the objective of maximizing the likelihood of success in establishing herds, while minimizing the impact to the source population (the animals in the captive breeding pen at Cabeza Prieta NWR) and limiting

mortality or injury to translocated Sonoran pronghorn to the maximum extent possible. In King Valley, Kofa NWR (Area A), a rectangular-shaped, 0.5 sq mi (1.29 sq km) captive-breeding pen would be constructed, beginning in spring 2010. The pen would include water sources and irrigated areas to enhance forage production, as well as two observation towers from which the animals would be monitored. In December 2010 and January 2011, 11 pronghorn (10 females and 1 male) would be moved to the pen from the captive-rearing pen at Cabeza Prieta NWR. These animals would be individually tranquilized using a dart gun and moved one or two at a time by helicopter. Biennial rotation of the breeding male and death of any Sonoran pronghorn in the breeding pen at Kofa NWR would require additional flights to bring new animals from Cabeza Prieta NWR. Methods perfected at Cabeza Prieta NWR will be employed in these activities, which have been used successfully with minimal mortality of pronghorn. Assuming successful captive-breeding at the Kofa NWR pen, up to 20 Sonoran pronghorn would be released annually into suitable habitats outside of but adjacent to the pen site at Kofa NWR, beginning as early as the winter of 2012 or 2013 and recurring each winter until 2020. Sonoran pronghorn in the pen, as well as animals released, would be closely monitored to determine success or need for adaptive management. Success criteria will be developed by the recovery team prior to the release of any animals. Concurrently, if excess animals are available from the captive breeding pen at Cabeza Prieta NWR (not needed to augment existing herds or for the pen at Kofa NWR), these animals would be captured from the pen, transported to a holding pen in Area D, held temporarily, and then released as a group. The holding pen in Area D is located in the Hat Mountain area (locally known as BMGR-East "Area B") in Maricopa County, Arizona. Ideally, the Sonoran pronghorn would be captured together and moved quickly to a holding pen, allowed to recover for a brief period, and released together. Released animals in Area D would be monitored via aircraft and on-the-ground personnel to determine survival, reproduction, and other measures of success. Release techniques will be revised as needed to ensure success. You can find additional description of the release procedures and monitoring protocols in the draft EA (find under docket FWS–R2–2009–0077 at *http://www.regulations.gov* or contact CPNWR—see contact information above—for copies of this document).

Status of Proposed Population

We have determined that these proposed populations are nonessential. This determination has been made for the following reasons:

(a) Wild populations of the Sonoran pronghorn, totaling about 470 animals, currently exist at: (1) Cabeza Prieta NWR, OPCNM, BMGR, and adjacent BLM lands, (2) in the El Pinacate region of Sonora, and (3) south and east of Highway 8 in Sonora.

(b) A captive-breeding pen at Cabeza Prieta NWR maintains a captive population and provides stock to augment the wild populations in Arizona and Sonora. The pen has been highly successful. First stocked with pronghorn in 2004, the original group of 11 animals has grown to 71 as of this writing (October 2009), and another 21 pronghorn have been released from the pen into the wild.

(c) The first priority for use of animals in the captive-breeding pen at Cabeza Prieta NWR is to augment herds within the boundaries of the current range of the species; hence, relocation of Sonoran pronghorn from the captive breeding pen to Kofa NWR would not inhibit the augmentation efforts for the herds within the boundaries of the current range of the species. Sonoran pronghorn produced at the Cabeza Prieta pen that are not needed to augment herds within the current range or to populate the Kofa NWR pen would be used to establish a population in Area D.

(d) The possible failure of this proposed action would not appreciably reduce the likelihood of survival of the species in the wild because (1) the first priority for use of pronghorn from the captive-breeding pen at Cabeza Prieta NWR is to augment the wild herd, and (2) recovery actions have been implemented in the United States to ameliorate the effects of drought on the species (U.S. Fish and Wildlife Service 2009, p. 9, 18–19).

(e) Through programs of work endorsed by the Canada/Mexico/U.S. Trilateral Committee for Wildlife and Ecosystem Conservation and Management, the U.S. Fish and Wildlife Service and AGFD coordinate with Mexican partners on recovery of the Sonoran pronghorn in Mexico.

If this proposal is adopted, we would ensure, through our section 10 permitting authority and the section 7 consultation process, that the use of Sonoran pronghorn from the donor population at Cabeza Prieta NWR for releases in Areas A or D is not likely to jeopardize the continued existence of the species in the wild. Establishment of additional Sonoran pronghorn populations within the species' historical range is a necessary step in recovery (Service 2002, p. 38).

The special rule that accompanies this 10(j) rule is designed to broadly exempt from the section 9 take prohibitions any take of Sonoran pronghorn that is incidental to otherwise lawful activities. We provide this exemption because we believe that such incidental take of members of the NEP associated with otherwise lawful activities is necessary and advisable for the conservation of the species, as activities that currently occur or are anticipated in the NEP area are generally compatible with Sonoran pronghorn recovery. For example, in Area A, there are vast expanses of open valleys without major barriers to pronghorn movement that provide suitable habitat. These valleys include King Valley at Kofa NWR, Palomas Plain, the southern end of the Ranegras Plain, and portions of the Yuma Proving Grounds. The La Posa Plain and Castle Dome Plain also provide habitat. Highway 95 runs north-south through those plains, and although it may somewhat inhibit movement to the west side of those plains, it is not a substantial barrier because it lacks right-of-way fences. In Area D, there is considerable habitat in the valleys among the Sauceda, Sand Tank, Batamote, and other mountains in that region. There are existing military activities at Yuma Proving Grounds in Area A and BMGR–E in Area D, but pronghorn have coexisted with military activities for many years at the BMGR (deVos 1989, pp. 15–16; Krausman *et al.* 2001, pp. 2, 80–90; Krausman *et al.* 2005, pp. 20–22); as a result, we believe they would persist with the similar activities conducted at Yuma Proving Grounds and in Area D. Although some forms of military activities could potentially result in incidental death or injury of individual pronghorn, no incidental take has ever been documented due to military activities. There would be some likelihood of Sonoran pronghorn drownings in canals in Area A. Canals are present in agricultural areas on the southern, eastern, and northeastern portions of Area A; Sonoran pronghorn are known to drown in such canals (Rautenstrauch and Krauseman 1986, p. 9). However, the major canal on the southern border of Area A, the Wellton-Mohawk Canal, is equipped with ramps and steps designed to prevent ungulate drownings, and a series of wildlife waters exist to the north of the canal as

alternative water sources. Most of the canals elsewhere in Area A are too small to result in Sonoran pronghorn entrapment. Other activities, such as recreational hunting and camping, vehicle use, livestock grazing, and small-scale rural or agricultural development, are anticipated to either have minimal effects on Sonoran pronghorn or would be limited in extent (*e.g.,* rural and agricultural development).

Under section 7(a)(1) of the Act, all Federal agencies are mandated to use their authorities to conserve listed species. In addition, the BLM has a written policy of conferring with the Service, under section 7(a)(4), on their actions that may affect proposed species. Some activities would have greater potential to compromise the success of the Sonoran pronghorn reestablishment than those described above. For instance, construction of new highways or new canals in the NEP could create barriers to movement and bisect important pronghorn habitats. There is also the potential for BLM to permit large-scale solar power plants, which would be constructed in the valleys and could eliminate up to tens of thousands of acres of habitat. Other BLM-authorized projects, such as agricultural leases, could also potentially remove large blocks of habitat and perhaps compromise the success of this project. The potential for these projects to impact the reestablishment is probably greatest on BLM lands in the valleys to the east of Kofa NWR. The Service may have the opportunity through the section 7(a)(4) conferring process to work with the BLM to minimize the potential adverse effects of solar plants, agricultural leases, highways, or other projects that may compromise Sonoran pronghorn recovery.

Management

The lands within the NEP area are managed and listed in descending order of acreage within areas A and D as follows: Area A—the Service (Kofa NWR), Department of the Army (Yuma Proving Grounds), BLM, Arizona State Lands Department, private landowners, and Colorado River Indian Tribes; Area D: Tohono O'odham Nation, BLM, Department of the Air Force (BMGR–E), private owners, and Arizona State Land Department. Outside of Areas A and D, but within the NEP, land ownership is similar, but also includes lands within the Gila River Indian Reservation, Ak-Chin Indian Reservation, Pascua Yaqui Indian Reservation, San Xavier Reservation, Buenos Aires NWR, Saguaro National Park, OPCNM, Tucson Mountain Park, and Coronado National Forest. Due to the management flexibility provided by the NEP designation and the special rule, we do not anticipate that establishment of Sonoran pronghorn in Areas A or D and subsequent dispersal of Sonoran pronghorn from the release sites will affect management on Tribal, BLM, National Forest, Department of Defense, State, or private lands. Through section 7 consultations on NWR lands and National Park Service lands, some changes in management may occur to reduce adverse effects to pronghorn, including minimizing the likelihood of incidental take. However, we believe few changes would be needed, because management of these lands already is broadly compatible with Sonoran pronghorn recovery. Other Federal agencies that propose actions on Kofa NWR or National Park Service lands would also be required to consult with us under section 7, if such activities may affect Sonoran pronghorn. For instance, some activities conducted by Yuma Proving Grounds (e.g., overflights of Kofa NWR) would be subject to the consultation requirements. Some Federal agencies, such as BLM, that propose actions outside of Kofa NWR or National Park Service lands may elect to work with the Service voluntarily through the section 7(a)(4) conferring process to ensure that adverse effects of their actions on Sonoran pronghorn in the NEP area are minimized.

The Service (Cabeza Prieta NWR, Kofa NWR, and Ecological Services), AGFD, OPCNM, Luke Air Force Base, BLM, and other partners, in close coordination with the Sonoran Pronghorn Recovery Team, would plan and manage the establishment of new populations of Sonoran pronghorn. This group would closely coordinate on releases, monitoring, and coordination with landowners and land managers, among other tasks necessary to ensure successful population establishment. Management issues related to the Sonoran pronghorn NEP that have been considered include:

(a) *Mortality:* The regulations implementing the Act define "incidental take" as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity (50 CFR 17.3), such as agricultural activities and other rural development, ranching, military training and testing, camping, hiking, hunting, vehicle use of roads and highways, and other activities that are in accordance with Federal, Tribal, State, and local laws and regulations. If this 10(j) rule is finalized, incidental take of Sonoran pronghorn within the NEP area would not be prohibited, provided that the take is unintentional, not due to negligent conduct, and is in accordance with the special rule that is a part of this 10(j) rule. However, if there is evidence of intentional take of a Sonoran pronghorn within the NEP that is not authorized by the special rule, we would refer the matter to the appropriate law enforcement entities for investigation. We expect levels of incidental take to be low because, as discussed in part (d) of *Status of Newly Established Population* above, the establishment of new populations is compatible with most existing human use activities and practices for the area. In the current range of the pronghorn in the U.S., no incidental take has been documented from military activities, recreation, use of highways, and most other activities that occur both in the current range and in the NEP; the exception being canals, in which Sonoran pronghorn have drowned on several occasions. More specific information regarding take can be found in the **Proposed Regulation Promulgation** section of this proposed rule.

(b) *Special handling:* In accordance with 50 CFR 17.21(c)(3), any employee or agent of the Service, any other Federal land management agency, or State personnel, designated for such purposes, may in the course of their official duties, handle Sonoran pronghorn to aid sick or injured Sonoran pronghorn, or to salvage dead Sonoran pronghorn. However, non-Service personnel and their agents would need to acquire permits from the Service for these activities.

(c) *Coordination with landowners and land managers:* The Service and cooperators have identified issues and concerns associated with the proposed Sonoran pronghorn population establishment through the NEPA scoping comment period. The proposed population establishment also has been discussed with potentially affected State agencies, Tribes, and private landowners. Affected State agencies, Tribes, landowners, and land managers have either indicated support for, or no opposition to, the proposed population establishment, provided a NEP is designated and a special rule is promulgated to exempt incidental take and some forms of intentional take for management purposes from the section 9 take prohibitions. More specific information regarding take can be found in the **Proposed Regulation Promulgation** section of this proposed rule.

(d) *Monitoring:* A monitoring and adaptive management plan for the population establishment program

would be implemented by the Service, AGFD, and other partners to determine if the program is successful. The monitoring will assess all aspects of the population establishment program, from capture and movement of the animals to the captive breeding pen (Area A) or holding area (Area D), monitoring of the animals in these captive facilities, and monitoring and tracking released Sonoran pronghorn in the release areas, including Sonoran pronghorn waters and any forage enhancement vegetation plots developed to support the established herds. Monitoring of released Sonoran pronghorn will be conducted to determine the following: (1) Mortality and recruitment rates, (2) causes of mortality among adult and juvenile pronghorn, (3) reliance on free-standing water sources, (4) movement corridors and barriers to movements, and (5) habitat preferences. Each released animal will be fitted with an ear tag and radio collar. A limited number of Sonoran pronghorn will be fitted with Geographic Positioning System (GPS) platform telemetry collars. It is expected the transmitters will function for 3 to 5 years. Telemetry flights with a fixed-wing aircraft will be conducted twice a month. Each Sonoran pronghorn will be observed from an altitude of 1,000 feet (ft) above ground level with the aid of binoculars. Group size and composition (sex and age), habitat type, and terrain will be recorded. Additional monitoring of individual pronghorn and herd movements will be done from the ground, particularly from high points where valley habitats of the pronghorn can be viewed. All monitoring flights and on-the-ground surveillance will be closely coordinated with and approved by the Tribal, military, and other land managers and owners where such monitoring will occur. As Sonoran pronghorn become established and breed in the establishment areas, the percentage of animals tagged or radio-collared will decline over time, and additional animals may need to be captured and radio collared to adequately monitor the herds. Ideally, at least 10 percent of a population will be equipped with radio collars. Monitoring data will be assessed regularly by the Recovery Team, and methods will be revised as needed to increase the likelihood of successful population establishment and to increase efficiency. A comprehensive review, assessment, and report of the reestablishment program by the Recovery Team will occur at a frequency of no less than once every 5 years.

(e) *Public awareness and cooperation:* Public scoping for the Sonoran pronghorn population establishment project was conducted in the fall of 2008. Actions included an October 30, 2008, scoping letter sent to approximately 6,000 names, a news release to local media sources, and a series of three open houses held in the Arizona cities of Yuma, Tucson, and Phoenix, during November 18–20, 2008. We accepted written public scoping comments until December 12, 2008. We received 44 written responses about the project. We discuss issues identified in the responses in the EA. The IDT used these issues to refine the proposed action and alternatives in the EA, and to identify mitigation measures to avoid or reduce potential project effects. The IDT also used the public concerns to determine which resources would be the greatest focus of the EA analysis.

Peer Review

In accordance with our policy on peer review, published on July 1, 1994 (59 FR 34270), we will provide copies of this proposed rule to three or more appropriate and independent specialists in order to solicit comments on the scientific data and assumptions relating to the supportive biological and ecological information for this proposed NEP designation. The purpose of such review is to ensure that the proposed NEP designation is based on the best scientific information available. We will invite these peer reviewers to comment during the public comment period and will consider their comments and information on this proposed rule during preparation of a final determination.

Required Determinations

Regulatory Planning and Review (E.O. 12866)

The Office of Management and Budget (OMB) has determined that this proposed rule is not significant and has not reviewed this proposed rule under Executive Order 12866 (E.O. 12866). OMB bases its determination upon the following four criteria:

(a) Whether the proposed rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the proposed rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the proposed rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the proposed rule raises novel legal or policy issues.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.,* whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We are certifying that this rule will not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

The area that would be affected if this proposed rule is adopted includes the release areas at Kofa NWR and BMGR–E and adjacent areas into which pronghorn may disperse, which over time could include significant portions of the NEP, where valley habitats for the pronghorn occur. Mountainous areas and developed agriculture and urban areas in the NEP would not be occupied because these areas are not considered habitat for Sonoran pronghorn. Because of the regulatory flexibility for Federal agency actions provided by the NEP designation and the exemption for incidental take in the special rule, we do not expect this rule to have significant effects on any activities within Tribal, Department of Defense, BLM, National Wildlife Refuge, National Park Service, State, or private lands within the NEP. On National Wildlife Refuges and units of the National Park System within the NEP, Federal action agencies would be required to consult with us, under section 7(a)(2) of the Act, on any of their activities that may affect the Sonoran pronghorn. However, because current management of these areas is consistent with the needs of the pronghorn (see part (d) of *Status of Proposed Population* above), we do not anticipate that consultation would significantly change proposed Federal actions on those lands. In portions of

the NEP outside of National Wildlife Refuge and National Park Service lands, in regard to section 7(a)(2), the population is treated as proposed for listing and Federal action agencies are not required to consult on their activities. Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a proposed species. But because the NEP is, by definition, not essential to the survival of the species, conferring will likely never be required for the Sonoran pronghorn populations within the NEP area. Furthermore, the results of a conference are advisory in nature and do not restrict agencies from carrying out, funding, or authorizing activities. Nonetheless, some agencies, such as BLM, voluntarily confer with us on actions that may affect proposed species. In addition, section 7(a)(1) requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which would apply on any lands within the NEP area. As a result, and in accordance with these regulations, some modifications to proposed Federal actions within the NEP area may occur to benefit the Sonoran pronghorn, but we do not expect projects to be halted or substantially modified as a result of these regulations.

If adopted, this proposal would broadly authorize incidental take of Sonoran pronghorn within the NEP area. The regulations implementing the Act define "incidental take" as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity such as, agricultural activities and other rural development, ranching, military training and testing, camping, hiking, hunting, vehicle use of roads and highways, and other activities in the NEP area that are in accordance with Federal, Tribal, State, and local laws and regulations. Intentional take for purposes other than authorized data collection or recovery purposes would not be permitted. Intentional take for research or recovery purposes would require a section 10(a)(1)(A) recovery permit under the Act.

The principal activities on private property near the NEP area are agriculture, ranching, rural development, and recreation. We believe the presence of the Sonoran pronghorn would not affect the use of lands for these purposes because there would be no new or additional economic or regulatory restrictions imposed upon States, non-federal entities, or members of the public due to the presence of the Sonoran pronghorn, and Federal agencies would only have to comply with sections 7(a)(2) and 7(a)(4) of the Act in these areas. Therefore, this rulemaking is not expected to have any significant adverse impacts to activities on private lands within the NEP area.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) If adopted, this proposal will not "significantly or uniquely" affect small governments. We have determined and certify under the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this proposed rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments would not be affected because the proposed NEP designation will not place additional requirements on any city, county, or other local municipalities.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year (i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act). This proposed NEP designation for the Sonoran pronghorn would not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the proposed rule does not have significant takings implications. When populations of federally listed species are designated as NEPs, the Act's regulatory requirements regarding those populations are significantly reduced. Section 10(j) of the Act can provide regulatory relief with regard to the taking of reestablished species within an NEP area. For example, this proposed rule would not prohibit the taking of Sonoran pronghorn in the NEP area outside of National Wildlife Refuge and National Park Service lands when such take is incidental to an otherwise legal activity, such as agricultural activities and other rural development, ranching, military training and testing, camping, hiking, hunting, vehicle use of roads and highways, and other activities that are in accordance with Federal, State, Tribal and local laws and regulations.

A takings implication assessment is not required because this rule (1) will not effectively compel a property owner to suffer a physical invasion of property and (2) will not deny all economically beneficial or productive use of the land or aquatic resources. This rule would substantially advance a legitimate government interest (conservation and recovery of a listed species) and would not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this proposed rule has significant Federalism effects and have determined that a Federalism assessment is not required. This rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this proposed rule with the affected resource agencies in Arizona. Achieving the recovery goals for this species would contribute to its eventual delisting and its return to State management. No intrusion on State policy or administration is expected; roles or responsibilities of Federal or State governments would not change; and fiscal capacity would not be substantially directly affected. The special rule operates to maintain the existing relationship between the State and the Federal government and is being undertaken in coordination with the State of Arizona. Therefore, this rule does not have significant Federalism effects or implications to warrant the preparation of a Federalism Assessment under the provisions of Executive Order 13132.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would meet the requirements of sections (3)(a) and (3)(b)(2) of the Order.

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), require that Federal agencies obtain approval from OMB before collecting information from the public. This proposed rule does not contain any new information collections that require approval. OMB has approved our collection of information associated with reporting the taking of experimental populations (50 CFR

17.84(p)(6)) and assigned control number 1018–0095. We may not collect or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have prepared a draft EA as defined under the authority of the National Environmental Policy Act of 1969. It is available from the Cabeza Prieta NWR (see **FOR FURTHER INFORMATION CONTACT** section), *http://www.regulations.gov,* and from our Web site at *http://www.fws.gov/southwest/es/Library/.*

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of the Interior Manual Chapter 512 DM 2, we have consulted with 21 Tribal Nations whose lands or interests might be affected by this rule. The Tohono O'odham Nation participated in scoping meetings and provided comments on draft documents and proposals. The Ak-Chin Indian Community also provided written comments. The only substantial comments from Tribes were related to cultural resource surveys at the specific sites where pens will be constructed, which we will do.

Energy Supply, Distribution or Use (E.O. 13211)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not expected to significantly affect energy supplies, distribution, and use. Because this action is not a significant energy action, no Statement of Energy Effects is required.

Clarity of This Regulation (E.O. 12866)

We are required by E.O. 12866, E.O. 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comment should be as specific as possible. For example, you should tell us the numbers of the sections are paragraphs that are unclearly written, which sections for sentences are too long, the sections where you feel lists and tables would be useful, etc.

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Cabeza Prieta NWR (*see* **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are staff members of Cabeza Prieta NWR and the Service's Arizona Ecological Services Office (*see* **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entry for "Pronghorn, Sonoran" under "MAMMALS" in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Pronghorn, Sonoran	*Antilocapra americana sonoriensis.*	U.S.A. (AZ), Mexico.	Entire, except where listed as an experimental population.	E	543	N/A	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Pronghorn, Sonoran	*Antilocapra americana sonoriensis.*	U.S.A. (AZ), Mexico.	In Arizona, an area north of Interstate 8 and south of Interstate 10, bounded by the Colorado River on the west and Interstate 10 on the east; and an area south of Interstate 8, bounded by Highway 85 on the west, Interstates 10 and 19 on the east, and the U.S.-Mexico border on the south.	XN	.....	NA	17.84(v)
*	*	*	*	*	*		*

3. Amend § 17.84 by adding paragraph (v) to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(v) Sonoran pronghorn (*Antilocapra americana sonoriensis*).

(1) The Sonoran pronghorn (*Antilocapra americana sonoriensis*) (pronghorn) population identified in paragraph (v)(12) of this section is a nonessential experimental population (NEP).

(2) No person may take this species, except as provided in paragraphs (v)(3) through (6) of this section.

(3) Any person with a valid permit issued by the U.S. Fish and Wildlife Service (Service) under § 17.32 may take pronghorn within the NEP area for scientific purposes, the enhancement of propagation or survival of the species, and other conservation purposes consistent with the Endangered Species Act (Act).

(4) A pronghorn may be taken within the boundaries of Yuma Proving Grounds; Barry M. Goldwater Range; lands of the Arizona State Land Department; Bureau of Land Management lands; privately owned lands; and lands of the Tohono O'odham Nation, Colorado River Indian Tribes, Gila River Indian Reservation, Ak-Chin Indian Reservation, Pascua Yaqui Indian Reservation, and San Xavier Reservation within the NEP area, provided that such take is incidental to, and not the purpose of, the carrying out of any otherwise lawful activity; and provided that such taking is reported as soon as possible in accordance with paragraph (v)(6) of this section. Otherwise lawful activities are any activities in compliance with land management regulations, hunting regulations, Tribal law, and all other applicable law and regulations, and include, but are not limited to, military training and testing, agriculture, rural and urban development, livestock grazing, camping, hiking, hunting, recreational vehicle use, sightseeing, nature or scientific study, rockhounding, and geocaching, where such activities are permitted.

(5) Pursuant to a Memorandum of Understanding (MOU) among the Service, Arizona Game and Fish Department, and the Tribes listed in paragraph (v)(4) of this section, any employee or agent of the parties to the MOU who is designated for such purpose may, when acting in the course of official duties, take a Sonoran pronghorn if such action is necessary to:

(i) Aid a sick, injured, or orphaned Sonoran pronghorn, including rescuing such animals from canals;

(ii) Dispose of a dead Sonoran pronghorn specimen, or salvage a dead specimen that may be useful for scientific study;

(iii) Move a Sonoran pronghorn for genetic purposes or to improve the health of the population; or

(iv) Capture and release a Sonoran pronghorn for relocation, to collect biological data, or to attach, service, or detach radio-telemetry equipment.

(6) Any taking pursuant to paragraphs (v)(3) through (5) of this section must be reported as soon as possible by calling the U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 201 N Bonita Avenue, Suite 141, Tucson, AZ 85745 (520/670–6150), or the Cabeza Prieta National Wildlife Refuge, 1611 North Second Avenue, Ajo, AZ 85321 (520/387–6483). Upon contact, a determination will be made as to the disposition of any live or dead specimens.

(7) No person may possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any Sonoran pronghorn or Sonoran pronghorn parts taken in violation of these regulations.

(8) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (v)(2) and (7) of this section.

(9)(i) The boundaries of the designated NEP area are based on the maximum estimated range of pronghorn that are released in and become established within the NEP area. These boundaries are physical barriers to movements, including major freeways and highways, and the Colorado River. All release sites will be within the NEP area.

(ii) All pronghorn found in the wild within the boundaries of the NEP area after the first releases will be considered members of the NEP. Any pronghorn occurring outside of the NEP area are considered endangered under the Act.

(iii) The Service has designated the NEP area to accommodate the potential future movements of a wild pronghorn. All released pronghorn and their progeny are expected to remain in the NEP area due to the geographical extent of the designation and substantial barriers to movement that form the boundaries of the NEP.

(10) The NEP will be monitored closely for the duration of the program. Any pronghorn that is determined to be sick, injured, or otherwise in need of special care will be recaptured to the extent possible by Service and/or State

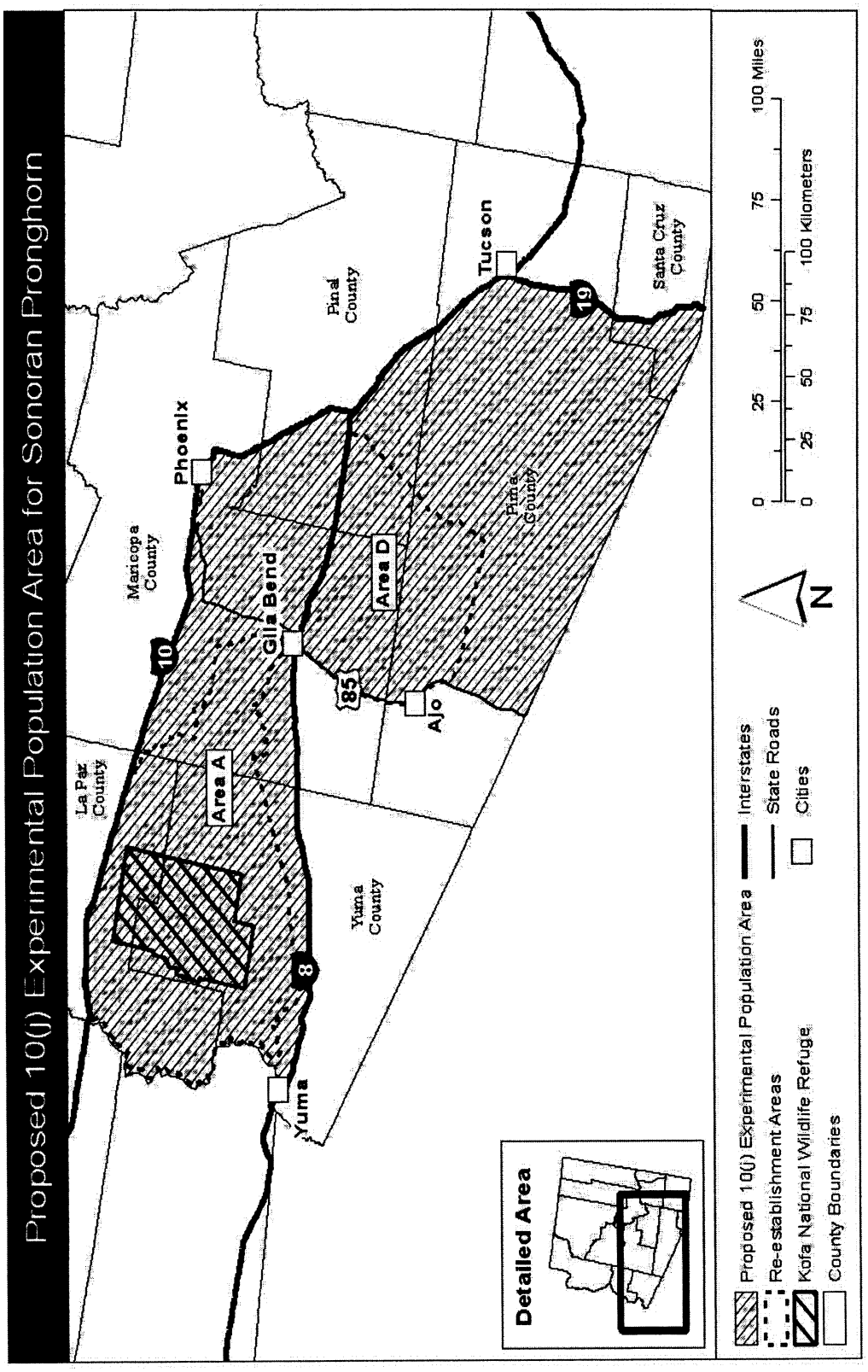
or Tribal wildlife personnel or their designated agent and given appropriate care. Such pronghorn will be released back to the wild as soon as possible, unless physical or behavioral problems make it necessary to return them to a captive-breeding facility.

(11) The Service plans to evaluate the status of the NEP every 5 years to determine future management status and needs, with the first evaluation occurring not more than 5 years after the first release of pronghorn into the NEP area. All reviews will take into account the reproductive success and movement patterns of individuals released, food habits, and overall health of the population. This evaluation will include a progress report.

(12) The areas covered by this proposed nonessential experimental population designation are in Arizona. They include the area north of Interstate 8 and south of Interstate 10, bounded by the Colorado River on the west and Interstate 10 on the east, and an area south of Interstate 8, bounded by Highway 85 on the west, Interstates 10 and 19 on the east, and the U.S.-Mexico border on the south.

(13) **Note:** Map of the proposed NEP area for the Sonoran pronghorn in southwestern Arizona follows.

BILLING CODE 4310–55–P


Proposed 10(j) Experimental Population Area for Sonoran Pronghorn
Phoenix
Tucson
Yuma
Gila Bend
Ajo
Maricopa County
Pinal County
Pima County
Santa Cruz County
La Paz County
Yuma County
Area A
Area D
10
8
85
19
Detailed Area
Proposed 10(j) Experimental Population Area
Re-establishment Areas
Kofa National Wildlife Refuge
County Boundaries
Interstates
State Roads
Cities
N
0 25 50 75 100 Miles
0 25 50 75 100 Kilometers

* * * * *

Dated: January 20, 2010.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2010–2230 Filed 2–3–10; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 100119028–0029–01]

RIN 0648–AY31

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes to approve and implement changes to the Pacific Halibut Catch Sharing Plan (Plan) for the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC. This includes tribal regulations and the sport fishery allocations and management measures for Area 2A. These actions are intended to enhance the conservation of Pacific halibut, to provide greater angler opportunity where available, and to protect overfished groundfish species from being incidentally caught in the halibut fisheries.

DATES: Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management measures must be received no later than 5 p.m., local time on February 19, 2010.

ADDRESSES: Copies of the Plan and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) are available from Barry Thom, Acting Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. Electronic copies of the Plan, including proposed changes for 2010, and of the draft RIR/IRFA are also available at the NMFS Northwest Region website: *http://www.nwr.noaa.gov*, click on "Groundfish & Halibut" and then click on "Pacific Halibut".

You may submit comments, identified by RIN 0648–AY31, 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, Attn: Sarah Williams.
- Mail: Barry Thom, Acting Administrator, Northwest Region, NMFS, Attn: Sarah Williams, 7600 Sand Point Way NE, Seattle, WA 98115–0070.

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

NMFS will accept anonymous comments (enter N/a in the required fields if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Sarah Williams, 7600 Sand Point Way NE, Seattle, WA, 98115. By phone at 206–526–4646 or fax at 206–526–6736.

SUPPLEMENTARY INFORMATION: The Northern Pacific Halibut Act (Halibut Act) of 1982, at 16 U.S.C. 773c, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (Halibut Convention). It requires the Secretary to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and the Halibut Act. Section 773c of the Halibut Act authorizes the regional fishery management councils to develop regulations governing the Pacific halibut catch in their corresponding U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Each year between 1988 and 1995, the Pacific Fishery Management Council (Pacific Council) developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in Area 2A.

In 1995, NMFS implemented the Pacific Council-recommended long-term Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A–1 and 65 percent to non-tribal fisheries in Area 2A.

The allocation to non-tribal fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46° 53.30' N. lat.), Oregon, and California. North of 46° 53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry longline sablefish fishery when the overall Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into six geographic subareas, each with separate allocations, seasons, and bag limits.

The Area 2A TAC will be set by the IPHC at its annual meeting on January 26–29, 2010, in Seattle, WA. Following the annual meeting the IPHC publishes the final TAC on their website and produces a news release. Through this proposed rule NMFS requests public comments on the Pacific Council's recommended modifications to the Plan and the proposed domestic fishing regulations by [insert date of end of comment period]. This allows the public the opportunity to consider the final Area 2A TAC before submitting comments on the proposed rule. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the final Area 2A TAC is known and after NMFS reviews public comments and comments from the states, NMFS will issue a final rule for Areas 2A, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E, Pacific halibut fisheries concurrent with its publication of the IPHC regulations for the 2010 Pacific halibut fisheries. A 15 day public comment period is necessary with this proposed rule to balance two purposes, first to provide the public with enough time to comment on the proposed rule after the final TAC is decided by the IPHC, and second to incorporate the final U.S. domestic

regulations into the IPHC regulations in order to have the combined regulations in place as close to March 1 as possible. The regulations need to be in effect in early March because most commercial fishing seasons started on March 21 last year. The IPHC may change that date for 2010, so this information needs to be published soon after the IPHC meeting to adjust the starting date and notify the public of that date so the industry can plan for the season.

Combining the IPHC regulations with the domestic regulations for Washington, Oregon, California and Alaska is in the best interest of the public because this publishes all the halibut regulations in one **Federal Register** notice. These annual halibut regulations are not codified in the CFR, so this notice is where the fishermen get their information. This reduces confusion for fishery participants because then they only have to reference one document for all Pacific halibut regulations on the West Coast and in Alaska. Combining these regulations also eliminates errors that may occur from trying to separate the halibut regulations into two different rules. The separation could be confusing to the public because many of the IPHC regulations apply to all West Coast and Alaska Pacific halibut fisheries in the U.S. therefore requiring many U.S. fishermen to refer to two separate **Federal Register** notices for one fishery.

This proposed rule would also update the codified boundaries of the non-trawl Rockfish Conservation Area (RCA) at 50 CFR 300.63, to make them consistent with the boundaries in groundfish regulations at 50 CFR 660 Table 4. The RCAs for both fisheries serve the same purpose, protection of overfished groundfish, and so the boundaries are meant to be the same. Most commercial halibut fishermen also participate in the groundfish fishery, so they are familiar with these boundaries. Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of the non-trawl RCA, which extends along the coast. The eastern and western boundaries of the RCA vary along the coast. Because the boundaries of the RCA are intended to be the same for both groundfish and halibut fisheries this rule would update the coordinates in the halibut regulations for some depth contour lines and RCA boundaries, to make them consistent with the current groundfish regulations and RCA boundaries. Between the U.S./Canada border and 46° 16' N. lat., the eastern boundary of the RCA is the shoreline. Between 46° 16' N. lat. and 43° 00' N. lat, the RCA is defined along an eastern boundary by a line approximating the 30 fm (55–m) depth contour. Coordinates for the 30 fm (55 m) boundary are listed at 50 CFR 300.63 (f), this proposed rule would update these coordinates so they are consistent with current groundfish regulations at 50 CFR 660.391(e). Between 43° 00' N. lat and 42° 00' N. lat., the RCA is defined along an eastern boundary line approximating the 20 fm (37–m) depth contour. Coordinates for the 20 fm (37 m) boundary line are listed at 50 CFR 660.391(b), no 20 fm (37m) boundary line is currently specified in halibut regulations. Therefore this proposed rule would insert a cross-reference to 50 CFR 660.391(b) into 50 CFR 300.63(e) which defines the boundary line approximating the 20 fm (37 m) depth contour between the U.S. Border with Canada and 42° 00' N. lat. Between 42° 00' N. lat. and 40° 10' N. lat., the RCA is defined along an eastern boundary by the 20 fm (37 m) depth contour. Currently in regulations there is no boundary line defined for the 20 fm (37 m) line between these coordinates. Between the U.S./Canada border and 40° 10' N. lat., the RCA is defined along a western boundary approximating the 100 fm (183 m) depth contour. Coordinates for the 100 fm (183 m) boundary are listed at 50 CFR 300.63 (g). The proposed rule would update these coordinates so they are consistent with current groundfish regulations at 50 CFR 660.393(a).

Incidental Halibut Retention in the Primary Sablefish Fishery North of Pt. Chehalis, Washington

Preliminary estimates of the Area 2A TAC are lower than the 2009 TAC. The preliminary IPHC TAC recommendation for area 2A is less than 900,000 lb (408.2 mt), which results in a Washington sport allocation that is less than 214,110 lb (97.1 mt). According to the catch sharing plan, incidental halibut retention would not be allowed in the primary directed sablefish fishery north of Point Chehalis, WA, in 2010 under the current preliminary IPHC TAC recommendation. While the preliminary TAC recommendation for area 2A may change following the IPHC annual meeting, it is not anticipated that the TAC will change enough to allow for incidental halibut retention in the primary sablefish fishery.

Pacific Council Recommended Changes to the Plan and Domestic Fishing Regulations

Each year, the states (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW)) and the tribes with treaty fishing rights for halibut consider whether changes to the Plan are needed or desired by their fishery participants. Fishery managers from the states hold public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September 2009 Pacific Council meeting, WDFW and ODFW recommended several changes to the Plan. The tribes did not submit any proposals for revising the Plan in 2010. Following the meeting, the states again reviewed their proposals with the public and drafted their recommended revisions for review and recommendation by the Pacific Council.

At its October 31–November 5, 2009, meeting in Costa Mesa, CA, the Pacific Council considered the results of state-sponsored workshops on the proposed changes to the Plan and public comments, and made final recommendations for modifications to the Plan and implementing regulations as follows:

1. Specify that the Washington South Coast Subarea primary season will be open Sunday and Tuesday through the third week in May, open on Sunday only for the fourth week in May and return to Sunday and Tuesday after the fourth week in May. Under the status-quo this fishery would be open on Sunday and Tuesday for the first two weeks of the fishery but would have then continued on Sundays only for the remainder of the season. The goal of this change to the Catch Sharing Plan is to provide more opportunity to participate in this fishery and to balance weekday and weekend fishing, having the fishery open on Sunday only for the fourth week in May allows managers to tally the catch to assess the possibility of later openings;

2. Specify that the Washington South Coast subarea nearshore area will be open seven days per week. Under the status-quo, this fishery was open three days per week during the primary season in addition to the days that the primary fishery was open, and was open four days per week after the primary season was closed. The goal of this change is to allow better access to the nearshore quota;

3. Revise the northern and western boundaries of the Washington nearshore area. This will align the nearshore area with the boundary line approximating the 30–fm depth contour as specified in Federal regulations at 50 CFR 660.391. Under the status-quo a small section of the Washington nearshore area was outside of the 30–fm line. The goal of this change is to promote ease of compliance and enforcement. According

to the fishermen in this area there are no "targetable" areas for halibut within the area that will be added to the nearshore area as a result of this change, so impacts to groundfish and halibut are not expected to increase;

4. Specify that lingcod retention is allowed in the Washington South Coast subarea seaward of the 30–fm line and on days when the primary fishery is open. The State of Washington will prohibit further fishing seaward of the 30 fm line once the vessel reaches its daily bag limit of halibut. Under the status quo, Pacific Coast Groundfish regulations prohibit fishing for groundfish, including lingcod, in the recreational fishery seaward of the 30–fm line at certain times. The goal of this change is to provide lingcod retention opportunity for anglers who have previously had to discard lingcod while fishing seaward of the 30–fm line and who would then move shoreward to catch smaller lingcod or no lingcod;

5. Change the open days in the Oregon Central Coast subarea all depth fishery from three days per week to two days per week, Friday and Saturday. Under the status-quo this fishery was open Friday through Sunday. The goal of this change is to extend the season in this area, while not impacting the quota of the inside 40 fm fishery as happened in 2009.

Proposed Changes to the Plan

NMFS is proposing to approve the Pacific Council recommendations and to implement the above-described changes by making the following changes to the current Plan, which can be found at *http://www.nwr.noaa.gov/Groundfish-Halibut/Pacific-Halibut/Index.cfm* :

In section (f) of the Plan, Sport Fisheries, revise section (iii), Washington south coast subarea, to read as follows: This sport fishery is allocated 12.3 percent of the first 130,845 lb (59.4 mt) allocated to the Washington sport fishery, and 32 percent of the Washington sport allocation between 130,845 lb (59.4 mt) and 224,110 lb (101.7 mt) (except as provided in section (e)(3) of this Plan. This subarea is defined as waters south of the Queets River (47° 31.70' N. lat.) and north of Leadbetter Point (46° 38.17' N. lat.). The structuring objective for this subarea is to maximize the season length, while maintaining a quality fishing experience. The south coast subarea quota will be allocated as follows: 10% or 2,000 pounds, whichever is less, will be set aside for the nearshore fishery with the remaining amount allocated to the primary fishery. During days open to the primary fishery and seaward of the 30–fm line lingcod may be taken, retained and possessed, when allowed by groundfish regulations. The fishery will open on the first Sunday in May. The primary fishery will be open two days per week, Sunday and Tuesday, in all areas, except where prohibited. During the fourth week in May, the primary fishery will be open on Sundays only. Beginning the following week, the fishery would continue two days per week, Sunday and Tuesday, until the quota for the primary fishery season is reached or September 30, whichever is earlier. If there is insufficient quota remaining to reopen the primary fishery for another fishing day, the remaining primary fishery quota will be added to the nearshore quota. The nearshore fishery takes place, in the area from 47 31.70' N. lat. south to 46° 58.00' N. lat. and east of a boundary line approximating the 30 fathom depth contour as defined by the following coordinates:

(1) 47° 31.70 N. lat, 124° 37.03 W. long;

(2) 47° 25.67 N. lat, 124° 34.79 W. long;

(3) 47° 12.82 N. lat, 124° 29.12 W. long;

(4) 46° 58.00 N. lat, 124° 24.24 W. long.

During the primary season the nearshore fishery will be open seven days per week. Subsequent to the closure of the primary fishery, the nearshore fishery will continue seven days per week until the remaining quota is projected to be taken. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the nearshore areas for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline. The daily bag limit is one halibut per person, with no size limit.

Recreational fishing for groundfish and halibut is prohibited within two YRCA's off Washington's southern coast. The South Coast Recreational YRCA and the Westport Offshore YRCA are defined by straight lines connecting latitude and longitude coordinates. Coordinates for these Recreational YRCAs are specified in groundfish regulations at 50 CFR 660.390 and will be specifically defined annually in federal halibut regulations published in the **Federal Register**.

In section (f) of the Plan, Sport Fisheries, (v) Oregon central coast subarea, C, revise this section to read as follows: The last season is an all-depth fishery that begins on the first Friday in August and is allocated 23 percent of the subarea quota. The fishery will be structured to be open every other week on Friday and Saturday except that week(s) may be skipped to avoid adverse tidal conditions. The fishery will continue until there is insufficient quota remaining to reopen for another fishing day or October 31, whichever is earlier. The potential open Fridays and Saturdays will be identified preseason. If after the first scheduled open period, the remaining Cape Falcon to Humbug Mountain entire season quota (combined all-depth and inside 40–fathom (73 m) quotas) is 60,000 lb (27.2 mt) or more, the fishery will re-open on every Friday and Saturday (versus every other Friday and Saturday), if determined to be appropriate through joint consultation between IPHC, NMFS, and ODFW. The inseason action will be announced by NMFS via an update to the recreational halibut hotline. If after the Labor Day weekend, the remaining Cape Falcon to Humbug Mountain entire season quota (combined all-depth and inside 40–fathom (73 m) quotas) is 30,000 lb (13.6 mt) or more and the fishery is not already open every Friday and Saturday, the fishery will re-open on every Friday and Saturday (versus every other Friday and Saturday), if determined to be appropriate through joint consultation between IPHC, NMFS, and ODFW. After the Labor Day weekend, the IPHC, NMFS, and ODFW will consult to determine whether increasing the Oregon Central Coast bag limit to two fish is warranted with the intent that the quota for the subarea is taken by September 30. If the quota is not taken by September 30, the season will remain open, maintaining the bag limit in effect at that time, through October 31 or quota attainment, whichever is earlier. The inseason action will be announced by NMFS via an update to the recreational halibut hotline.

Proposed 2010 Sport Fishery Management Measures

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2010. The annual domestic management measures are published each year through a final rule. For the 2009 fishing season the final rule was published on March 19, 2009, (74 FR 11681) and the following section numbers refer to sections within that final rule. The final 2010 TAC for Area 2A will be determined by the IPHC at its annual meeting on January 26–29, 2010, in Seattle, WA. Because the final 2010 TAC has not yet been determined, these proposed sport fishery management measures use the IPHC staff's preliminary 2010 Area 2A TAC

recommendation of 760,000 lb (344.7 mt) which is lower than the 2009 TAC of 950,000 lb (430.9 mt). Where season dates are not indicated, those dates will be provided in the final rule, following determination of the 2010 TAC and consultation with the states and the public. In Section 8 of the annual domestic management measures, "Fishing Periods", paragraph (2) is proposed to read as follows:

(2) Each fishing period in the Area 2A directed fishery shall begin at 0800 hours and terminate at 1800 hours local time on (*insert season dates*) unless the Commission specifies otherwise.

(3) In Area 2A incidental catch of halibut in the primary sablefish fishery is not authorized in 2010.

(4) * * *

(5) * * *

(6) * * *

In section 26 of the annual domestic management measures, "Sport Fishing for Halibut," paragraph 1(a)-(b) will be updated with 2010 total allowable catch limits in the final rule. In section 26 of the annual domestic management measures, "Sport Fishing for Halibut" paragraph (8) is proposed to read as follows:

(8) * * *

(a) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is not managed in-season relative to its quota. This area is managed by setting a season that is projected to result in a catch of 46,735 lb (21.1 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is (*insert season dates*), and the fishing season in western Puget Sound (west of 123°49.50' W. long., Low Point) is (*insert season dates*), 5 days a week (Thursday through Monday).

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.), is 97, 372 lb (44.1 mt).

(i) The fishing seasons are:

(A) Commencing on May 13 and continuing 2 days a week (Thursday and Saturday) until 97,372 lb (44.1 mt) are estimated to have been taken and the season is closed by the Commission or until May 29.

(B) If sufficient quota remains the fishery will reopen on June 3 in the entire north coast subarea, continuing 2 days per week (Thursday and Saturday) until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. When there is insufficient quota remaining to reopen the entire north coast subarea for another day, then the nearshore areas described below will reopen for 2 days per week (Thursday and Saturday), until the overall quota of 97,372 lb (44.1 mt) is estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier. After May 29, any fishery opening will be announced on the NMFS hotline at 800–662–9825. No halibut fishing will be allowed after May 29 unless the date is announced on the NMFS hotline. The nearshore areas for Washington's North Coast fishery are defined as follows:

(*1*) WDFW Marine Catch Area 4B, which is all waters west of the Sekiu River mouth, as defined by a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(*2*) Shoreward of the recreational halibut 30–fm boundary line, a modified line approximating the 30–fm depth contour from the Bonilla-Tatoosh line south to the Queets River. The recreational halibut 30–fm boundary line is defined by straight lines connecting all of the following points in the order stated:

(1) 48°24.79' N. lat., 124°44.07' W. long.;

(2) 48°24.80' N. lat., 124°44.74' W. long.;

(3) 48°23.94' N. lat., 124°44.70' W. long.;

(4) 48°23.51' N. lat., 124°45.01' W. long.;

(5) 48°22.59' N. lat., 124°44.97' W. long.;

(6) 48°21.75' N. lat., 124°45.26' W. long.;

(7) 48°21.23' N. lat., 124°47.78' W. long.;

(8) 48°20.32' N. lat., 124°49.53' W. long.;

(9) 48°16.72' N. lat., 124°51.58' W. long.;

(10) 48°10.00' N. lat., 124°52.58' W. long.;

(11) 48°05.63' N. lat., 124°52.91' W. long.;

(12) 47°53.37' N. lat., 124°47.37' W. long.;

(13) 47°40.28' N. lat., 124°40.07' W. long.; and

(14) 47°31.70' N. lat., 124°37.03' W. long.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined by straight lines connecting all of the following points in the order stated:

(1) 48°18.00' N. lat.; 125°18.00' W. long.;

(2) 48°18.00' N. lat.; 124°59.00' W. long.;

(3) 48°11.00' N. lat.; 124°59.00' W. long.;

(4) 48°11.00' N. lat.; 125°11.00' W. long.;

(5) 48°04.00' N. lat.; 125°11.00' W. long.;

(6) 48°04.00' N. lat.; 124°59.00' W. long.;

(7) 48°00.00' N. lat.; 124°59.00' W. long.;

(8) 48°00.00' N. lat.; 125°18.00' W. long.;

and connecting back to 48°18.00' N. lat.; 125°18.00' W. long.

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.), is 32, 081 lb (14.5 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47 31.70' N. lat. south to 46 58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

(1) 47° 31.70 N. lat, 124° 37.03 W. long;

(2) 47° 25.67 N. lat, 124° 34.79 W. long;

(3) 47° 12.82 N. lat, 124° 29.12 W. long;

(4) 46° 58.00 N. lat, 124° 24.24 W. long.

The south coast subarea quota will be allocated as follows: 30,081 lb (13.6 mt) for the primary fishery and 2,000 lb (0.9 mt) for the nearshore fishery. The primary fishery commences on May 2 and continues 2 days a week (Sunday and Tuesday) until May 18. Beginning on May 23 the primary fishery will be open 1 day per week (Sunday). Beginning on May 30 the primary fishery will be open 2 days per week (Sunday and Tuesday) until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 2 and continues seven days per week. Subsequent to closure of the primary fishery the nearshore fishery is open seven days per week, until 32,081 lb (14.5 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Seaward of the boundary line approximating the 30–fm depth contour and during days open to the primary fishery, lingcod may be may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.384.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast intended to protect yelloweye rockfish. The South Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 46°58.00' N. lat., 124°48.00' W. long.;

(2) 46°55.00' N. lat., 124°48.00' W. long.;

(3) 46°55.00' N. lat., 124°49.00' W. long.;

(4) 46°58.00' N. lat., 124°49.00' W. long.;

and connecting back to 46°58.00' N. lat., 124°48.00' W. long.

The Westport Offshore YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 46°54.30' N. lat., 124°53.40' W. long.;

(2) 46°54.30' N. lat., 124°51.00' W. long.;

(3) 46°53.30' N. lat., 124°51.00' W. long.;

(4) 46°53.30' N. lat., 124°53.40' W. long.;

and connecting back to 46°54.30' N. lat., 124°53.40' W. long.

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46° 38.17' N. lat.) and Cape Falcon, OR (45°46.00' N. lat.), is 12,445 lb (5.6 mt).

(i) The fishing season commences on May 1, and continues 3 days a week (Thursday, Friday and Saturday) until 8,712 lb (3.9 mt) are estimated to have been taken and the season is closed by the Commission or until July 18, whichever is earlier. The fishery will reopen on August 6 and continue 3 days a week (Friday through Sunday) until 3,734 lb (1.7 mt) have been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred in-season to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, when halibut are on board the vessel.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.), is 144,070 lb (65.3 mt).

(i) The fishing seasons are:

(A) The first season (the "inside 40–fm" fishery) commences May 1 and continues 7 days a week through October 31, in the area shoreward of a boundary line approximating the 40–fm (73–m) depth contour, or until the sub-quota for the central Oregon "inside 40–fm" fishery (11,526 lb(5.2 mt)) or any in-season revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40–fm (73–m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 45°46.00' N. lat., 124°04.49' W. long.;

(2) 45°44.34' N. lat., 124°05.09' W. long.;

(3) 45°40.64' N. lat., 124°04.90' W. long.;

(4) 45°33.00' N. lat., 124°04.46' W. long.;

(5) 45°32.27' N. lat., 124°04.74' W. long.;

(6) 45°29.26' N. lat., 124°04.22' W. long.;

(7) 45°20.25' N. lat., 124°04.67' W. long.;

(8) 45°19.99' N. lat., 124°04.62' W. long.;

(9) 45°17.50' N. lat., 124°04.91' W. long.;

(10) 45°11.29' N. lat., 124°05.20' W. long.;

(11) 45°05.80' N. lat., 124°05.40' W. long.;

(12) 45°05.08' N. lat., 124°05.93' W. long.;

(13) 45°03.83' N. lat., 124°06.47' W. long.;

(14) 45°01.70' N. lat., 124°06.53' W. long.;

(15) 44°58.75' N. lat., 124°07.14' W. long.;

(16) 44°51.28' N. lat., 124°10.21' W. long.;

(17) 44°49.49' N. lat., 124°10.90' W. long.;

(18) 44°44.96' N. lat., 124°14.39' W. long.;

(19) 44°43.44' N. lat., 124°14.78' W. long.;

(20) 44°42.27' N. lat., 124°13.81' W. long.;

(21) 44°41.68' N. lat., 124°15.38' W. long.;

(22) 44°34.87' N. lat., 124°15.80' W. long.;

(23) 44°33.74' N. lat., 124°14.44' W. long.;

(24) 44°27.66' N. lat., 124°16.99' W. long.;

(25) 44°19.13' N. lat., 124°19.22' W. long.;

(26) 44°15.35' N. lat., 124°17.38' W. long.;

(27) 44°14.38' N. lat., 124°17.78' W. long.;

(28) 44°12.80' N. lat., 124°17.18' W. long.;

(29) 44°09.23' N. lat., 124°15.96' W. long.;
(30) 44°08.38' N. lat., 124°16.79' W. long.;
(31) 44°08.30' N. lat., 124°16.75' W. long.;
(32) 44°01.18' N. lat., 124°15.42' W. long.;
(33) 43°51.61' N. lat., 124°14.68' W. long.;
(34) 43°42.66' N. lat., 124°15.46' W. long.;
(35) 43°40.49' N. lat., 124°15.74' W. long.;
(36) 43°38.77' N. lat., 124°15.64' W. long.;
(37) 43°34.52' N. lat., 124°16.73' W. long.;
(38) 43°28.82' N. lat., 124°19.52' W. long.;
(39) 43°23.91' N. lat., 124°24.28' W. long.;
(40) 43°20.83' N. lat., 124°26.63' W. long.;
(41) 43°17.96' N. lat., 124°28.81' W. long.;
(42) 43°16.75' N. lat., 124°28.42' W. long.;
(43) 43°13.97' N. lat., 124°31.99' W. long.;
(44) 43°13.72' N. lat., 124°33.25' W. long.;
(45) 43°12.26' N. lat., 124°34.16' W. long.;
(46) 43°10.96' N. lat., 124°32.33' W. long.;
(47) 43°05.65' N. lat., 124°31.52' W. long.;
(48) 42°59.66' N. lat., 124°32.58' W. long.;
(49) 42°54.97' N. lat., 124°36.99' W. long.;
(50) 42°53.81' N. lat., 124°38.57' W. long.;
(51) 42°50.00' N. lat., 124°39.68' W. long.;
(52) 42°49.13' N. lat., 124°39.70' W. long.;
(53) 42°46.47' N. lat., 124°38.89' W. long.;
(54) 42°45.74' N. lat., 124°38.86' W. long.;
(55) 42°44.79' N. lat., 124°37.96' W. long.;
(56) 42°45.01' N. lat., 124°36.39' W. long.;
(57) 42°44.14' N. lat., 124°35.17' W. long.;
(58) 42°42.14' N. lat., 124°32.82' W. long.; and
(59) 42°40.50' N. lat., 124°31.98' W. long.;

(B) The second season (spring season), which is for the "all-depth" fishery, is open on (insert dates beginning with May 1). The projected catch for this season is 99,408 lb (45 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Dependent on the amount of unharvested catch available, the potential season re-opening dates will be: (*insert dates no later than July 31*). If NMFS decides in-season to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) If sufficient unharvested catch remains, the third season (summer season), which is for the "all-depth" fishery, will be open on (*insert dates beginning with August 6*) or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 33,136 lb (15 mt), are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if sufficient quota remains after the last day of first scheduled open period (*insert date following establishment of season dates*). If after this date, greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40–fm (73–m) quota, the fishery may re-open every Friday and Saturday, beginning (*insert dates of next possible open period as established preseason*), and ending October 31. If after September 6, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40–fm (73–m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 10 and 11, and ending October 31. After September 10, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod, when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40–fm (73–m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40–fm (73–m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not be in possession of any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 44°37.46 N. lat.; 124°24.92 W. long.;
(2) 44°37.46 N. lat.; 124°23.63 W. long.;
(3) 44°28.71 N. lat.; 124°21.80 W. long.;
(4) 44°28.71 N. lat.; 124°24.10 W. long.;
(5) 44°31.42 N. lat.; 124°25.47 W. long.;
and connecting back to 44°37.46 N. lat.; 124°24.92 W. long.

(f) The area south of Humbug Mountain, Oregon (42°40.50' N. lat.) and off the California coast is not managed in-season relative to its quota. This area is managed on a season that is projected to result in a catch of 4,698 lb (2.1 mt).

(i) The fishing season will commence on May 1 and continue 7 days a week until October 31.

(ii) The daily bag limit is one halibut of any size per day per person.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the International Pacific Halibut Commission (IPHC), the Pacific Fishery Management Council, the North Pacific Fishery Management Council (Council), and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) provides the Secretary of Commerce with the general responsibility to carry out the Convention between Canada and the United States for the management of

Pacific halibut, including the authority to adopt regulations as may be necessary to carry out the purposes and objectives of the Convention and Halibut Act. This final rule is consistent with the Secretary of Commerce's authority under the Halibut Act.

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

NMFS has prepared an RIR/IRFA on the proposed changes to the Plan and annual domestic Area 2A halibut management measures. Copies of these documents are available from NMFS (see **ADDRESSES**). NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of $4.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts not in excess of $6.5 million. All of the businesses that would be affected by this action are considered small businesses under Small Business Administration guidance.

The proposed changes to the Plan, which allocates the catch of Pacific halibut among users in Washington, Oregon and California, would: (1)specify that the Washington South Coast Subarea primary season will be open Sunday and Tuesday through the third week in May, open on Sunday only for the fourth week in May and return to Sunday and Tuesday after the fourth week in May. Under the status-quo this fishery would be open on Sunday and Tuesday for the first two weeks of the fishery but would have then continued on Sundays only for the remainder of the season. The goal of this change to the Catch Sharing Plan is to provide more opportunity for this fishery and to balance weekday and weekend fishing; having the fishery open on Sunday only for the fourth week in May allows managers to tally the catch to assess the possibility of later openings; (2)specify that the Washington South Coast subarea nearshore area will be open seven days per week. Under the status-quo, this fishery was open three days per week during the primary season in addition to the days that the primary fishery was open, and was open four days per week after the primary season was closed. The goal of this change is to allow better access to the nearshore quota; (3) revise the northern and western boundaries of the Washington nearshore area. This will align the nearshore area with the boundary line approximating the 30–fm depth contour as specified in Federal regulations at 50 CFR 660.391. Under the status-quo a small section of the Washington nearshore area was outside of the 30–fm line. The goal of this change is to promote ease of compliance and enforcement. According to the fishermen in this area there are no "targetable" areas for halibut within the area that will be added to the nearshore area as a result of this change, so impacts to groundfish and halibut are not expected to increase; (4) specify that in the Washington South Coast subarea seaward of the 30–fm line, on days when the primary fishery is open, retention of lingcod is allowed. The State of Washington will prohibit further fishing seaward of the 30 fm line once the vessel reaches its daily bag limit of halibut. Under the status quo, Pacific Coast Groundfish regulations prohibit fishing for groundfish, including lingcod, in the recreational fishery seaward of the 30–fm line at certain times. The goal of this change is to provide lingcod retention opportunity for anglers who have previously had to discard lingcod while fishing seaward of the 30–fm line and who would then move shoreward to catch smaller lingcod or no lingcod; (5) Change the open days in the Oregon Central Coast subarea all depth fishery from three days per week to two days per week, Friday and Saturday. Under the status-quo this fishery was open Friday through Sunday. The goal of this change is to extend the season in this area, while not impacting the quota of the inside 40-fm fishery as happened in 2009.

As mentioned in the preamble, WDFW and ODFW held public meetings and crafted alternatives to adjust management of the sport halibut fisheries in their states. The states then narrowed the alternatives under consideration and brought the resulting subset of alternatives to the Council at the Council's September and November 2009 meetings. The range of alternatives that were rejected includes alternate fishery structures, such as opening the sport fisheries on different days of the week than the final preferred alternative. Generally, by the time the alternatives reach the Council, because they have been through the state public review process, there is not a large number of alternatives. Rather, the range of alternatives has generally been reduced to the proposed action and the status quo. However, the Council and the States still considered a range of alternatives that could have similarly improved angler enjoyment of participation in the fisheries while simultaneously protecting halibut and co-occurring groundfish species from overharvest.

In 2009, 510 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: the directed commercial fishery in Area 2A, including licenses issued to retain halibut caught incidentally in the primary sablefish fishery (238 licenses in 2009); incidental halibut caught in the salmon troll fishery (132 licenses in 2009); and the charterboat fleet (140 licenses in 2009). No vessel may participate in more than one of these three fisheries per year. Individual recreational anglers and private boats are the only sectors that are not required to have an IPHC license to retain halibut.

Specific data on the economics of halibut charter operations is unavailable. However, in January 2004, the Pacific States Marine Fisheries Commission (PSMFC) completed a report on the overall West Coast charterboat fleet. In surveying charterboat vessels concerning their operations in 2000, the PSMFC estimated that there were about 315 charterboat vessels in operation off Washington and Oregon. In 2000, the IPHC licensed 130 vessels to fish in the halibut sport charter fishery. Comparing the total charterboat fleet to the 130 and 142 IPHC licenses in 2000 and 2007, respectively, approximately 41 to 45 percent of the charterboat fleet could participate in the halibut fishery. The PSMFC has developed preliminary estimates of the annual revenues earned by this fleet and they vary by size class of the vessels and home state. Small charterboat vessels range from 15 to 30 feet and typically carry 5 to 6 passengers. Medium charterboat vessels range from 31 to 49 feet in length and typically carry 19 to 20 passengers. (Neither state has large vessels of greater than 49 feet in their fleet.) Average annual revenues from all types of recreational fishing, whalewatching and other activities ranged from $7,000 for small Oregon vessels to $131,000 for medium Washington vessels. These data confirm that charterboat vessels qualify

as small entities under the Regulatory Flexibility Act.

The proposed changes to the Plan and the proposed 2010 sport management measures are authorized under the Pacific Halibut Act, implementing regulations at 50 CFR 300.60 through 300.65, and the Pacific Council process of annually evaluating the utility and effectiveness of Area 2A Pacific halibut management under the Plan. The proposed sport management measures take into account the preliminary 2010 TAC and implement the Plan by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The measures for 2010 will be very similar to last year's management measures. The changes to the Plan and domestic management measures are minor changes and are intended to help prolong the halibut season, provide increased recreational harvest opportunities, or clarify sport fishery management for fishermen and managers. There are no large entities involved in the halibut fisheries; therefore, none of these changes to the Plan and domestic management measures will have a disproportionate negative effect on small entities versus large entities.

These changes do not include any reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations. These changes to the Plan and annual domestic Area 2A halibut management measures are not expected to meet any of the RFA tests of having a "significant" economic impact on a "substantial number" of small entities because the changes will not affect allocations rather they are designed to provide the best fishing opportunities within the overall TAC. Nonetheless, NMFS has prepared an IRFA. Through this proposed rule, NMFS is requesting comments on these conclusions.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. At section 302(b)(5), the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed (U and A) fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

List of Subjects in 50 CFR Part 300

Fisheries, Fishing, and Indian fisheries.

Dated: January 28, 2010.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*

2. In § 300.63, paragraphs (e),(f), and (g) are revised to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in Area 2A.

(e) *Area 2A Non-Treaty Commercial Fishery Closed Areas.* Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of a closed area, known as the Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40° 10' N. lat. Between the U.S./Canada border and 46° 16' N. lat., the eastern boundary of the RCA is the shoreline. Between 46° 16' N. lat. and 43° 00' N. lat, the RCA is defined along an eastern boundary by a line approximating the 30 fm (55–m) depth contour. Coordinates for the 30 fm (55 m) boundary are listed at § 300.63 (f). Between 43° 00' N. lat and 42° 00' N. lat., the RCA is defined along an eastern boundary by a line approximating the 20 fm (37–m) depth contour. Coordinates for the 20 fm (37 m) boundary are listed at § 660.391(b). Between 42° 00' N. lat. and 40° 10' N. lat., the RCA is defined along an eastern boundary by the 20 fm (37 m) depth contour. Between the U.S./Canada border and 40° 10' N. lat., the RCA is defined along a western boundary approximating the 100 fm (183 m) depth contour. Coordinates for the 100 fm (183 m) boundary are listed at § 300.63 (g).

(f) The 30 fm (55 m) depth contour between the U.S. border with Canada and 40 10.00' N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 48° 24.79' N. lat., 124° 44.07' W. long.;

(2) 48° 24.80' N. lat., 124° 44.74' W. long.;

(3) 48° 23.94' N. lat., 124° 44.70' W. long.;

(4) 48° 23.51' N. lat., 124° 45.01' W. long.;

(5) 48° 22.59' N. lat., 124° 44.97' W. long.;

(6) 48° 21.75' N. lat., 124° 45.26' W. long.;

(7) 48° 21.23' N. lat., 124° 47.78' W. long.;

(8) 48° 20.32' N. lat., 124° 49.53' W. long.;

(9) 48° 16.72' N. lat., 124° 51.58' W. long.;

(10) 48°10.00' N. lat., 124°52.58' W. long.;

(11) 48°05.63' N. lat., 124°52.91' W. long.;

(12) 47°53.37' N. lat., 124°47.37' W. long.;

(13) 47°40.28' N. lat., 124°40.07' W. long.;

(14) 47°31.70' N. lat., 124°37.03' W. long.;

(15) 47°25.67' N. lat., 124°34.79' W. long.;

(16) 47°12.82' N. lat., 124°29.12' W. long.;

(17) 46°52.94' N. lat., 124°22.58' W. long.;

(18) 46°44.18' N. lat., 124°18.00' W. long.;

(19) 46°38.17' N. lat., 124°15.88' W. long.;

(20) 46°29.53' N. lat., 124°15.89' W. long.;

(21) 46°19.27' N. lat., 124°14.15' W. long.;

(22) 46°16.00' N. lat., 124°13.04' W. long.;

(23) 46°07.00' N. lat., 124°07.01' W. long.;

(24) 45°55.95' N. lat., 124°02.23' W. long.;

(25) 45°54.53' N. lat., 124°02.57' W. long.;

(26) 45°50.65' N. lat., 124°01.62' W. long.;

(27) 45°48.20' N. lat., 124°02.16' W. long.;

(28) 45°46.00' N. lat., 124°01.86' W. long.;

(29) 45°43.46' N. lat., 124°01.28' W. long.;

(30) 45°40.48' N. lat., 124°01.03' W. long.;

(31) 45°39.04' N. lat., 124°01.68' W. long.;

(32) 45°35.48' N. lat., 124°01.90' W. long.;

(33) 45°29.81' N. lat., 124°02.45' W. long.;
(34) 45°27.97' N. lat., 124°01.90' W. long.;
(35) 45°27.22' N. lat., 124°02.66' W. long.;
(36) 45°24.20' N. lat., 124°02.94' W. long.;
(37) 45°20.60' N. lat., 124°01.74' W. long.;
(38) 45°20.25' N. lat., 124°01.85' W. long.;
(39) 45°16.44' N. lat., 124°03.22' W. long.;
(40) 45°13.63' N. lat., 124°02.69' W. long.;
(41) 45°11.05' N. lat., 124°03.59' W. long.;
(42) 45°08.55' N. lat., 124°03.47' W. long.;
(43) 45°03.82' N. lat., 124°04.43' W. long.;
(44) 45°02.81' N. lat., 124°04.64' W. long.;
(45) 44°58.06' N. lat., 124°05.03' W. long.;
(46) 44°53.97' N. lat., 124°06.92' W. long.;
(47) 44°48.89' N. lat., 124°07.04' W. long.;
(48) 44°46.94' N. lat., 124°08.25' W. long.;
(49) 44°42.72' N. lat., 124°08.98' W. long.;
(50) 44°38.16' N. lat., 124°11.48' W. long.;
(51) 44°33.38' N. lat., 124°11.54' W. long.;
(52) 44°28.51' N. lat., 124°12.04' W. long.;
(53) 44°27.65' N. lat., 124°12.56' W. long.;
(54) 44°19.67' N. lat., 124°12.37' W. long.;
(55) 44°10.79' N. lat., 124°12.22' W. long.;
(56) 44°09.22' N. lat., 124°12.28' W. long.;
(57) 44°08.30' N. lat., 124°12.30' W. long.;
(58) 44°00.22' N. lat., 124°12.80' W. long.;
(59) 43°51.56' N. lat., 124°13.18' W. long.;
(60) 43°44.26' N. lat., 124°14.50' W. long.;
(61) 43°33.82' N. lat., 124°16.28' W. long.;
(62) 43°28.66' N. lat., 124°18.72' W. long.;
(63) 43°23.12' N. lat., 124°24.04' W. long.;
(64) 43°20.83' N. lat., 124°25.67' W. long.;
(65) 43°20.48' N. lat., 124°25.90' W. long.;
(66) 43°16.41' N. lat., 124°27.52' W. long.;
(67) 43°14.23' N. lat., 124°29.28' W. long.;
(68) 43°14.03' N. lat., 124°28.31' W. long.;
(69) 43°11.92' N. lat., 124°28.26' W. long.;
(70) 43°11.02' N. lat., 124°29.11' W. long.;
(71) 43°10.13' N. lat., 124°29.15' W. long.;
(72) 43°09.26' N. lat., 124°31.03' W. long.;
(73) 43°07.73' N. lat., 124°30.92' W. long.;
(74) 43°05.93' N. lat., 124°29.64' W. long.;
(75) 43°01.59' N. lat., 124°30.64' W. long.;
(76) 42°59.72' N. lat., 124°31.16' W. long.;
(77) 42°53.75' N. lat., 124°36.09' W. long.;
(78) 42°50.00' N. lat., 124°36.41' W. long.;
(79) 42°50.00' N. lat., 124°38.39' W. long.;
(80) 42°49.37' N. lat., 124°38.81' W. long.;
(81) 42°46.42' N. lat., 124°37.69' W. long.;
(82) 42°46.07' N. lat., 124°38.56' W. long.;
(83) 42°45.29' N. lat., 124°37.95' W. long.;
(84) 42°45.61' N. lat., 124°36.87' W. long.;
(85) 42°44.27' N. lat., 124°33.64' W. long.;
(86) 42°42.75' N. lat., 124°31.84' W. long.;
(87) 42°40.50' N. lat., 124°29.67' W. long.;
(88) 42°40.04' N. lat., 124°29.20' W. long.;
(89) 42°38.09' N. lat., 124°28.39' W. long.;
(90) 42°36.73' N. lat., 124°27.54' W. long.;
(91) 42°36.56' N. lat., 124°28.40' W. long.;
(92) 42°35.77' N. lat., 124°28.79' W. long.;
(93) 42°34.03' N. lat., 124°29.98' W. long.;
(94) 42°34.19' N. lat., 124°30.58' W. long.;
(95) 42°31.27' N. lat., 124°32.24' W. long.;
(96) 42°27.07' N. lat., 124°32.53' W. long.;
(97) 42°24.21' N. lat., 124°31.23' W. long.;
(98) 42°20.47' N. lat., 124°28.87' W. long.;
(99) 42°14.60' N. lat., 124°26.80' W. long.;
(100) 42°13.67' N. lat., 124°26.25' W. long.;
(101) 42°10.90' N. lat., 124°24.56' W. long.;
(102) 42°07.04' N. lat., 124°23.35' W. long.;
(103) 42°02.16' N. lat., 124°22.59' W. long.;
(104) 42°00.00' N. lat., 124°21.81' W. long.;
(105) 41°55.75' N. lat., 124°20.72' W. long.;
(106) 41°50.93' N. lat., 124°23.76' W. long.;
(107) 41°42.53' N. lat., 124°16.47' W. long.;
(108) 41°37.20' N. lat., 124°17.05' W. long.;
(109) 41°24.58' N. lat., 124°10.51' W. long.;
(110) 41°20.73' N. lat., 124°11.73' W. long.;
(111) 41°17.59' N. lat., 124°10.66' W. long.;
(112) 41°04.54' N. lat., 124°14.47' W. long.;
(113) 40°54.26' N. lat., 124°13.90' W. long.;
(114) 40°40.31' N. lat., 124°26.24' W. long.;
(115) 40°34.00' N. lat., 124°27.39' W. long.;
(116) 40°30.00' N. lat., 124°31.32' W. long.;
(117) 40°28.89' N. lat., 124°32.43' W. long.;
(118) 40°24.77' N. lat., 124°29.51' W. long.;
(119) 40°22.47' N. lat., 124°24.12' W. long.;
(120) 40°19.73' N. lat., 124°23.59' W. long.;
(121) 40°18.64' N. lat., 124°21.89' W. long.;
(122) 40°17.67' N. lat., 124°23.07' W. long.;
(123) 40°15.58' N. lat., 124°23.61' W. long.;
(124) 40°13.42' N. lat., 124°22.94' W. long.;
(125) 40°10.00' N. lat., 124°16.65' W. long.

(g) The 100 fm (183 m) depth contour used between the U.S. border with Canada and 40°10.00' N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 48°15.00' N. lat., 125°41.00' W. long.;
(2) 48°14.00' N. lat., 125°36.00' W. long.;
(3) 48°09.50' N. lat., 125°40.50' W. long.;
(4) 48°08.00' N. lat., 125°38.00' W. long.;
(5) 48°05.00' N. lat., 125°37.25' W. long.;
(6) 48°02.60' N. lat., 125°34.70' W. long.;
(7) 47°59.00' N. lat., 125°34.00' W. long.;
(8) 47°57.26' N. lat., 125°29.82' W. long.;
(9) 47°59.87' N. lat., 125°25.81' W. long.;

(10) 48°01.80' N. lat., 125°24.53' W. long.;
(11) 48°02.08' N. lat., 125°22.98' W. long.;
(12) 48°02.97' N. lat., 125°22.89' W. long.;
(13) 48°04.47' N. lat., 125°21.75' W. long.;
(14) 48°06.11' N. lat., 125°19.33' W. long.;
(15) 48°07.95' N. lat., 125°18.55' W. long.;
(16) 48°09.00' N. lat., 125°18.00' W. long.;
(17) 48°11.31' N. lat., 125°17.55' W. long.;
(18) 48°14.60' N. lat., 125°13.46' W. long.;
(19) 48°16.67' N. lat., 125°14.34' W. long.;
(20) 48°18.73' N. lat., 125°14.41' W. long.;
(21) 48°19.67' N. lat., 125°13.70' W. long.;
(22) 48°19.70' N. lat., 125°11.13' W. long.;
(23) 48°22.95' N. lat., 125°10.79' W. long.;
(24) 48°21.61' N. lat., 125°02.54' W. long.;
(25) 48°23.00' N. lat., 124°49.34' W. long.;
(26) 48°17.00' N. lat., 124°56.50' W. long.;
(27) 48°06.00' N. lat., 125°00.00' W. long.;
(28) 48°04.62' N. lat., 125°01.73' W. long.;
(29) 48°04.84' N. lat., 125°04.03' W. long.;
(30) 48°06.41' N. lat., 125°06.51' W. long.;
(31) 48°06.00' N. lat., 125°08.00' W. long.;
(32) 48°07.08' N. lat., 125°09.34' W. long.;
(33) 48°07.28' N. lat., 125°11.14' W. long.;
(34) 48°03.45' N. lat., 125°16.66' W. long.;
(35) 48°02.35' N. lat., 125°17.30' W. long.;
(36) 48°02.35' N. lat., 125°18.07' W. long.;
(37) 48°00.00' N. lat., 125°19.30' W. long.;
(38) 47°59.50' N. lat., 125°18.88' W. long.;
(39) 47°58.68' N. lat., 125°16.19' W. long.;
(40) 47°56.62' N. lat., 125°13.50' W. long.;
(41) 47°53.71' N. lat., 125°11.96' W. long.;
(42) 47°51.70' N. lat., 125°09.38' W. long.;
(43) 47°49.95' N. lat., 125°06.07' W. long.;
(44) 47°49.00' N. lat., 125°03.00' W. long.;
(45) 47°46.95' N. lat., 125°04.00' W. long.;
(46) 47°46.58' N. lat., 125°03.15' W. long.;
(47) 47°44.07' N. lat., 125°04.28' W. long.;
(48) 47°43.32' N. lat., 125°04.41' W. long.;
(49) 47°40.95' N. lat., 125°04.14' W. long.;
(50) 47°39.58' N. lat., 125°04.97' W. long.;
(51) 47°36.23' N. lat., 125°02.77' W. long.;
(52) 47°34.28' N. lat., 124°58.66' W. long.;
(53) 47°32.17' N. lat., 124°57.77' W. long.;
(54) 47°30.27' N. lat., 124°56.16' W. long.;
(55) 47°30.60' N. lat., 124°54.80' W. long.;
(56) 47°29.26' N. lat., 124°52.21' W. long.;
(57) 47°28.21' N. lat., 124°50.65' W. long.;
(58) 47°27.38' N. lat., 124°49.34' W. long.;
(59) 47°25.61' N. lat., 124°48.26' W. long.;
(60) 47°23.54' N. lat., 124°46.42' W. long.;
(61) 47°20.64' N. lat., 124°45.91' W. long.;
(62) 47°17.99' N. lat., 124°45.59' W. long.;
(63) 47°18.20' N. lat., 124°49.12' W. long.;
(64) 47°15.01' N. lat., 124°51.09' W. long.;
(65) 47°12.61' N. lat., 124°54.89' W. long.;
(66) 47°08.22' N. lat., 124°56.53' W. long.;
(67) 47°08.50' N. lat., 124°57.74' W. long.;
(68) 47°01.92' N. lat., 124°54.95' W. long.;
(69) 47°01.08' N. lat., 124°59.22' W. long.;
(70) 46°58.48' N. lat., 124°57.81' W. long.;
(71) 46°56.79' N. lat., 124°56.03' W. long.;
(72) 46°58.01' N. lat., 124°55.09' W. long.;
(73) 46°55.07' N. lat., 124°54.14' W. long.;
(74) 46°59.60' N. lat., 124°49.79' W. long.;
(75) 46°58.72' N. lat., 124°48.78' W. long.;
(76) 46°54.45' N. lat., 124°48.36' W. long.;
(77) 46°53.99' N. lat., 124°49.95' W. long.;
(78) 46°54.38' N. lat., 124°52.73' W. long.;
(79) 46°52.38' N. lat., 124°52.02' W. long.;
(80) 46°48.93' N. lat., 124°49.17' W. long.;
(81) 46°41.50' N. lat., 124°43.00' W. long.;
(82) 46°34.50' N. lat., 124°28.50' W. long.;
(83) 46°29.00' N. lat., 124°30.00' W. long.;
(84) 46°20.00' N. lat., 124°36.50' W. long.;
(85) 46°18.40' N. lat., 124°37.70' W. long.;
(86) 46°18.03' N. lat., 124°35.46' W. long.;
(87) 46°17.00' N. lat., 124°22.50' W. long.;
(88) 46°16.00' N. lat., 124°20.62' W. long.;
(89) 46°13.52' N. lat., 124°25.49' W. long.;
(90) 46°12.17' N. lat., 124°30.74' W. long.;
(91) 46°10.63' N. lat., 124°37.96' W. long.;
(92) 46°09.29' N. lat., 124°39.01' W. long.;
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(95) 45°51.92' N. lat., 124°38.50' W. long.;
(96) 45°47.20' N. lat., 124°35.58' W. long.;
(97) 45°46.40' N. lat., 124°32.36' W. long.;
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(101) 45°31.84' N. lat., 124°22.04' W. long.;
(102) 45°27.10' N. lat., 124°21.74' W. long.;
(103) 45°20.25' N. lat., 124°18.54' W. long.;
(104) 45°18.14' N. lat., 124°17.59' W. long.;
(105) 45°11.08' N. lat., 124°16.97' W. long.;
(106) 45°04.39' N. lat., 124°18.35' W. long.;
(107) 45°03.83' N. lat., 124°18.60' W. long.;
(108) 44°58.05' N. lat., 124°21.58' W. long.;
(109) 44°47.67' N. lat., 124°31.41' W. long.;
(110) 44°44.54' N. lat., 124°33.58' W. long.;
(111) 44°39.88' N. lat., 124°35.00' W. long.;
(112) 44°32.90' N. lat., 124°36.81' W. long.;
(113) 44°30.34' N. lat., 124°38.56' W. long.;
(114) 44°30.04' N. lat., 124°42.31' W. long.;

(115) 44°26.84' N. lat., 124°44.91' W. long.;
(116) 44°17.99' N. lat., 124°51.04' W. long.;
(117) 44°12.92' N. lat., 124°56.28' W. long.;
(118) 44°00.14' N. lat., 124°55.25' W. long.;
(119) 43°57.68' N. lat., 124°55.48' W. long.;
(120) 43°56.66' N. lat., 124°55.45' W. long.;
(121) 43°56.47' N. lat., 124°34.61' W. long.;
(122) 43°42.73' N. lat., 124°32.41' W. long.;
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(124) 43°20.83' N. lat., 124°39.39' W. long.;
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(134) 42°38.23' N. lat., 124°41.25' W. long.;
(135) 42°33.02' N. lat., 124°42.38' W. long.;
(136) 42°31.90' N. lat., 124°42.04' W. long.;
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(141) 42°16.29' N. lat., 124°36.11' W. long.;
(142) 42°13.67' N. lat., 124°35.81' W. long.;
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(162) 40°21.87' N. lat., 124°27.96' W. long.;
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(164) 40°19.68' N. lat., 124°28.49' W. long.;
(165) 40°17.73' N. lat., 124°25.43' W. long.;
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[FR Doc. 2010–2413 Filed 2–3–10; 8:45 am]
BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 75, No. 23

Thursday, February 4, 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

Food Safety and Inspection Service

[Docket No. FSIS–2009–0035]

Notice of Request for Revision of a Currently Approved Information Collection (Registration Requirements)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, this notice announces the Food Safety and Inspection Service's (FSIS) intention to request an extension of a currently approved information collection regarding registration requirements because the OMB approval will expire on May 31, 2010.

DATES: Comments on this notice must be received on or before April 5, 2010.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by either of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including floppy disks or CD–ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 2–2127 George Washington Carver Center, 5601 Sunnyside Avenue, Mailstop 5272, Beltsville, MD 20705.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2009–0035. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

For Additional Information: Contact John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue, SW., Room 6065 South Building, Washington, DC 20250, (202) 720–0345.

SUPPLEMENTARY INFORMATION:

Title: Registration Requirements.

OMB Number: 0583–0128.

Expiration Date of Approval: 05/31/2010.

Type of Request: Extension of a currently approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). These statutes provide that FSIS is to protect the public by verifying that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is planning to request an extension of an approved information collection addressing paperwork and recordkeeping requirements regarding registration requirements because the OMB approval will expire on May 31, 2010. Provisions of the FMIA (21 U.S.C. 643) and the PPIA (21 U.S.C. 460 (c)) prohibit any person, firm, or corporation from engaging in commerce as a meat or poultry products broker, renderer, animal food manufacturer, wholesaler, or public warehouseman, or from buying, selling, or transporting, or importing any dead, dying, or disabled or diseased livestock or poultry or parts of the carcasses of livestock or poultry that died otherwise than by slaughter, unless it has registered its business as required by the regulations.

According to the regulations (9 CFR 320.5 and 381.179), parties required to register with FSIS must do so by submitting a form (FSIS Form 5020–1, Registration of Meat and Poultry Handlers) and must provide current and correct information to FSIS, including their name, the address of all locations at which they conduct the business that requires them to register, and all trade or business names under which they conduct these businesses. In addition, parties required to register with FSIS must do so within 90 days after they begin to engage in any of the businesses that require registration. They must also inform FSIS when information on the form needs to be updated.

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of 10 minutes to complete and submit this form to FSIS.

Respondents: Brokers, renderers, animal food manufacturers, wholesalers, public warehousemen, meat and poultry handlers.

Estimated No. of Respondents: 600.

Estimated No. of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 100 hours.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence, SW., Room 6065, South Building, Washington, DC 20250, (202) 720–0345.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

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.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2009_Notices_Index/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the *FSIS Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Update* is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The *Update* also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on January 25, 2010.

Alfred V. Almanza,

Administrator.

[FR Doc. 2010–2290 Filed 2–3–10; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Availability of Final Environmental Assessment and Finding of No Significant Impact for the Delta-Clearwater Remediation Project, Delta Junction, AK

AGENCY: Alaska State Office, Natural Resources Conservation Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Natural Resources Conservation Service (NRCS) has prepared an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) consistent with the National Environmental Policy Act (NEPA) of 1969, as amended, to construct the Delta-Clearwater Remediation Project, authorized under the Watershed Protection, Watershed Surveys, and Flood Prevention Act of 1954 (Pub. L. 83–566, 83d Cong., 68 Stat. 666), as amended. Upon review and analysis of potential environmental impacts, the State Conservationist (Alaska) found that the project would not result in a significant impact on the quality of the human environment. Therefore, a FONSI was issued and no environmental impact statement is required.

DATES: The Final EA and FONSI are available for review through March 8, 2010.

ADDRESSES: Public review copies are available at the following locations:

1. Natural Resources Conservation Service, Palmer State Office, 800 West Evergreen, Suite 100, Palmer, AK 99645.
2. Natural Resources Conservation Service, 1420.5 Alaska Highway, Jarvis Office Building, Delta Junction, AK 99737.

FOR FURTHER INFORMATION CONTACT: Copies of the Final EA and FONSI, or additional information on matters related to the project, can be obtained by contacting Mr. Phil Naegele, Assistant State Conservationist (Operations), USDA Natural Resources Conservation Service, 800 West Evergreen, Suite 100, Palmer, AK 99645. Telephone: (907) 761–7758.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) is proposing a watershed remediation project within the Rhoads Creek and Granite Creek sub-watersheds of the Delta-Clearwater River. The project would involve removing the structural watershed control measures installed by NRCS in 2001 and remediation of the site to prevent further erosion and channelization of surface water flows. The project is located in portions of Sections 27, 28, 33, 34, and 35 of Township 11 South, Range 12 East, and Sections 3 and 4 of Township 12 South, Range 12 East, of the Fairbanks Meridian, near Mile 1408 of the Alaska Highway (Latitude 63.914° North, Longitude 145.388° West).

NRCS, in cooperation with the Salcha-Big Delta Soil and Water Conservation District (SWCD), Alaska Department of Fish and Game (ADF&G), Alaska Department of Environmental Conservation (ADEC) and the Alaska Department of Natural Resources (ADNR), conducted a watershed planning effort which was completed in 1995. This plan included structural and non-structural measures intended to reduce sediment deposition into the Delta-Clearwater River and Clearwater Bog as well as reducing flood and sediment damage to cropland, the Alaska Highway, local roads, and recreation areas. A supplement to this plan was completed in 1998 in order to address a reduction in the infiltration rate from the original estimate to that identified during field tests.

Phase I of construction, initiated in September 1999, consisted of approximately 5,000 linear feet of infiltration basin along with side inlets and training dikes installed at Mile 1408 Road on the south side of the Alaska Highway. Construction of Phase I was completed in July 2001. Flow events during and after construction identified numerous problems with the project as designed. In response to these issues, a formal engineering investigation was completed in 2002. The report recommended a revised planning effort analyzing a wide variety of alternatives. An extended planning effort involving the project sponsors, other local, State and Federal agencies, and the general public was conducted between 2003 and 2008. The proposed project is the outcome of this 5-year multi-agency planning effort.

The proposed project would restore the entire project site as closely as practical to pre-project topography and conditions. Site restoration would involve removing the training dikes, filling the side inlets, filling the infiltration basin, removing the built-up portion of 1408 Road, providing a reasonable planting medium on the restored surface of the site, either seeding or relying on natural regeneration, removal of the flow splitting channels near the Alaska Highway, and purchasing flood easements for affected private property.

It is currently anticipated that topsoil material for site restoration would be obtained from berm piles located on nearby agricultural land. These berms are remnant from the land clearing efforts that were part of the original State of Alaska Delta Agricultural Projects, and contain topsoil mixed with high concentrations of organic matter and some woody debris. Using the berm material has numerous benefits as a planting medium. The high concentration of organic matter provides both soil fertility and moisture retention

benefits. The berms also serve as seed banks for native vegetation, and the woody debris can be used on the restored site to disrupt overland flow. The berms screened for removal and use will be selected based on criteria that are currently being developed by NRCS. Berms which are growing species which are listed on the State of Alaska list of noxious weeds (11 AAC 34.020) will be eliminated from consideration, and no berms will be removed from lands currently enrolled in the Cropland Reserve Program.

The cost of this alternative is roughly estimated at $8 to $10 million dollars. Even with site restoration, some short-term maintenance will be required if the recently restored site is damaged by flow events. While it will be relatively expensive to restore the project site, the re-planning team considered the expense justifiable in light of current conditions and public concerns. This justification is premised on the reduction of erosion from the existing project site by removing the training dikes and side inlets that concentrate inflow to the basin, as well as removing the artificially steep flow gradient into the existing basin. In addition, restoration efforts would involve removing the built-up 1408 Road. The road currently functions as a levee and concentrates flow from the infiltration basin to the Alaska Highway.

Agency scoping letters for the proposed project were sent on July 10, 2009, with a scoping meeting and site visit conducted on August 5, 2009. The Draft Environmental Assessment was made available for public and agency review on September 17, 2009, with a public open house being held in Delta Junction on September 28, 2009. A follow-up meeting with agencies was held on September 29, 2009 also in Delta Junction. Details regarding the public and agency involvement are discussed in the Final Environmental Assessment.

Based on the information in the Final Environmental Assessment the proposed action is not a major Federal action significantly affecting the quality of the human environment, and a Finding of No Significant Impact was issued on January 11, 2010.

Signed in Palmer, Alaska, on January 11, 2010.

Robert N. Jones,

State Conservationist (Alaska).

[FR Doc. 2010–2403 Filed 2–3–10; 8:45 am]

BILLING CODE 3410–2D–P

DEPARTMENT OF AGRICULTURE

Forest Service

Bridger-Teton National Forest, Big Piney Ranger District, WY; Piney Creeks Vegetation Treatment

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Big Piney Ranger District is proposing to implement vegetation management in the Piney Creek drainages throughout the next five–seven years. The need for vegetation management in this area has previously been identified and studied in the Bridger-Teton Forest Plan implemented in 1990, in public meetings held on the revision of the Forest Plan in 2008 and comprehensive evaluation reports for aspen, lodge pole pine, Douglas fir, spruce fir and white bark pine. The analysis area is approximately 20,000 acres within this watershed and includes the creeks of South, Middle and North on the Big Piney Ranger District of the Bridger-Teton National Forest. The area also includes Middle and North Piney Lakes, Wyoming Peak the Middle Piney Summer homes, Sacajawea and Middle Piney Lake campgrounds. Management opportunities, practices, standards and guidelines, and mitigation have been developed to help achieve desired resource conditions. These are the basis for this proposal and for further site specific analysis of effects. It is approximately 25 miles west of Big Piney, Wyoming in the Green River drainage, on the east slope of the Wyoming range. All lands within the analysis area are National Forest System lands within Sublette County, Wyoming. The legal description includes portions of T28N through T31N and R112W through R114W.

DATES: Comments concerning the scope of the analysis must be received by March 15, 2010. The draft environmental impact statement is expected in November 2011 and the final environmental impact statement is expected in April 2012.

ADDRESSES: Send written comments to District Ranger, Big Piney Ranger District, Box 218, Big Piney, Wyoming 83113. Comments may also be sent via e-mail to *mailroorn_r4_bridger_teton@fs.fed.us* and on the subject line put only "Piney Creeks Vegetation Treatment", or via facsimile to 307–276–5250.

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

FOR FURTHER INFORMATION CONTACT: District Ranger, Big Piney Ranger District, Box 218, Big Piney, Wyoming 83113 or phone (307) 276–3710.

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 Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this proposal is to improve Forest resource conditions in the South, Middle and North Piney Creek drainages, bringing them closer to desired conditions. Desired conditions for each of the DFC's would help restore healthy ecosystem functioning and support sustainable resource use.

Proposed Action

This proposal was developed in response to public issues from changes since the approval of the Forest Plan in 1990, Forest Plan Revision meetings, and recent resource issues. Treat up to 8,000 acres of aspen stands and the surrounding sagebrush with mechanical treatments and prescribed fire to regenerate healthy aspen and sagebrush and remove conifers. Harvest trees on approximately 4,000 acres using various cutting practices. This is to provide for regeneration of the declining lodge pole pine and mixed conifer forests and for age class diversity across the landscape.

Possible Alternatives

This alternative is required under NEPA regulations and also serves as a baseline of information for comparison of other alternatives. Though this alternative does not respond to the purpose and need for action, it does address some issues.

Responsible Official

District Forest Ranger, Big Piney Ranger District, P.O. Box 218, Big Piney, Wyoming 83113.

Nature of Decision To Be Made

This decision will be whether or not to implement specific vegetation

management projects as allowed in the Bridger-Teton National Forest Plan. The decision would include any mitigation measures needed in addition to those prescribed in the Forest Plan.

Preliminary Issues

The Forest Service has identified the following potential issues. No determination has been made as to which issues will be examined in detail in the environmental analysis. Your input will help determine which of these issues merit detailed analysis and will also help identify additional issues related to the proposed action that may not be listed here.

Issue 1—Amount and/or types of vegetation treatments in the proposed action and the effects on old growth and mature vegetation for lynx, security cover for elk and other habitat, as well as Colorado cutthroat trout habitat.

Issue 2—Forest health, specifically the high proportion of older age class conifer stands and declining tree growth, dwarf mistletoe infection levels in lodge pole pine and high fuel loadings from dead and down material.

Issue 3—Amount of aspen treatments.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. The Forest Service is seeking information, comments, and assistance from individuals, organizations, tribal governments, and federal, state, and local agencies interested in or affected by this project. Public participation will be solicited by notifying in person and/or by mail known interested and affected publics. News releases will be used to give the public general notice. Public participation activities would include requests for written comments. The first formal opportunity to comment is to respond to this notice of intent, which initiates the scoping process (40 CFR 1501.7). Scoping includes: (1) Identifying potential issues, (2) narrowing the potential issues and identifying significant issues of those that have been covered by prior environmental review, (3) exploring alternatives in addition to No Action, and (4) identifying potential environmental effects of the proposed action and alternatives.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Dated: December 31, 2009.

Gregory Clark,

District Forest Ranger.

[FR Doc. 2010–2078 Filed 2–3–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Lassen Resource Advisory Committee, Susanville, California, USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub.L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 110 343) the Lassen County Resource Advisory Committee will meet February 10, 2010 in Susanville, California for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on February 10, 2010 will begin at 9 a.m., at the Lassen National Forest Headquarters Office, Caribou Conference Room, 2550 Riverside Drive, Susanville, CA 96130. This meeting will be dedicated to review the proposals for 2009 funding cycle, hear project presentations and vote on projects to recommend for funding.

FOR FURTHER INFORMATION CONTACT: Contact Terri Frolli, Designated Federal Official, at (530) 257–4188; or Public Affairs Officer, Heidi Perry, at (530) 252–6604.

Kathleen S. Morse,

Forest Supervisor.

[FR Doc. 2010–2079 Filed 2–3–10; 8:45 am]

BILLING CODE M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Recreation Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Caribou-Targhee National Forest, USDA Forest Service.

ACTION: Notice of New Recreation Fee Sites.

SUMMARY: The Soda Springs Ranger District of the Caribou-Targhee National Forest is proposing to take reservations for group camping and group day use picnicking at the Trail Canyon Group Site on the Soda Springs Ranger District. They are proposing to charge a $40 fee per day for group camping and group day use picnicking (up to a maximum of 100 people). Fees are assessed based on the level of amenities and services provided, cost of operations and maintenance, market assessment and public comment. The fee is proposed and will be determined upon further analysis and public comment. To date, an analysis of the facility shows that the proposed fees are reasonable and typical of similar sites in the area. Use at other similar facilities on the Caribou-Targhee National Forest has shown that publics appreciate and enjoy the availability of developed recreation campground and picnicking facilities. This facility will remain free of charge during the winter season as a warming shelter. Funds from the use of these developed facilities will be used for the continued operation and maintenance of the Trail Canyon Group Site.

DATES: Comments will be accepted through July 16, 2010. Trail Canyon Group Site will become available to the public for group camping and group day use picnicking from May 15 through October 31 each year.

ADDRESSES: Forest Supervisor, Caribou-Targhee National Forest, 1405 Hollipark Dr., Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: Maury Young, Recreation Technician, 208–847–0375.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. The Caribou-Targhee National Forest currently has over 40 other developed campgrounds. These campgrounds are well used and are very popular during the summer and fall seasons. A business analysis of this campground/picnic area has shown that people desire having this sort of developed recreation experience on the Caribou-Targhee National Forest. A market analysis indicates that the $40 group fee (up to a maximum of 100 people) per night is both reasonable and acceptable for this type of recreation experience.

Dated: January 25, 2010.

Brent L. Larson,

Forest Supervisor.

[FR Doc. 2010–2080 Filed 2–3–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Western Alaska Community Development Quota Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 5, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden (907) 586–7008 or *patsy.bearden@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Community Development Quota (CDQ) Program is an economic development program implemented under the Magnuson Stevens Fishery Conservation and Management Act, the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands, and regulations at 50 CFR part 679. The purpose of the program is to provide western Alaska communities the opportunity to participate and invest in Bering Sea and Aleutian Islands Management Area fisheries, to support economic development in western Alaska, to alleviate poverty and provide economic and social benefits for residents of western Alaska, and to achieve sustainable and diversified local economies in western Alaska.

CDQ and prohibited species quota (PSQ) allocations are made to CDQ groups. However, in many cases the CDQ groups contract with existing fishing vessels and processors to harvest CDQ on their behalf. The CDQ group is responsible to monitor the catch of CDQ and PSQ by all vessels fishing under its Community Development Plan and to take the necessary action to prevent overages. The National Marine Fisheries Service monitors the reported catch to assure that quotas are not being exceeded. Information is collected only through quota transfers in this collection.

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include e-mail of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0269.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 6.

Estimated Time per Response: 30 minutes for CDQ/PSQ Transfer Request.

Estimated Total Annual Burden Hours: 64.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 1, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–2406 Filed 2–3–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Papahānaumokuākea Marine National Monument Permit Application and Reports for Permits (fka Northwestern Hawaiian Islands Marine National Monument)

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before April 5, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Hoku Johnson, (808) 397–2660 or *Hoku.Johnson@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

On June 15, 2006, President Bush established the Papahanaumokuakea Marine National Monument by issuing Presidential Proclamation 8031 (71 FR 36443, June 26, 2006) under the authority of the Antiquities Act (16 U.S.C. 431). The proclamation includes restrictions and prohibitions regarding activities in the monument consistent with the authority provided by the act. Specifically, the proclamation prohibits access to the monument except when passing through without interruption or as allowed under a permit issued by NOAA and the Department of Interior's U.S. Fish and Wildlife Service (FWS). Vessels passing through the monument without interruption are required to notify NOAA and FWS upon entering into and leaving the monument. Individuals wishing to access the monument to conduct certain regulated activities must first apply for and be granted a permit issued by NOAA and

FWS to certify compliance with vessel monitoring system requirements, monument regulations and best management practices. On August 29, 2006, NOAA and FWS published a final rule codifying the provisions of the proclamation (71 FR 51134).

II. Method of Collection

Respondents have a choice of either electronic or paper forms. Methods of submittal include e-mail of electronic forms, and mail and facsimile transmission of paper forms.

III. Data

OMB Control Number: 0648–0548.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households; non-profit institutions; Federal, state, or local government; Native Hawaiian organizations; business or other for-profit organizations.

Estimated Number of Respondents: 411.

Estimated Time per Response: Research, Conservation and Management and Education ("general" permits), 5 hours; Special Ocean Use permits, 10 hours; Native Hawaiian Practices permits, 8 hours; Recreation permits, 6 hours; permit modification requests and final reports, 10 hours; and annual reports, 5 hours.

Estimated Total Annual Burden Hours: 1,794.

Estimated Total Annual Cost to Public: $26,280 in recordkeeping/reporting costs and vessel monitoring system installation and maintenance.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 1, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–2404 Filed 2–3–10; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

International Trade Administration

Executive-Led Trade Mission to Colombia and Panama; November 15–18, 2010

AGENCY: Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service is organizing a Trade Mission to Bogotá and Cartagena, Colombia and Panama City, Panama, November 15–18, 2010, to be led by a senior Commerce official. The mission will focus on helping U.S. companies launch or increase their export business in these promising markets. It will also help participating firms gain market information, make business and industry contacts, and solidify business strategies, towards the goal of increasing U.S. exports to the two markets. The mission will include business-to-business matchmaking appointments with local companies, as well as market briefings and networking events. The mission will be comprised of U.S. firms representing a cross section of U.S. industries with growing potential in the target markets, including, but not limited to the following sectors: Building products; computers; components and peripherals; construction equipment; electrical power systems; security and safety equipment; telecommunications equipment; and travel and tourism services.

Commercial Setting

Colombia

Colombia ranks solidly with the group of progressive, industrializing countries worldwide that have diversified agriculture, resources, and productive capacities. Despite the global economic crisis, Colombia's economic prospects are positive. Currently, it is the fifth largest market for U.S. exports in the region, after Mexico, Brazil, Venezuela, and Chile, and is ranked 26th as a market for U.S. exports globally. Since the election of President Alvaro Uribe in May 2002 (and subsequent re-election in 2006), Colombia has become one of the most stable economies in the region. Improved security, sound government policies, steady economic growth, moderate inflation and a wide range of opportunities make it worthwhile for U.S. exporters to take a serious look at Colombia.

Infrastructure development has fueled the growth of U.S. exports to Colombia, including opportunities generated by highway, hotel and housing construction in Bogotá and coastal cities such as Cartagena, San Andres, and Santa Marta. Developing the oil and gas industry and sea and river ports are also key priorities for the Uribe administration. An expanding list of emerging best prospects sectors includes computers and components, safety and security, and tourism, among others.

Colombia's increasingly democratic and transparent government and its traditional acceptance of U.S. and international standards, and U.S. brands provide a solid foundation for U.S. firms seeking to do business there. The U.S.-Colombia Trade Promotion Agreement (TPA), signed in November 2006 and pending Congressional approval, would offer tremendous benefits to U.S. exporters. Upon entry into force, (following Colombia's steps to ensure implementation of its obligations), the TPA would provide immediate duty-free entry for 80 percent of U.S. consumer and industrial exports to Colombia, with remaining tariffs phased out over the next 10 years. The TPA would also open the market for remanufactured goods and provide greater protection for intellectual property rights (IPR).

Bogotá, the capital of Colombia, generates approximately 30 percent of the country's total gross domestic product (GDP). Bogotá offers diverse business opportunities in almost all economic sectors. Cartagena is the fifth largest city in Colombia concentrating business opportunities in ports, tourism, oil refinery and industries such as chemical plants, cement and beverages.

Panama

Panama has historically served as the crossroads of trade for the Americas. Its strategic location, bridging two oceans and two continents, has made Panama not only a maritime and air transport hub, but also an international trading, banking, and services center. Trade liberalization and privatization over the last several years, along with the hemispheric movement toward free trade agreements (the U.S.-Panama FTA is also pending), stand to increase Panama's regional and global prominence. Panama's dollar-based

economy offers low inflation in comparison with neighboring countries, and zero foreign exchange risk. Its regulatory regimes are generally business friendly. Its government is stable, democratic, and reform minded, and actively seeks foreign investment in all sectors, especially services, tourism and retirement properties. The United States is Panama's most important trading partner, claiming about 30 percent of the import market.

Panama's economy is based on a well-developed services sector, which accounts for about 80 percent of its gross domestic product (GDP). After reaching about nine percent in 2008, economic growth slowed to an estimated 4–6 percent in 2009 in light of global economic conditions and their impact on Panama's service-based economy. The country's major services sectors include the Panama Canal, banking, the Colon Free Zone, insurance, container ports, and flagship registry. The assembly and manufacturing sectors of Panama's economy remain severely underdeveloped, with manufacturing and mining accounting for roughly 14 percent of GDP, and agriculture, forestry and fisheries making up the balance.

Anchoring growth is the $5.25 billion multi-year Panama Canal expansion program already underway. While the global credit crunch threatens a number of big-ticket residential, commercial and tourism projects, select investment and construction continues, with approximately $1 billion slated for improvements in electrical generation and port facilities. Panama has potential for growth in the areas of electric power generation, health care services, port services, land development, road construction, water distribution and purification, telecommunications, and tourism.

Mission Goals

This trade mission is designed to help U.S. firms initiate or expand their exports to Colombia and Panama by providing business-to-business introductions and market access information.

Mission Scenario

The mission will stop in Bogotá, and Cartagena, Colombia, and Panama City, Panama. In each city, participants will meet with pre-screened potential buyers, agents, distributors, and other business partners. They will also attend market briefings by U.S. Embassy officials, as well as networking events offering further opportunities to speak with local business and industry decision-makers.

Proposed Mission Timetable

Monday, November 15, 2010, Bogotá, Colombia

Market briefing
Matchmaking appointments
Networking reception

Tuesday, November 16, 2010, Bogotá and Cartagena, Colombia

Travel to Cartagena
Matchmaking appointments

Wednesday, November 17, 2010, Cartagena, Colombia and Panama City, Panama

Morning matchmaking appointments and/or site visits
Late afternoon travel to Panama

Thursday November 18, 2010, Panama City, Panama

Market Briefing
Matchmaking appointments
Networking reception

Participation Requirements

All parties interested in participating in the Executive-led Trade Mission to Colombia and Panama must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of seven U.S. companies and maximum of 15 companies will be selected to participate in the mission from the applicant pool. U.S. companies already doing business with Colombia and Panama as well as U.S. companies seeking to enter these countries for the first time may apply.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $4,440 for large firms and $3,550 for a small or medium-sized enterprise (SME).[1] The fee for each additional firm representative (large firm or SME) is $450. Expenses for travel, lodging, most meals, and incidentals will be the responsibility of each mission participant. The same fee structure applies to representatives of U.S.-based firms stationed in Colombia, Panama, or neighboring countries.

Conditions for Participation

- An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.
- Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria for Participation

Selection will be based on the following criteria, listed in decreasing order of importance:

- Suitability of the company's products or services for the Colombian and Panamanian markets.
- Applicant's potential for business in Colombia and Panama, including likelihood of exports resulting from the mission.
- Consistency of the applicant's goals and objectives with the stated scope of the trade mission.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner. Outreach will include publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.ita.doc.gov/doctm/tmcal.html*) and other Internet Web sites, press releases to general and trade media, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment will begin immediately and conclude no later than Friday, September 17, 2010. The U.S.

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (*see http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (*see http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

Department of Commerce will review all applications immediately after the deadline. We will inform applicants of selection decisions as soon as possible after September 17, 2010. Applications received after the deadline will be considered only if space and scheduling constraints permit.

Contacts

Louis Quay, Commercial Service Trade Missions Program, Tel: 202–482–3973, Fax: 202–482–9000, E-mail: *Louis.Quay@mail.doc.gov*.

Jessica Arnold, Commercial Service Trade Missions Program, Tel: 202–482–2026, Fax: 202–482–9000, E-mail: *Jessica.Arnold@trade.gov*.

Sean Timmins, Global Trade Programs, Commercial Service Trade Missions Program.

[FR Doc. 2010–2365 Filed 2–3–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–905]

Notice of Correction to the First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Correction to assessment rate section and separate rate company name.

SUMMARY: On January 11, 2010, the Department of Commerce ("Department") published the final results of the administrative review of the antidumping duty order on certain polyester staple fiber from the People's Republic of China ("PRC"). *See First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010) ("Final Results").

FOR FURTHER INFORMATION CONTACT: Emeka Chukwudebe, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0219.

In response to comments received from respondents,[1] the Department hereby clarifies two areas of the *Final Results*. The Department inadvertently stated in the assessment rate section that we will instruct CBP to liquidate entries for all companies at the company specific rate required at the time of entry. The Department hereby clarifies that we will instruct CBP to liquidate entries at the company–specific rate set forth in the *Final Results*. Additionally, in the Final Results, the Department omitted the full name of the separate rate company, Far Eastern Industries, Ltd., (Shanghai) and Far Eastern Polychem Industries and only listed Far Eastern Polychem Industries. The Department hereby corrects the *Final Notice* to state Far Eastern Industries, Ltd., (Shanghai) and Far Eastern Polychem Industries. The *Final Results* remains in effect in all other respects.

Dated: January 28, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–2317 Filed 2–3–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–855]

Certain Non–Frozen Apple Juice Concentrate from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* February 4, 2010.

SUMMARY: The Department of Commerce ("Department") has determined that a request for a new shipper review ("NSR") of the antidumping duty order on certain non–frozen apple juice concentrate ("apple juice") from the People's Republic of China ("PRC"), received on December 15, 2009, meets the statutory and regulatory requirements for initiation. The period of review ("POR") for this NSR is June 1, 2009, through January 20, 2010. In this instance, LXFI's sale of subject merchandise was made during the POR specified by the Department's regulations but the shipment entered within fifty–one days after the end of that POR. The Department finds that extending the POR to capture this entry would not prevent the completion of the review within the time limits set by the Department's regulations. Therefore, the Department has extended the POR for the new shipper review of LXFI by 51 days. *See* "Memorandum to the File through Alex Villanueva, Program Manager, New Shipper Review: Certain Non–Frozen Apple Juice Concentrate from the People's Republic of China (A–570–855), Placing CBP data on the record," dated concurrently with this notice.

FOR FURTHER INFORMATION CONTACT: Eliana Abreu, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–4849.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on apple juice from the PRC was published in the **Federal Register** on June 5, 2000. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Non Frozen Apple Juice Concentrate From the People's Republic of China*, 65 FR 35606 (June 5, 2000) ("*Antidumping Duty Order*"). On December 15, 2009, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended ("Act"), and 19 CFR 351.214(c), the Department received a NSR request from Lingbao Xinyuan Fruit Industry Co. ("LXFI"). LXFI's request was properly made during December 2009, which is the semi–annual anniversary of the *Antidumping Duty Order*. LXFI also submitted amendments to its initial NSR request on December 28, 2009. LXFI certified that it is a producer and exporter of the subject merchandise upon which the request was based. LXFI did not submit a public version, but instead adequately summarized proprietary information and provided explanations as to why certain proprietary information is not capable of summarization.

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), LXFI certified that it did not export subject merchandise to the United States during the period of investigation ("POI"). In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), LXFI certified that, since the initiation of the investigation, it has never been affiliated with any Chinese exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually

[1] Ningbo Dafa Chemical Fiber Co., Ltd., and Cixi Santai Chemical Fiber Co., Ltd.

examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), LXFI also certified that its export activities were not controlled by the central government of the PRC.

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2)(iv), LXFI submitted documentation establishing the following: (1) the date on which LXFI first shipped subject merchandise for export to the United States and; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.

When the sale of the subject merchandise occurs within the POR specified by the Department's regulations but the entry occurs after the POR, the specified POR may be extended unless it would be likely to prevent the completion of the review within the time limits set by the Department's regulations. *See* 19 CFR 351.214(f)(2)(ii). Additionally, the preamble to the Department's regulations states that both the entry and the sale should occur during the POR, and that under "appropriate" circumstances the Department has the flexibility to extend the POR. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27319–27320 (May 19, 1997).

For purposes of initiation, Department accepts the contract dated within the POR as evidence that LXFI had a sale to the United States during the POR. However, the Department will consider further the proper date of sale in the context of this new shipper review and whether that sale occurred during the POR.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the "Act") and 19 CFR 351.214(d)(1), we find that the request submitted by LXFI meets the threshold requirements for initiation of a new shipper review for shipments of apple juice from the PRC produced and exported by LXFI. *See* "Memorandum to the File Through Alex Villanueva, Project Manager, New Shipper Initiation Checklist: Certain Non–Frozen Apple Juice Concentrate From the PRC (A–570–855)," dated concurrently with this notice. The POR is June 01, 2009, through November 30, 2009. See 19 CFR 351.214(g)(1)(i)(B). The Department intends to issue the preliminary results of this NSR no later than 180 days from the date of initiation, and the final results no later than 270 days from the date of initiation. *See* section 751(a)(2)(B)(iv) of the Act.

It is the Department's usual practice, in cases involving non–market economies, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country–wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue questionnaires to LXFI, which will include a section requesting information with regard to LXFI's export activities for separate rates purposes. The review will proceed if the response provides sufficient indication that LXFI is not subject to either *de jure* or *de facto* government control with respect to its export of subject merchandise.

We will instruct U.S. Customs and Border Protection to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from LXFI in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because LXFI certified that it both produced and exported the subject merchandise, the sale of which is the basis for this new shipper review request, we will apply the bonding privilege to LXFI only for subject merchandise which LXFI both produced and exported.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 19 CFR 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 19 CFR 351.221(c)(1)(i).

Dated: January 29, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–2417 Filed 2–3–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* February 4, 2010.

SUMMARY: The Department of Commerce ("Department") has determined that two requests for new shipper reviews ("NSRs") of the antidumping duty order on honey from the People's Republic of China ("PRC"), received on December 10, 2009, and December 12, 2009, respectively, meet the statutory and regulatory requirements for initiation. The period of review ("POR") of these two NSRs is December 1, 2008 through November 30, 2009.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6905.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order on honey from the PRC was published in the **Federal Register** on December 10, 2001. See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey from the People's Republic of China, 66 FR 63670 (December 10, 2001) ("Order"). On December 10, 2009, and December 12, 2009, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended ("Act"), and 19 CFR 351.214(c), the Department received two timely filed requests for a NSR of the Order from Suzhou Shanding Honey Product Co., Ltd. ("Suzhou Shanding") and Wuhu Fenglian Co., Ltd. ("Wuhu Fenglian"), respectively. Both Suzhou Shanding and Wuhu Fenglian have certified that they are both the producer and exporter of the subject merchandise upon which the request for the NSRs are based.

The Department conducted queries for data from the U.S. Customs and Border Protection ("CBP") and requested CBP entry document packages to confirm that the shipments made by Suzhou Shanding and Wuhu Fenglian had officially entered the United States via assignment of an entry date in the CBP database.[1] In addition, the Department confirmed the existence of Suzhou Shanding and Wuhu Fenglian and their corresponding U.S. customers.

[1] The Department placed the business proprietary CBP data on the record and released it to interested parties under the Administrative Protective Order. *See* "Memorandum to the File from Blaine Wiltse; Placing CBP Data on the Record of New Shipper Reviews of Honey from the People's Republic of China," dated January 8, 2010, and "Memorandum to the File from Irene Gorelik; Placing Second Run of CBP Data on the Record of New Shipper Reviews of Honey from the People's Republic of China," dated January 22, 2010.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that Suzhou Shanding and Wuhu Fenglian meet the threshold requirements for initiation of a NSR for the shipment of honey from the PRC they produced and exported. *See* "Memorandum to File through James C. Doyle, Director, Office 9 from Catherine Bertrand, Program Manager, Office 9; Re: Honey from the People's Republic of China: Initiation of AD New Shipper Review for Suzhou Shanding Honey Product Co., Ltd." dated January 31, 2010 and "Memorandum to File through James C. Doyle, Director, Office 9 from Catherine Bertrand, Program Manager, Office 9; Re: Honey from the People's Republic of China: Initiation of AD New Shipper Review for Wuhu Fenglian Co., Ltd.," dated January 31, 2010.

The Department intends to issue the preliminary results of these NSRs no later than 180 days from the date of initiation, and final results no later than 270 days from the date of initiation. *See* section 751(a)(2)(B)(iv) of the Act.

Because both Suzhou Shanding and Wuhu Fenglian certified that they produced and exported subject merchandise, the sales of which form the basis for their respective requests for a new shipper review, we will instruct CBP to allow, at the option of the importer until the completion of the reviews, the posting of a bond or security in lieu of a cash deposit for each entry of the subject merchandise produced and exported by Suzhou Shanding and produced and exported by Wuhu Fenglian in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). The bonding privilege will apply only to subject merchandise produced and exported by Suzhou Shanding and subject merchandise produced and exported by Wuhu Fenglian.

Interested parties requiring access to proprietary information in this NSR should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: January 29, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–2415 Filed 2–3–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 090219207–0016–02]

RIN 0648-ZC05

NOAA Coastal and Marine Habitat Restoration Project Supplemental Funding

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

ACTION: Notice of supplemental funding for NOAA Coastal and Marine Habitat Restoration Projects.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes this notice to describe how it will administer the approximately 3 percent of funding that remains from the original allocation provided to NMFS under the American Recovery and Reinvestment Act (ARRA). These funds were set aside specifically to manage and mitigate risks to the original habitat restoration investments and ensure program goals are achieved. NMFS is only accepting requests for supplemental funding from existing ARRA grantees that were awarded funds as a result of the original competition. There is the possibility that NMFS may also fund additional projects selected from the ranked list of previously reviewed proposals that was provided to the Selecting Official as part of the original competition.

DATES: Recipients of ARRA Habitat Restoration project awards may contact NMFS to discuss the process for requesting supplemental funding. Requests for supplemental funding will be considered on a rolling basis.

FOR FURTHER INFORMATION CONTACT: Melanie Gange at (301) 713–0174, or by e-mail at *Melanie.Gange@noaa.gov.*

SUPPLEMENTARY INFORMATION: In 2009, NMFS provided ARRA funding for 50 habitat restoration projects. These projects were selected on a competitive basis from among 814 eligible applications submitted in response to a **Federal Register** Notice published March 6, 2009 (74 FR 9793). Approximately 3 percent of the funding originally allocated to NMFS was held in reserve to manage and mitigate risks to these habitat restoration investments and ensure program goals for economic and ecological value are achieved. NMFS intends to award these remaining funds to its existing ARRA grantees pursuant to the priorities below and potentially to additional projects selected from the ranked list of previously reviewed proposals. No other new applications will be accepted. Requests for supplemental funding will be considered on a case-by-case basis, based on bona fide need and priorities listed herein, and not in the order in which requests are received.

Electronic Access

Current recipients of ARRA Habitat Restoration project awards should contact their Federal Program Officer at 301–713–0174, or by email, for further information regarding the process for requesting supplemental funding. Federal Program Officers and their contact information are identified in award information available to recipients in NOAA's Grants Online.

The 50 projects selected for funding as a result of the original competition can be viewed at *http://www.nmfs.noaa.gov/habitat/restoration/restorationatlas/recovery__map.html.*

Statutory Authority

The Secretary of Commerce is authorized under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891a) and the Fish and Wildlife Coordination Act (16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970) to provide grants and cooperative agreements for habitat restoration.

Funding Availability

To meet ARRA and agency goals for accountability and risk management, approximately 3 percent of the original ARRA allocation for habitat restoration was set aside to serve as a risk margin for unforeseen changes to technical, financial, or scheduling aspects of funded restoration projects. Remaining funds will be made available primarily to existing recipients of NOAA ARRA Habitat Restoration project awards. NOAA does not guarantee that sufficient funds will be available to make awards for all supplemental requests. Publication of this document does not obligate NOAA to award funds for any specific project or to obligate all or any parts of any available funds. Funds will primarily be issued as amendments to current ARRA awards.

Eligibility

This funding is for current recipients of NOAA ARRA Habitat Restoration project awards.

Funding Priorities

NMFS expects to award remaining funds primarily to existing grantees who have met one or more of the following priorities:

- Project cost increases. NMFS acknowledges that certain existing projects may exceed projected costs due to various technical, financial, or scheduling factors unforeseen by the recipient and may require supplemental funds in order to complete the project. No contingency funds were allowed in original awards.
- Expanding ecological or economic monitoring and evaluation of select existing projects.
- Increasing the ecological impact of an existing project by allowing for additional work to be completed that is consistent with the approved scope of work or the original request.

NMFS reserves the right to fund additional projects selected from the ranked list of previously reviewed proposals that was provided to the Selecting Official as part of the original competition.

Cost-Sharing Requirements

There is no statutory matching requirement for this funding.

Evaluation and Selection Procedures

Supplemental funds will be granted primarily to current recipients of ARRA Habitat Restoration project awards through amendments specifically for cost overruns or expansion of a project as described above, in accordance with the Department of Commerce (DOC) Grants Manual. Decisions regarding which recipients will be provided with supplemental funding to further support habitat restoration activities are at the sole discretion of the Selecting Official, with final approval of the Grants Officer. Amendments will be recommended by the Selecting Official and approved by the Grants Officer without competition.

Intergovernmental Review

Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOCs are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not obligate NOAA to award funds for any specific project or to obligate any available funds.

National Environmental Policy Act

All information regarding the National Environmental Policy Act included in the original Notification of Funding Availability (74 FR 9793) and Federal Funding Opportunity (NOAA-NMFS-HCPO–2009–2001709) apply to the award of new or supplemental funding.

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of February 11, 2008 (73 FR 7696) are applicable to this notice.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF-LLL, and CD–346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866 (Regulatory Impact Review)

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

Executive Order 12132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: January 29, 2010.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–2410 Filed 2–3–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–947]

Certain Steel Grating from the People's Republic of China: Postponement of Final Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* February 4, 2010.

FOR FURTHER INFORMATION CONTACT: Thomas Martin or Zhulieta Willbrand, 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) 482–3936 or (202) 482–3147, respectively.

SUPPLEMENTARY INFORMATION:

Postponement of Final Determination and Extension of Provisional Measures

On January 7, 2010, Ningbo Jiulong Machinery Manufacturing Co., Ltd. ("Ningbo Jiulong") requested that pursuant to the affirmative preliminary determination in this investigation, the Department of Commerce ("the Department") postpone its final determination by 30 days under section 735(a)(2) of the Tariff Act of 1930, as amended ("the Act").[1] Ningbo Jiulong also requested that the Department extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) to a 6-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the

[1] Ningbo Jiulong previously requested, on December 14, 2009, that the Department postpone its final determination by 30 days, and extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) until the corresponding date of the final determination. The Department granted the request. *See Certain Steel Grating From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 847, 848 (January 6, 2010).

requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the **Federal Register**, or May 21, 2010. Further, in accordance with section 733(d) of the Act, suspension of liquidation will be extended accordingly. This postponement is issued and published in accordance with19 CFR 351.210(g).

Dated: January 28, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–2316 Filed 2–3–10; 8:45 am]

BILLING CODE 3510–DS–S

CONSUMER PRODUCT SAFETY COMMISSION

All Terrain Vehicle Chinese Language Webinar; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

The Consumer Product Safety Commission (CPSC) is announcing the following meeting: All Terrain Vehicle Chinese Language Webinar. The webinar will focus on CPSC's requirements for ATV's, including CPSC's Action Plan and mandatory vehicle requirements.

Date and Time: The meeting will be held on February 4, 2010 at 6:00 am Eastern Standard Time.

Location: The meeting will be held live via webinar. Chinese language speakers can access the webinar at *http://www.cpsc.gov/webcast/index_ch.html.* English speakers can access the webinar at *http://www.cpsc.gov/webcast/index.html.*

Contact: Laurie Hopkins, International Programs Coordinator, Office of International Programs and Intergovernmental Affairs, Consumer Product Safety Commission, 4330 East West Highway, Suite 505–A, 301–504–7797, FAX: 301–504–0137 e-mail: *lhopkins@cpsc.gov.*

Dated January 26, 2010.

Todd A. Stevenson,

Secretary of the Commission.

[FR Doc. 2010–2072 Filed 2–3–10; 8:45 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, February 3, 2010, 2 p.m.–4 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the public.

MATTER TO BE CONSIDERED: Compliance Weekly Report—Commission Briefing.

The staff will brief the Commission on various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Dated January 26, 2010.

Todd A. Stevenson,

Secretary.

[FR Doc. 2010–2068 Filed 2–3–10; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Veterans' Advisory Board on Dose Reconstruction; Meeting

AGENCY: Defense Threat Reduction Agency, DoD.

ACTION: Advisory board meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended) the Defense Threat Reduction Agency (DTRA) and the Department of Veterans Affairs (VA) announce the following advisory board meeting of the Veterans' Advisory Board on Dose Reconstruction (VBDR). The public is invited to attend.

DATES: The meeting will be held on Thursday, March 4, 2010, from 8:30 a.m. to 11:45 a.m. and from 1:15 p.m. to 5 p.m. A public comment session is scheduled from 10:15 a.m. to 10:45 a.m.

ADDRESSES: The meeting will be held at the Hilton Arlington Hotel, 950 North Stafford Street, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: The Veterans' Advisory Board on Dose Reconstruction Toll Free at 1–866–657–VBDR (8237).

Additional information may be found at *http://vbdr.org.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting

To obtain, review and evaluate information related to the Board's mission to provide guidance and oversight of the dose reconstruction and claims compensation programs for veterans of U.S.-sponsored atmospheric nuclear weapons tests from 1945–1962; veterans of the 1945–1946 occupation of Hiroshima and Nagasaki, Japan; and veterans who were prisoners of war in those regions at the conclusion of World War II. In addition, the advisory board will assist the VA and DTRA in communicating with the veterans.

Meeting Agenda

The meeting will open with an introduction of the Board. After introductions, the following briefings will be presented: "Veterans Health Administration Procedures and the Ionizing Radiation Registry" by Victoria Cassano, M.D.; "Discussion on: Projecting Future Operations of VBDR at the Strategic Level (September 15, 2009 Draft)" by Dr. John Lathrop; "Update on the NTPR Dose Reconstruction Program" by Dr. Paul Blake; and "Update on the VA Radiation Claims Compensation Program for Veterans" by Mr. Brad Flohr. The morning session includes one half-hour open public comment session. In the afternoon, the four subcommittees established during the inaugural VBDR session will report on their activities since June 2009. The subcommittees are the "Subcommittee on DTRA Dose Reconstruction Procedures," the "Subcommittee on VA Claims Adjudication Procedures," the "Subcommittee on Quality Management and VA Process Integration with DTRA Nuclear Test Personnel Review Program," and the "Subcommittee on Communication and Outreach." The remainder of the meeting will be devoted to a discussion of the future of the VBDR.

Meeting Accessibility

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited by the size of the meeting room. All persons must sign in legibly at the registration desk.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140(c), interested persons may submit a written statement for consideration by the Veterans' Advisory Board on Dose Reconstruction. Written statements should be no longer than two type written pages and must address: The issue, discussion, and recommended course of action.

Supporting documentation may also be included as needed to establish the appropriate historical context and to provide any necessary background information.

Individuals submitting a written statement may submit their statement to the Board at 801 N. Quincy Street, Suite 600, Arlington, VA 22203, at any time. However, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Veterans' Advisory Board on Dose Reconstruction until its next open meeting.

The Chairperson will review all timely submissions with the Designated Federal Officer, and ensure they are provided to members of the Veterans' Advisory Board on Dose Reconstruction before the meeting that is the subject of this notice. After reviewing the written comments, the Chairperson and the Designated Federal Officer may choose to invite the submitter of the comments to orally present their issue during an open portion of this meeting or at a future meeting.

Public Comments

The March 4, 2010, meeting is open to the public. One, approximately half-hour session will be reserved for public comments on issues related to the tasks of the Veterans' Advisory Board on Dose Reconstruction. Speaking time will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received, but is nominally five minutes each. All persons who wish to speak at the meeting must sign in legibly at the registration desk. Speakers who wish to expand on their oral statements are invited to submit a written statement to the Veterans' Advisory Board on Dose Reconstruction at 801 N. Quincy Street, Suite 600, Arlington, VA 22203.

Dated: February 1, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–2368 Filed 2–3–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement To Evaluate Improvements to the Federal Deep-Draft Pascagoula Harbor Navigation Channel in Jackson County, MS

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Mobile District, U.S. Army Corps of Engineers (Corps) intends to prepare a Draft Environmental Impact Statement (DEIS) to address the potential impacts associated with improving the Federal Pascagoula Harbor Navigation Channel Project in Jackson County, MS. The DEIS will be used as a basis for ensuring compliance with the National Environmental Policy Act (NEPA) and evaluating alternative plans including the "No Action". Alternatives which will be evaluated include widening the Lower Pascagoula Channel and Bayou Casotte Channel by 50-foot increments to a total width of 150 feet on one side or both sides of the channel.

DATES: A public scoping meeting will be held on Thursday, February 25, 2010 from 5:30 p.m. to 7:30 p.m.

ADDRESSES: The scoping meeting will be held at the Pascagoula Public Library, 3214 Pascagoula Street, Pascagoula, MS 39567.

FOR FURTHER INFORMATION CONTACT: Questions about the DEIS should be addressed to Ms. Jennifer Jacobson, Coastal Environment Team, Mobile District, U.S. Army Corps of Engineers, P.O. Box 2288, Mobile, AL 36628 by telephone (251) 690–2724 or e-mail her at *jennifer.l.jacobson@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. The March 1985 Pascagoula Harbor, MS Feasibility Report investigated increased widths and depths in the Pascagoula and Bayou Casotte navigation channels. Of the plans initially formulated, five were selected for detailed study along with the "No Action" alternative. All plans considered for detailed study included deepening all the channels in Mississippi Sound to 42 feet and the Entrance channel to 44 feet; widening of the Entrance channel to 550 feet; widening of the Bayou Casotte channel to 350 feet; and providing a 1,400-foot diameter turning basin just inside the mouth of Bayou Casotte. The 1985 Feasibility Report recommended deepening and widening the Gulf Entrance channel to 44 feet by 550 feet from the 44-foot depth contour in the Gulf of Mexico to the bend at the southern end of Horn Island Pass, deepening and widening Horn Island Pass to 44 feet by 600 feet between the bends at the southern and northern ends of that pass, for a distance of about 4 and ½; miles; reconfiguring the impoundment basin in Horn Island Pass to provide a section within the channel limits 1,500 feet long with a total depth of 56 feet to facilitate maintenance by hopper dredge, and allowing for future realignment of the Horn Island Pass reach as natural conditions warrant. In addition, deepening the Lower Pascagoula channel to 42 feet from the bend at the north end of Horn Island Pass, through Mississippi Sound and into the Pascagoula River, and terminating about 500 feet south of the grain elevator for a total distance of about 10 miles; widening the bend at the junction with the Bayou Casotte channel from the present 150 feet to 250 feet to provide a total width at the bend of 600 feet and widening the bend at the mouth of Pascagoula River by 280 feet to provide a total width at the bend of 630 feet. Finally, widening and deepening the Bayou Casotte channel to 42 feet by 350 feet from the junction with the main channel to the mouth of Bayou Casotte, a distance of about 3 and ½ miles; with additional widening at the mouth to provide a turning basin with a total turning diameter of 1,150 feet, including the channel width; relieving the northern portion of the area between the junction with the main ship channel from the present 500 feet to 1,000 feet, and widening the bend at the mouth of Bayou Casotte from the present 50 feet to 100 feet to provide a total width at the bend of 450 feet. A Final Environmental Impact Statement (EIS) for the Designation of an Ocean Dredged Material Disposal Site (ODMDS) located offshore Pascagoula, MS was prepared in July 1991. Construction of all phases of the improvements, except for the Entrance channel being widened to 550 feet, reconfiguring the Horn Island Pass impoundment basin, and the Pascagoula Upper channel being deepened to 42 feet, were completed in 1999. A Final Supplemental EIS entitled Pascagoula Harbor Navigation Channel is scheduled to be released for public comment this year. This Final Supplemental EIS addresses construction of all those unconstructed navigational features. The project is conducted under the authority of Public Law 84–99, Flood and Coastal Storm Emergencies (33 U.S.C.701n) (69 Stat. 186). Appropriations for construction of the

project was received by Public Law 109–359, making Appropriations for the Department of Defense for the Fiscal Year Ending September 30, 2006, and for Other Purposes (December 18, 2005). The original Final EIS was reviewed and any new conditions that were not addressed in the 1989 Final EIS were evaluated as part of the Final Supplemental EIS to ensure compliance with all environmental laws and regulations.

2. Alternative scenarios to be considered in the DEIS include the "No action" alternative and an array of 50-foot wide increment alternatives to widen the Federal Lower Pascagoula Channel and Bayou Casotte Channel up to a total width of 150 feet on either one side or both sides of the Channel(s). In addition, an array of disposal options are also being evaluated for the new work as well as for the maintenance material including upland disposal site(s), littoral zone disposal, beneficial use, disposal in the existing Pascagoula ODMDS, and disposal in existing open-water disposal sites.

3. *Scoping:* a. The Corps invites full public participation to promote open communication on the issues surrounding the proposal. All Federal, State, and local agencies, and other persons or organizations that have an interest are urged to participate in the NEPA scoping process. Public meetings will be held to help identify significant issues and to receive public input and comment.

b. The DEIS will analyze the potential social, economic, and environmental impacts to the local area resulting from improvements to the Federal Pascagoula Harbor Navigation Project. Specifically, the following major issues will be analyzed in depth in the DEIS: Hydrologic and hydraulic regimes, threatened and endangered species, essential fish habitat and other marine habitat, air quality, cultural resources, transportation systems, alternatives, secondary and cumulative impacts, socioeconomic impacts, environmental justice (effect on minorities and low-income groups) (Executive Order 12898), and protection of children (Executive Order 13045).

c. The Corps will serve as the lead Federal agency in the preparation of the DEIS. It is anticipated that the following agencies will be invited and will accept cooperating agency status for the preparation of the DEIS: U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fisheries Service, Mississippi Department of Environmental Quality, Mississippi Department of Marine Resources, Jackson County Port Authority, Mississippi Secretary of State, National Park Service, Minerals Management Service, Mississippi Museum of Natural Science, and Mississippi Department of Archives and History.

4. A public scoping meeting will be held (*see* **DATES AND ADDRESSES**). Actual time(s) and place(s) for subsequent meetings or workshops will be announced by the Corps by issuance of a public notice and/or notices in the local media.

5. It is anticipated that the DEIS will be made available for public review in November 2012.

Curtis M. Flakes,

Chief, Planning and Environmental Division.

[FR Doc. 2010–2392 Filed 2–3–10; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army

Inland Waterways Users Board; Request for Nominations

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: Section 302 of Public Law 99–662 established the Inland Waterways Users Board. The Board is an independent Federal advisory committee. The Secretary of the Army appoints its 11 members. This notice is to solicit nominations for appointments or reappointments to two-year terms that will begin after July 1, 2010.

ADDRESSES: Headquarters, U.S. Army Corps of Engineers, Civil Works Directorate, Attention: Inland Waterways Users Board Nominations Committee, Mr. Mark Pointon, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Headquarters, U.S. Army Corps of Engineers, Civil Works Directorate, (202) 761–4691.

SUPPLEMENTARY INFORMATION: The selection, service, and appointment of Board members are covered by provisions of Section 302 of Public Law 99–662. The substance of those provisions is as follows:

a. *Selection.* Members are to be selected from the spectrum of commercial carriers and shippers using the inland and intracoastal waterways, to represent geographical regions, and to be representative of waterborne commerce as determined by commodity ton-miles statistics.

b. *Service.* The Board is required to meet at least semi-annually to develop and make recommendations to the Secretary of the Army on waterways construction and rehabilitation priorities and spending levels for commercial navigation improvements, and report its recommendations annually to the Secretary and Congress.

c. *Appointment.* The operation of the Board and appointment of its members are subject to the Federal Advisory Committee Act (Pub. L. 92–463, as amended) and departmental implementing regulations. Members serve without compensation, but their expenses due to Board activities are reimbursable. The considerations specified in Section 302 for the selection of the Board members, and certain terms used therein, have been interpreted, supplemented, or otherwise clarified as follows:

(1) *Carriers and Shippers.* The law uses the terms "primary users and shippers." Primary users have been interpreted to mean the providers of transportation services on inland waterways such as barge or towboat operators. Shippers have been interpreted to mean the purchasers of such services for the movement of commodities they own or control. Individuals are appointed to the Board, but they must be either a carrier or shipper, or represent a firm that is a carrier or shipper. For that purpose a trade or regional association is neither a shipper nor primary user.

(2) *Geographical Representation.* The law specifies "various" regions. For the purpose of selecting Board members, the waterways subjected to fuel taxes and described in Public Law 95–502, as amended, have been aggregated into six regions. They are (1) the Upper Mississippi River and its tributaries above the mouth of the Ohio; (2) the Lower Mississippi River and its tributaries below the mouth of the Ohio and above Baton Rouge; (3) the Ohio River and its tributaries; (4) the Gulf Intracoastal Waterway in Louisiana and Texas; (5) the Gulf Intracoastal Waterway east of New Orleans and associated fuel-taxed waterways including the Tennessee-Tombigbee, plus the Atlantic Intracoastal Waterway below Norfolk; and (6) the Columbia-Snake Rivers System and Upper Willamette. The intent is that each region shall be represented by at least one Board member, with that representation determined by the regional concentration of the individual's traffic on the waterways.

(3) *Commodity Representation.* Waterway commerce has been aggregated into six commodity categories based on "inland" ton-miles shown in Waterborne Commerce of the

United States. These categories are (1) Farm and Food Products; (2) Coal and Coke; (3) Petroleum, Crude and Products; (4) Minerals, Ores, and Primary Metals and Mineral Products; (5) Chemicals and Allied Products; and (6) All Other. A consideration in the selection of Board members will be that the commodities carried or shipped by those individuals or their firms will be reasonably representative of the above commodity categories.

d. *Nomination.* Reflecting preceding selection criteria, the current representation by the one (1) Board member whose term has expired is Region 1 and a shipper.

Nominations to replace Board members whose terms expire may be made by individuals, firms or associations. Nominations will:

(1) State the region(s) to be represented.

(2) State whether the nominee is representing carriers, shippers or both.

(3) Provide information on the nominee's personal qualifications, such as a bio or a resume.

(4) Include the commercial operations of the carrier and/or shipper with whom the nominee is affiliated. This commercial operations information will show the actual or estimated ton-miles of each commodity carried or shipped on the inland waterways system in a recent year (or years) using the waterway regions and commodity categories previously listed.

Nominations received in response to **Federal Register** notices published on February 17, 2006 (71 FR 8568), on July 7, 2006 (71 FR 38629), on February 16, 2007 (72 FR 7620), on July 11, 2008 (73 FR 39952) and the notice published on February 24, 2009 (74 FR 8236) have been retained for consideration. Renomination is not required but highly encouraged to indicate continued interest and provide updated information.

e. *Deadline for Nominations.* All nominations must be received at the address shown above no later than March 15, 2010.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2010–2386 Filed 2–3–10; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 5, 2010.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 1, 2010.

James Hyler,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Evaluation of Response to Intervention Practices for Elementary School Reading (Site Recruitment).

Frequency: On Occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 515.
Burden Hours: 333.

Abstract: The Evaluation of Response to Intervention (RtI) Practices for Elementary School Reading will inform the National Assessment of IDEA 2004, and the choices of districts and schools, by studying the implementation and impact of practices to identify and intervene early with struggling readers and, when needed, determine students' eligibility for special education. The Department seeks clearance for the site recruitment materials. A subsequent OMB package will seek approval for instruments to collect data for an in-depth study of RtI design, implementation, and impact in sites operating mature RtI programs.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4223. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–2412 Filed 2–3–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required

by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 8, 2010.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or send e-mail to *oira_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: February 1, 2010.

James Hyler,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Revision.

Title: Re-clearance of the IEPS International Resource Information System (IRIS).

Frequency: Annually; On Occasion.

Affected Public: Businesses or other for-profit; Individuals or households; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 7,803.

Burden Hours: 16,994.

Abstract: This is a re-clearance of the on-line reporting system, International Resource Information System (IRIS), that IEPS uses to collect annual performance reports from Title VI and Fulbright-Hays grantees. The system is also used by IEPS to disseminate program information to the public.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4151. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–2414 Filed 2–3–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Institute of Education Sciences; Overview Information; Education Research and Special Education Research Grant Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2011

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.305A, 84.305B, 84.305C, 84.305D, 84.305E, 84.324A, 84.324B, and 84.324C.

Summary: The Director of the Institute of Education Sciences (Institute) announces the Institute's FY 2011 competitions for grants to support education research and special education research. The Director takes this action under the Education Sciences Reform Act of 2002, title I of Public Law 107–279. The intent of these grants is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood education through postsecondary and adult education.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The central purpose of the Institute's research grant programs is to provide parents, educators, students, researchers, policymakers, and the general public with reliable and valid information about education practices that support learning and improve academic achievement and access to education opportunities for all students. In carrying out its grant programs, the Institute provides support for programs of research in areas of demonstrated national need.

Competitions in this Notice: The Institute will conduct 12 research competitions in FY 2011 through two of its National Education Centers.

The National Center for Education Research (NCER) will hold eight competitions: Two competitions for education research; one competition for education research training; one competition for education research and development centers; one competition for research on statistical and research methodology in education; and three competitions for evaluation of State and local education programs and policies.

The National Center for Special Education Research (NCSER) will hold four competitions: Two competitions for special education research, one competition for special education research training, and one competition for special education research and development centers.

NCER Competitions

Education Research. Under the two education research competitions, NCER will consider only applications that address one of the following education research topics:

- Reading and Writing.
- Mathematics and Science Education.
- Cognition and Student Learning.
- Teacher Quality—Reading and Writing.
- Teacher Quality—Mathematics and Science Education.
- Social and Behavioral Context for Academic Learning.
- Education Leadership.
- Education Policy, Finance, and Systems.
- Organization and Management of Schools and Districts.
- Analysis of Longitudinal Data to Support State and Local Education Reform.
- Early Learning Programs and Policies.
- English Learners.
- Postsecondary Education.

- Adult Education.
- Education Technology.

Education Research Training. Under the education research training competition, NCER will consider only applications for Postdoctoral Research Training in the Education Sciences.

Education Research and Development Centers. Under the education research and development centers competition, NCER will consider only applications that address one of the following education research topics:

- Cognition and Adult Literacy.
- State and Local Education Policy.
- Postsecondary Education and Employment.

Research on Statistical and Research Methodology in Education. Under the research on statistical and research methodology in education competition, NCER will consider only applications that address research on statistical and research methodology in education.

Evaluation of State and Local Education Programs and Policies. Under the three Evaluation of State and Local Education Programs and Policies competitions, NCER will consider only applications that address the evaluation of State and local education programs and policies.

NCSER Competitions

Special Education Research. Under the two special education research competitions, NCSER will consider only applications that address one of the following special education research topics:

- Early Intervention and Early Learning in Special Education.
- Reading, Writing, and Language Development.
- Mathematics and Science Education.
- Social and Behavioral Outcomes to Support Learning.
- Transition Outcomes for Special Education Secondary Students.
- Cognition and Student Learning in Special Education.
- Professional Development for Teachers and Related Services Providers.
- Special Education Policy, Finance, and Systems.
- Autism Spectrum Disorders.

Special Education Research Training. Under the special education research training competition, NCSER will consider only applications for Postdoctoral Research Training.

Special Education Research and Development Centers. Under the special education research and development centers competition, NCSER will consider only applications that address the following research topic:

- School-Based Interventions for Secondary Students with Autism Spectrum Disorders.

Program Authority: 20 U.S.C. 9501 *et seq.*

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99. In addition, 34 CFR part 75 is applicable, except for the provisions in 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.211, 75.217, 75.219, 75.220, 75.221, 75.222, and 75.230.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants and cooperative agreements.

Fiscal Information: Although the Administration has not yet submitted a detailed budget request to Congress for FY 2011, the Institute is inviting applications for these competitions now so that it may give applicants adequate time to prepare their applications before the first round of competitions takes place this spring. The Department may announce additional topics later in 2010. The actual award of grants will depend on the availability of funds. The number of awards made under each competition will depend on the quality of the applications received for that competition. The size of the awards will depend on the scope of the projects proposed.

III. Eligibility Information

1. *Eligible Applicants:* Applicants that have the ability and capacity to conduct scientifically valid research are eligible to apply. Eligible applicants include, but are not limited to, non-profit and for-profit organizations and public and private agencies and institutions, such as colleges and universities.

2. *Cost Sharing or Matching:* These programs do not require cost sharing or matching.

IV. Application and Submission Information

1. *Request for Applications and Other Information:* Information regarding program and application requirements for the competitions will be contained in the NCER and NCSER Request for Applications (RFA) packages, which will be available at the following Web sites: *http://ies.ed.gov/funding/* and *http://www.ed.gov/about/offices/list/ies/programs.html.*

2. *RFA Packages Available:* The RFA packages for the education research training, special education research training, national research and development centers, special education research and development centers, research on statistical and research methodology in education, and evaluation of State and local education programs and policies competitions will be available at the Web sites listed above on or before February 1, 2010. The RFA packages for the education research and special education research competitions will be available at the Web sites listed above on or before February 22, 2010. The dates on which the RFA packages for these competitions will be available are also indicated in the chart at the end of this notice.

Information regarding selection criteria, requirements concerning the content of an application, and review procedures for the competitions are in the RFA packages.

3. *Deadline for Transmittal of Applications:* The deadline dates for transmittal of applications invited under this notice are indicated in the chart at the end of this notice and in the RFA packages for the competitions.

4. *Submission Requirements:* Applications for grants under these competitions must be submitted electronically using the Grants.gov Apply site (*http://Grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section V.1. *Electronic Submission of Applications* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **For Further Information Contact** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

V. Submission of Applications

1. Electronic Submission of Applications

Applications for grants under the Education Research, Education Research Training, Education Research and Development Centers, Research on Statistical and Research Methodology in Education, and Evaluation of State and

Local Education Programs and Policies competitions, CFDA Numbers 84.305A, 84.305B, 84.305C, 84.305D, and 84.305E, and for grants under the Special Education Research, Special Education Research Training, and Special Education Research and Development Centers competitions, CFDA Numbers 84.324A, 84.324B, and 84.324C must be submitted electronically using the Governmentwide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant applications for the Education Research, Education Research Training, Education Research and Development Centers, Research on Statistical and Research Methodology in Education, Evaluation of State and Local Education Programs and Policies, Special Education Research, Special Education Research Training, and Special Education Research and Development Centers competitions at *www.Grants.gov.* You must search for the downloadable application package for each competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.324, not 84.324A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted, and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for the competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (*see http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (*see http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424 Research & Related (R&R)) and the other R&R forms including, Project Performance Site Locations, Other Project Information, Senior/Key Person Profile (Expanded), Research and Related Budget (Total Federal and Non-Federal), and all necessary assurances and certifications.
- You must attach any narrative sections of your application as files in a .PDF (Portable Document) format. If you upload a file type other than the file type specified in this paragraph or submit a password-protected file, the Institute may choose not to review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **For Further Information Contact** in section

VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Elizabeth Payer, U.S. Department of Education, 555 New Jersey Avenue, NW., room 602C, Washington, DC 20208. FAX: (202) 219–1466.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

2. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education,

Application Control Center,

Attention: (CFDA Number: *[Identify the CFDA number, including suffix letter, if any, for the competition under which you are submitting an application.]*), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

3. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number: *[Identify the CFDA number, including suffix letter, if any, for the competition under which you are submitting an application.]*), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 10 of the SF 424 (R&R) the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Grant Administration:* Applicants should budget for a three-day meeting for project directors to be held in Washington, DC.

4. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* To evaluate the overall success of its education research program, the Institute annually assesses the number of IES-supported interventions with evidence of efficacy in improving student outcomes in

reading or writing, and mathematics or science. The data for this annual measure are based on What Works Clearinghouse (WWC) reviews of initial findings on interventions from IES research grants, such as findings that will have been presented as papers at a convention or working papers provided to IES by its grantees. The WWC reviews these reports and rates them using the WWC published standards to determine whether the evidence from these research grants meets evidence standards of the WWC and demonstrates a statistically significant positive effect in improving achievement outcomes in reading, writing, mathematics, or science.

VII. Agency Contact

For Further Information Contact: The contact person associated with a particular research competition is listed in the chart at the end of this notice and in the RFA package. The date on which applications will be available, the deadline for transmittal of applications, the estimated range of awards, and the project period are also listed in the chart and in the RFA package that are posted at the following Web sites:

http://ies.ed.gov/funding/.

http://www.ed.gov/about/offices/list/ies/programs.html.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the RFA package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed in the chart at the end of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: January 29, 2010.

John Q. Easton,

Director, Institute of Education Sciences.

BILLING CODE 4000–01–P

INSTITUTE OF EDUCATION SCIENCES

FY 2011 Grant Competitions to Support Education Research and Special Education Research

CFDA NUMBER AND NAME	REQUEST FOR APPLICATIONS PACKAGE AVAILABLE	DEADLINE FOR TRANSMITTAL OF APPLICATIONS	ESTIMATED RANGE OF AWARDS*	PROJECT PERIOD	FOR FURTHER INFORMATION CONTACT
National Center for Education Research (NCER)					
84.305A-1 Education Research ▪ Reading and Writing ▪ Mathematics and Science Education ▪ Cognition and Student Learning ▪ Teacher Quality - Reading and Writing ▪ Teacher Quality - Mathematics and Science Education ▪ Social and Behavioral Context for Academic Learning ▪ Education Leadership ▪ Education Policy, Finance, and Systems ▪ Organization and Management of Schools and Districts ▪ Analysis of Longitudinal Data to Support State and Local Education Reform ▪ Early Learning Programs and Policies ▪ English Learners ▪ Postsecondary Education ▪ Adult Education ▪ Education Technology	February 22, 2010	June 24, 2010	$100,000 to $1,200,000	Up to 5 years	Emily Doolittle Emily.Doolittle@ed.gov
84.305A-2 Education Research ▪ Reading and Writing ▪ Mathematics and Science Education ▪ Cognition and Student Learning ▪ Teacher Quality - Reading and Writing ▪ Teacher Quality - Mathematics and Science Education ▪ Social and Behavioral Context for Academic Learning ▪ Education Leadership ▪ Education Policy, Finance, and Systems ▪ Organization and Management of Schools and Districts ▪ Analysis of Longitudinal Data to Support State and Local Education Reform ▪ Early Learning Programs and Policies ▪ English Learners ▪ Postsecondary Education ▪ Adult Education ▪ Education Technology	February 22, 2010	September 16, 2010	$100,000 to $1,200,000	Up to 5 years	Emily Doolittle Emily.Doolittle@ed.gov
84.305B Education Research Training ▪ Postdoctoral Research Training Program in the Education Sciences	February 1, 2010	June 24, 2010	$91,500 to $137, 400	Up to 5 years	Edward Metz Edward.Metz@ed.gov

INSTITUTE OF EDUCATION SCIENCES

FY 2011 Grant Competitions to Support Education Research and Special Education Research

CFDA NUMBER AND NAME	REQUEST FOR APPLICATIONS PACKAGE AVAILABLE	DEADLINE FOR TRANSMITTAL OF APPLICATIONS	ESTIMATED RANGE OF AWARDS*	PROJECT PERIOD	FOR FURTHER INFORMATION CONTACT
84.305C National Research and Development Centers ▪ Cognition and Adult Literacy ▪ State and Local Education Policy ▪ Postsecondary Education and Employment	February 1, 2010	September 16, 2010	$1,000,000 to $2,000,000	Up to 5 years	Elizabeth Albro Elizabeth.Albro@ed.gov
84.305D Research on Statistical and Research Methodology in Education	February 1, 2010	June 24, 2010	$75,000 to $400,000	Up to 3 years	Allen Ruby Allen.Ruby@ed.gov
84.305E-1 Evaluation of State and Local Education Programs and Policies	February 1, 2010	April 1, 2010	$500,000 to $1,200,000	Up to 5 years	Allen Ruby Allen.Ruby@ed.gov
84.305E-2 Evaluation of State and Local Education Programs and Policies	February 1, 2010	June 24, 2010	$500,000 to $1,200,000	Up to 5 years	Allen Ruby Allen.Ruby@ed.gov
84.305E-3 Evaluation of State and Local Education Programs and Policies	February 1, 2010	September 16, 2010	$500,000 to $1,200,000	Up to 5 years	Allen Ruby Allen.Ruby@ed.gov
National Center for Special Education Research (NCSER)					
84.324A-1 Special Education Research ▪ Early Intervention and Early Learning in Special Education ▪ Reading, Writing, and Language Development ▪ Mathematics and Science Education ▪ Social and Behavioral Outcomes to Support Learning ▪ Transition Outcomes for Special Education Secondary Students ▪ Cognition and Student Learning in Special Education ▪ Professional Development for Teachers and Related Services Providers ▪ Special Education Policy, Finance, and Systems ▪ Autism Spectrum Disorders	February 22, 2010	June 24, 2010	$100,000 to $1,200,000	Up to 5 years	Robert Ochsendorf Robert.Ochsendorf@ed.gov

INSTITUTE OF EDUCATION SCIENCES

FY 2011 Grant Competitions to Support Education Research and Special Education Research

CFDA NUMBER AND NAME	REQUEST FOR APPLICATIONS PACKAGE AVAILABLE	DEADLINE FOR TRANSMITTAL OF APPLICATIONS	ESTIMATED RANGE OF AWARDS*	PROJECT PERIOD	FOR FURTHER INFORMATION CONTACT
84.324A-2 Special Education Research ▪ Early Intervention and Early Learning in Special Education ▪ Reading, Writing, and Language Development ▪ Mathematics and Science Education ▪ Social and Behavioral Outcomes to Support Learning ▪ Transition Outcomes for Special Education Secondary Students ▪ Cognition and Student Learning in Special Education ▪ Professional Development for Teachers and Related Services Providers ▪ Special Education Policy, Finance, and Systems ▪ Autism Spectrum Disorders	February 22, 2010	September 16, 2010	$100,000 to $1,200,000	Up to 5 years	Robert Ochsendorf Robert.Ochsendorf@ed.gov
84.324B Special Education Research Training ▪ Postdoctoral Research Training Program in Special Education	February 1, 2010	June 24, 2010	$91,500 to $137, 400	Up to 5 years	Celia Rosenquist Celia.Rosenquist@ed.gov
84.324C Special Education Research and Development Centers ▪ School-Based Interventions for Secondary Students with Autism Spectrum Disorders	February 1, 2010	September 16, 2010	$1,000,000 to $2,000,000	Up to 5 years	Celia Rosenquist Celia.Rosenquist@ed.gov

*These estimates are annual amounts.

Note: The Department is not bound by any estimates in this notice.

Note: If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service, toll free, at 1-800-877-8339.

[FR Doc. 2010–2514 Filed 2–3–10; 8:45 am]

BILLING CODE 4000–01–C

DEPARTMENT OF ENERGY

Proposed Emergency Agency Information Collection

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the Department of Energy (DOE) invites public comment on a proposed emergency collection of information that DOE is developing for management of financial assistance grants funded under the American Recovery and Reinvestment Act of 2009. 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, including the validity of the methodology and assumptions used; (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.

DATES: Comments regarding this proposed information collection must be received on or before February 18, 2010. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to: Matthew Grosso, U.S. Department of Energy, OE/Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585 or by fax at 202–586–5860, or by e-mail at *matthew.grosso@hq.doe.gov* and DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Matthew Grosso at *matthew.grosso@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This emergency information collection request contains: (1) *OMB No.:* New; (2) *Information Collection Request Title:* Electricity Delivery and Energy Reliability Recovery Act Smart Grid Grant Program Status Report; (3) *Type of Review:* Emergency; (4) *Purpose:* To collect information on the status of grantee activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously (especially important for Recovery Act funds); (5) *Annual Estimated Number of Respondents:* 132; (6) *Annual Estimated Number of Total Responses:* 1,656; (7) *Annual Estimated Number of Burden Hours:* 3,312; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $621,000 for the first year, $138,000 each subsequent year.

Authority: Title V, Subtitle E of the Energy Independence and Security Act of 2007 (EISA; Pub. L. 110–140).

Issued in Washington, DC, on January 28, 2010.

Terri T. Lee,

Chief Operating Officer, Electricity Delivery and Energy Reliability.

[FR Doc. 2010–2422 Filed 2–3–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice Providing Agenda for Technical Conference on RTO/ISO Responsiveness

January 27, 2010.

California Independent System Operator Corporation	Docket No. ER09–1048–000.
Midwest Independent Transmission System Operator, Inc	Docket No. ER09–1049–000.
Southwest Power Pool, Inc	Docket Nos. ER09–1050–000, ER09–1192–000.
ISO New England, Inc. and New England Power Pool	Docket No. ER09–1051–000.
PJM Interconnection, LLC	Docket No. ER09–1063–000.
New York Independent System Operator, Inc	Docket No. ER09–1142–000.

On November 13, 2009, the Commission issued a notice announcing that the Commission staff would hold a technical conference in the near future to address issues raised in the above-referenced Order No. 719 compliance proceedings.[1] The notice indicated that the date, time, and agenda for the conference would be announced in a subsequent notice. On January 8, 2010, the Commission issued a notice providing an agenda for the conference. The notice indicated that the panelists were subject to change. Attached is an up-dated agenda with the panelists as of the date of this notice.

The staff technical conference will be held on Thursday, February 4, 2010, from 12:30 p.m. to 4:30 p.m. (EST) in the Commission Meeting Room at the Commission's Washington, D. headquarters, 888 First Street, NE.

This conference will be webcast. All interested parties are invited, and there is no registration fee to attend.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to accessibility@ferc.gov or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

Questions about the technical conference may be directed to Kurt Longo at kurt.longo@ferc.gov, (202) 502–8048.

Kimberly D. Bose,

Secretary.

Agenda—Technical Conference on RTO/ISO Responsiveness

February 4, 2010

12:30 Panel 1—Stakeholder Process
- Bill Fields, Maryland Office of People's Counsel
- Paul Williams, Portland Cement Association (Industrial Consumers)
- John Anderson, Electric Consumers Resource Council
- Patrick E. McCullar, Delaware Municipal Electric Corporation, on behalf of American Public Power Association
- Tamara Linde, Public Service Electric & Gas

[1] *Wholesale Competition in Regions with Organized Electric Market,* Order No. 719, 73 FR 64,100 (Oct. 28, 2008), FERC Stats & Regs. ¶ 31,281 (2008); *order onreh'g,* 74 FR 37,772 (July 29, 2009), 128 FERC ¶ 61,059 (2009) (Order No. 719–A).

Don Fuller, California Independent System Operator Corporation
Stephen Kozey, Midwest Independent Transmission System Operator, Inc.
Stacy Duckett, Southwest Power Pool, Inc.
Ray Hepper, ISO New England, Inc.
Andrew Ott, PJM Interconnection, LLC
Robert Fernandez, New York Independent System Operator, Inc.
2:15 Break
2:30 Panel 2—Board Process and other Governance Issues
Janine Migden-Ostrander, Office of the Ohio Consumers' Counsel
Randy Rismiller, Illinois Commerce Commission
Lisa Fink, Maine Public Utilities Commission
Jed Nosal, Assistant Attorney General for the State of Massachusetts
Tamara Linde, Public Service Electric & Gas
Don Fuller, California Independent System Operator Corporation
Stephen Kozey, Midwest Independent Transmission System Operator, Inc.
Stacy Duckett, Southwest Power Pool, Inc.
Ray Hepper, ISO New England, Inc.
Vincent Duane, PJM Interconnection, LLC
Robert Fernandez, New York Independent System Operator, Inc.
4:15 Closing Remarks
* Panelists subject to change.

[FR Doc. 2010–2265 Filed 2–3–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13653–000]

Claverack Creek, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

January 27, 2010.

On January 11, 2010, Claverack Creek, LLC filed an application, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Claverack Creek Hydroelectric Project No. 13653, to be located on Claverack Creek, in Columbia County, New York.

The proposed project would consist of: (1) The existing 16-foot-high, 170-foot-long Stottville Mill Dam; (2) an existing 11.4-acre impoundment with a normal water surface elevation of 106 feet mean sea level; (3) an existing turbine with a new generator and a new turbine-generator with a total capacity of 450 kilowatts; (4) an existing 10-foot-wide, 8-foot-deep intake canal; (5) new trash racks, head gates, and stop log structure; (6) an existing 6-foot-diameter, 10-foot-long penstock and a new 10-foot-long penstock extension; (7) a new 40-foot-wide, 60-foot-long powerhouse; (8) an existing 10-foot-wide, 20-foot-long tailrace; (9) a new approximately 200-foot-long, 13.2-kilovolt transmission line from the powerhouse to a nearby distribution line; (10) a redeveloped 100-foot-long access road; (11) and appurtenant facilities. The project would have an estimated annual generation of 2,182 megawatt-hours.

Applicant Contact: William Fay, 189 River Road, Ware, MA 01082, (413) 244–6445.

FERC Contact: Brandon Cherry, (202) 502–8328.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing application: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "eFiling" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.*

More information about this project can be viewed or printed on the "eLibrary" link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13653) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–2264 Filed 2–3–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–36–000]

Green Borders Geothermal, LLC, Complainant, v. Terra-Gen Dixie Valley, LLC, Respondent; Notice of Complaint

January 28, 2010.

Take notice that on January 25, 2010, Green Borders Geothermal, LLC (Green Borders) filed a formal complaint against Terra-Gen Dixie Valley, LLC (f/k/a Caithness Dixie Valley, LLC) (Terra-Gen) pursuant to section 206 of the Federal Power Act, and 18 CFR 385.206, alleging that Terra-Gen violated prior Federal Energy Regulatory Commission (Commission) Orders [1] and the Commission's open access policies [2] when it failed to file an Open Access Transmission Tariff and Large Generator Interconnection Agreement with the Commission once Green Borders requested open access interconnection and transmission service on Terra-Gen's Dixie Valley Line that extends from Churchill County, Nevada through Mineral County, Nevada and ultimately interconnects with Southern California Edison Company's ("SCE") transmission system at SCE's Control Substation within the California Independent System Operator Corp.'s Control Area.

Green Borders certifies that copies of the complaint were served on the contacts for Terra-Gen, as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the

[1] *Oxbow Power Marketing, Inc.,* 76 FERC ¶ 61, 031 (1996) and *Oxbow Power Marketing, Inc.,* 79 FERC ¶ 61, 193.

[2] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. and Transmitting Utilities,* Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g,* Order No. 888–A, FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in part and rev'd in part sub nom. Transmission Access Policy Study Group, et al.* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *cert. granted in part and denied in part, New York* v. *FERC,* 535 U.S. 1 (2002); see also *Preventing Undue Discrimination and Preference in Transmission Serv.,* Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g,* Order No. 890–A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g and clarification,* Order No. 890–B, 123 FERC ¶ 61,299 (2008), *order on reh'g and clarification,* Order No. 890–C, 126 FERC ¶ 61,228 (2009), *order on reh'g and clarification,* Order No. 890–D, 129 FERC ¶ 61,126 (2009).

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 26, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–2269 Filed 2–3–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI10–6–000]

David Noland; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

January 28, 2010.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI10–6–000.

c. *Date Filed:* January 19, 2010.

d. *Applicant:* David Noland.

e. *Name of Project:* Noland Microhydro Project.

f. *Location:* The proposed Noland Microhydro Project will be located on an unnamed intermittent stream, tributary to Moodna Creek, near the town of Mountainville, Orange County, New York.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* David Noland, Angola Road, P.O. Box 204, Mountainville, NY 10953; telephone: (845) 534–2966; e-mail: *http://www.d.noland@earthlink.net.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or E-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* March 1, 2010.

All documents may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov.filing-comments.asp.*

Please include the docket number (DI10–6–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Noland Microhydro Project will consist of: (1) A two-foot-high, four-foot wide diversion; (2) a 600-foot-long, 6-inch-diameter HDPE pipe. (3) a four-nozzle Turgo turbine, driving a 5-horsepower induction motor as a generator, located in a 4-foot-by-6-foot cement powerhouse; (4) a 100-foot-long transmission line; and (5) appurtenant facilities. The energy generated will be used on site, and the project will not be connected to an interstate grid.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, please contact FERC Online Support at *FERCOnlineSupport @ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", AND/OR "MOTIONS TO INTERVENE", as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–2268 Filed 2–3–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–621–000]

Noble Energy Marketing and Trade Corporation; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

January 28, 2010.

This is a supplemental notice in the above-referenced proceeding of Noble Energy Marketing and Trade Corporation's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is February 26, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–2270 Filed 2–3–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

January 28, 2010.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File Date	Presenter or requestor
Prohibited:		
1. EL10–19–000	1–6–10	Richard A. Drom.
Exempt:		
1. CP09–35–000	1–12–10	Sarah King[1].

[1] One of several form letters (notes) from Sarah King, C. Porkinson, Leighton Johnson, James T. Water, *et al.* addressing the proposed Palomar Pipeline Project.

Kimberly D. Bose,
Secretary.

[FR Doc. 2010–2267 Filed 2–3–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Request for Information (RFI)

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The Department of Energy (DOE) is requesting information from stakeholders on questions pertaining to Section 1605—the Buy American provisions—of the American Recovery and Reinvestment Act ("Recovery Act") of 2009, Public Law 111–5. DOE is seeking information organized into two distinct parts. Part 1 requests technical information from stakeholders seeking to ascertain the availability of manufactured goods produced in the United States that are needed to carry out projects funded by the Office of Energy Efficiency and Renewable Energy. Part 2 requests information on questions pertaining to the application and implementation (programmatic questions) of the Buy American provisions in Recovery Act projects funded by the Office of Energy Efficiency and Renewable Energy.

DATES: Written comments and information are requested on or before 11:59 pm Eastern Time on Thursday, February 18, 2010.

ADDRESSES: Interested persons may submit information by any of the following methods:

- *E-mail (preferred method): buyamerican@ee.doe.gov.* Include "Response to Buy American RFI" in the subject line of the message.
- *Mail:* Mr. Benjamin Goldstein, U.S. Department of Energy, Office of Weatherization and Intergovernmental Programs, Mailstop EE–2K, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed paper original.
- *Hand Delivery/Courier:* Mr. Benjamin Goldstein, U.S. Department of Energy, Office of Weatherization and Intergovernmental Programs, Mailstop EE–2K, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed paper original.
- *Instructions:* All submissions received must include the agency name (DOE) and identify this RFI.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information to Mr. Benjamin Goldstein, U.S. Department of Energy, Office of Weatherization and Intergovernmental Programs, Mailstop EE–2K, 1000 Independence Avenue, SW., Washington, DC 20585–0121. E-mail: *buyamerican@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy's Office of Energy Efficiency and Renewable Energy (EERE) received $16.8 billion in Recovery Act appropriations for EERE's programs and initiatives (for more information, please visit *http://www1.eere.energy.gov/recovery/*). EERE is committed to achieving the goals of the Recovery Act—stimulating the economy and creating or retaining jobs—while simultaneously advancing the EERE mission of strengthening the United States' energy security, environmental quality, and economic vitality. With these objectives in mind, EERE is working to ensure that Recovery Act funds are deployed swiftly and effectively by recipients of financial assistance ("grantees").

Some grantees have encountered difficulties in procuring certain manufactured goods in compliance with the Buy American provisions. Under the Recovery Act, DOE can make an exception to the Buy American provisions (a "waiver"), based on the criteria outlined in Section 1605(b)(2) of the Recovery Act and in 2 CFR 176.80(a)(1). One such criteria is where manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality ("nonavailability").

EERE may consider issuing individual or categorical waivers if there are items that qualify for a determination of nonavailability. However, EERE wishes to ensure that any such determinations are based on a complete record obtained in a thorough, transparent and expedited manner. Toward this end, EERE is requesting grantees and other Recovery Act stakeholders to use Part 1 of this RFI to identify and provide technical specifications for products that may be potential candidates for waivers of Buy American provisions in EERE-funded projects based on the domestic nonavailability criteria.

The products and technical specifications submitted in response to Part 1 of this RFI will be catalogued and disseminated to the domestic manufacturing community in order to ascertain the manufacturing capacity for these products; all as part of the EERE due diligence process before considering issuing any waivers based on nonavailability criteria. EERE will then make the results of our determinations available to grantees and the general public through the **Federal Register,** the EERE Web site, and additional channels as necessary.

EERE is not at this time specifically requesting information, inquiries or expressions of interest from the manufacturing community. EERE will be executing a separate process to engage the manufacturing community around the products identified in Part 1 of this RFI.

Additionally, the Buy American provisions found in Section 1605 of the Recovery Act have generated numerous questions pertaining to their application and implementation (programmatic questions) in projects around the country. EERE has provided grantees with a number of avenues to seek additional information about the Buy American provisions, and has a Web site that provides responses to some of the most common questions: *http://www1.eere.energy.gov/recovery/buy_american_provision.html.*

To further assist grantees in understanding and implementing the Buy American provisions, EERE will use responses to Part 2 of this RFI to inform the content of forthcoming Buy American-specific guidance to be issued by EERE and available on the EERE Buy American Web site.

EERE strongly encourages responses from grantees and other Recovery Act stakeholders. These include, but are not limited to: Recipients of EERE Recovery Act financial assistance, state and local officials, contractors, and other interested parties.

Request for Information (RFI) Submission Guidelines

Responses to this RFI must be submitted or postmarked no later than 11:59 p.m. Eastern Time on February 18, 2010.

E-mail responses must be provided as a Microsoft Word (.doc or .docx), or compatible, attachment to the email responding to either Part 1 or Part 2. Responses to both Part 1 and Part 2 must be submitted as two separate Microsoft Word documents (see below).

Respondents are requested to provide the following information at the start of their response to this RFI:

- Associated government/company/institution name (if applicable).
- Contact information to allow for follow-up questions as necessary.

This RFI is seeking responses organized into two distinct Parts:

Part 1

EERE is seeking information on specific iron, steel and manufactured goods that stakeholders have found difficult to procure from domestic manufacturers in compliance with the Recovery Act Buy American provisions. EERE is requesting information on products that are not produced or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality in the time frame required. The type of information EERE is seeking is outlined below. EERE requests that stakeholders provide sufficient information to describe the technical specifications of the manufactured goods.

Submission format: Please provide the following information to the absolute best of your abilities. A small photo should be included (pasted) at the bottom of the Part 1 document if one is available. Please use as much space as necessary to adequately communicate the technical specifications for the particular manufactured good in question. If you are submitting information for multiple manufactured goods, please fill out one template for each, and begin each additional submission on a fresh page in the document.

1. *Item description (1–2 sentences):*
2. *Application:* (how and where the item is used).
3. *Item class:* (mechanical, electrical, electro-mechanical, electronic, etc.).
4. *Item materials:*
5. *Item size:*
6. *Likely manufacturing processes:*
7. *Is this a Commercially Available Off the Shelf (COTS) item, or a custom component?*
8. *Is a full set of technical specifications or data available for this item? If so, how can these be accessed?*
9. *Noteworthy performance requirements:*
10. *Other technical info, including manufacturing tolerances or testing requirements, if relevant:*
11. *DOE Program Grant with which this item is affiliated—please be as specific as possible.*
12. *What are the current major procurement issues being encountered?* (e.g., locating a U.S. supplier, cost, quality, delivery time, etc.).
13. *Anticipated procurement numbers, in terms of item quantity and/or $ amount:*
14. *Potential future or related procurement info:* (caveat any predictive info as not being guaranteed).
15. *Other relevant business info:* (anything else worth noting about the item or opportunity not addressed elsewhere on this form).
16. *Paste small digital photo below if one is available:*

Part 2

DOE is interested in identifying issues related to the Buy American provisions that may not be well understood by grantees. DOE requests information as to the areas of the Buy American provisions for which grantees have questions. It is not the intent of this request to provide responses to the questions submitted. DOE intends only to rely on the questions submitted for the purpose of potentially developing future guidance, should such guidance be necessary.

EERE is seeking information on programmatic questions relating to the applicability and/or implementation of the Buy American provisions of the Recovery Act in general, in specific projects, and/or in relation to individual technologies that may be deployed by recipients of financial assistance under EERE Recovery Act-funded programs. (Examples of programmatic questions might include: What is the definition of a "manufactured good?" Are solar panels installed on public buildings subject to the Buy American provisions? Do goods covered by NAFTA and produced in a NAFTA country satisfy the Buy American requirements? If Recovery Act funds are leveraged alongside private or philanthropic capital to increase the size or scope of a public project, do the Buy American provisions apply to the entire project or just the activities funded by Recovery Act dollars?) The format by which to submit programmatic questions is outlined in the paragraph below.

Submission Format: Please articulate, in as clear and concise language as possible, the exact question(s) you have regarding the applicability and implementation of the Recovery Act Buy American provisions under programs of the DOE EERE office. If your question relates to a specific project with unique circumstances please provide the relevant details. Multiple questions may be submitted, separated as individual paragraphs in the Word document. Please limit submissions to two (2) pages.

A response to this RFI will not be viewed as a binding commitment to develop or pursue the ideas discussed. DOE will not pay for information provided under this RFI. This RFI is not accepting applications for financial assistance or financial incentives. DOE has no obligation to respond to those who submit comments or questions, and/or give any feedback on any decision made based on the comments received. DOE thanks you for your assistance and comments in helping to achieve the goals of the Recovery Act.

Issued in Washington, DC, on January 29, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2010–2378 Filed 2–3–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD10–4–000]

Guidance on Preparation of Market-Based Rate Filings and Electric Quarterly Reports by Public Utilities; Notice of Technical Conference

January 28, 2010.

Take notice that Commission staff will convene a technical conference in the above-referenced proceeding on Wednesday, March 3, 2010 at 9 a.m. (Eastern Standard Time) in the Commission Meeting Room at the Commission's Washington, DC headquarters, 888 First Street, NE., Washington, DC 20426. A separate notice will be issued by the Commission at a later date to announce the final agenda of the technical conference.

The March 3, 2010 technical conference will focus on the mechanics of how to prepare an initial electric public utility market-based rate application and subsequent filings (including triennial market power reviews and change in status filings), as well as the requirement to submit Electric Quarterly Reports to the Commission once a seller has received market-based rate authorization. At the technical conference staff will also address the most frequently-asked questions that arise on electric market-based rate filings, the most common errors that are made in such filings, and highlight what tools are currently available to sellers in order to simplify the market-based rate application process as well as the preparation of subsequent required filings.

The technical conference is open to all interested persons. Interested persons planning on attending the technical conference are strongly encouraged to submit in writing any questions or specific topics that they would like addressed during the technical conference. Suggestions should be submitted to both Ryan Anderson at *ryan.anderson@ferc.gov*

and to David Hunger at *david.hunger@ferc.gov* by Wednesday, February 17, 2010, and include "AD10–4–000 Questions" in the subject line.

Any person planning to attend the technical conference is strongly encouraged to register by close of business on Wednesday, February 24, 2010. Registration may be submitted either online at *https://www.ferc.gov/whats-new/registration/mbr-03-03-10-form.asp* or by faxing a copy of the form (found at the referenced online link) to (202) 208–0353.

For further information, please contact Ryan Anderson at (202) 502–8122 or e-mail *ryan.anderson@ferc.gov*.

A free Webcast of the technical conference will be available. Registration to view the Webcast is not required. Webcast viewers will not be permitted to participate during the technical conference. Anyone with Internet access interested in viewing this conference can do so by navigating to *http://www.ferc.gov*'s Calendar of Events and locating the appropriate event in the Calendar. The events will contain a link to the applicable Webcast option. The Capitol Connection provides technical support for the webcasts and offers the option of listening to the conferences via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call (703) 993–3100.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–2271 Filed 2–3–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2009–0545; FRL–9109–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Site Remediation, EPA ICR Number 2062.04, OMB Control Number 2060–0534

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 8, 2010.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2009–0545, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert C. Marshall, Jr., Office of Compliance, Mail code: 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7021; fax number: (202) 564–0050; email address: *marshall.robert@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 30, 2009 (74 FR 38004), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2009–0545, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NESHAP for Site Remediation.

ICR Numbers: EPA ICR Number 2062.04, OMB Control Number 2060–0534.

ICR Status: This ICR is scheduled to expire on February 28, 2010. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: 40 CFR part 63, subpart GGGGG, applies to site remediation activities to cleanup materials containing organics that could be released to the atmosphere as a hazardous air pollutant (HAP). These site remediation activities are conducted at any facility where materials containing organic HAP currently are or have been stored, processed, treated, or otherwise managed at the facility. The types of businesses most likely to be subject to the standard include, but are not limited to: organic liquid storage terminals, petroleum refineries, chemical manufacturing facilities, and manufacturing facilities using organic materials.

The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any

changes, or additions to the General Provisions specified at 40 CFR part 63, subpart GGGGG.

Owners or operators of the affected facilities must submit a one-time-only report of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 219 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Site remediation facilities.

Estimated Number of Respondents: 286

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 125,027

Estimated Total Annual Cost: $12,596,594, which includes $12,014,594 in labor costs, no annualized capital/startup costs, and operation and maintenance (O&M) costs of $582,000.

Changes in the Estimates: There is no change in the labor hours in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for respondents is very low, negative, or non-existent. Therefore, the labor hours in the previous ICR reflect the current burden to the respondents and are reiterated in this ICR. There is a minor change to the cost figures due to updates in labor rates. The updated labor categories and associated rates result in an increase to total labor cost.

There is also a change in the method of reporting in this ICR. The labor hours and costs are calculated separately for each respondent type: "private sector," "state, local or tribal governments," and "federal government". There is no change in the total respondent burden hours (comprising both industry and federal government respondents).

Dated: January 28, 2010.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2010–2390 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2009–0441; FRL–9109–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarbonization Vessels (Renewal), EPA ICR Number 1060.15, OMB Control Number 2060–0038

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 8, 2010.

ADDRESSES: Submit your comments, referencing docket ID number EPA–OECA–2009–0441, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: John Schaefer, Office of Air Quality Planning and Standards, Sector Policies and Programs Division (D243–05), Measurement Policy Group, Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0296; fax number: (919) 541–3207; e-mail address: *schaefer.john@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 8, 2009 (74 *FR* 32580), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2009–0441, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NSPS for Steel Plants: Electric Arc Furnaces and Argon Oxygen Decarbonization Vessels (Renewal).

ICR Numbers: EPA ICR Number 1060.15, OMB Control Number 2060–0038.

ICR Status: This ICR is scheduled to expire on March 31, 2010. Under OMB

regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subparts AA and AAa. Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 308.4 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Electric arc furnaces and argon oxygen decarbonization vessels.

Estimated Number of Respondents: 98.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 60,745.

Estimated Total Annual Cost: $5,911,975, which includes $5,712,985 in labor costs, $5,490 in capital/startup costs, and $193,500 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase of 633 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This increase is due to an increase in the number of respondents. The new number of respondents accounted for the one new source that will become subject to the rule since the last ICR period. Further, the change in labor costs for industry and EPA is due to the use of more current labor rates. The decrease in annual O&M costs reflects a change made to account for a calculation error made in estimating the number of respondents that use COMS to measure stack emissions and the increase in total capital/startup costs is due to a calculation error in estimating the total costs for volumetric flow rate monitors for new sources.

Dated: January 29, 2010.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2010–2389 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2009–0522; FRL–9109–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Primary Magnesium Refining (Renewal), EPA ICR Number 2098.05, OMB Control Number 2060–0536

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before March 8, 2010.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2009–0522, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert C. Marshall, Jr., Office of Compliance, Mail code: 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–7021; fax number (202) 564–0050; e-mail address: *marshall.robert@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 30, 2009 (74 *FR* 38005), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2009–0522, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is

restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NESHAP for Primary Magnesium Refining (Renewal).

ICR Numbers: EPA ICR Number 2098.05, OMB Control Number 2060–0536.

ICR Status: This ICR is scheduled to expire on March 31, 2010. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 63, subpart TTTTT.

Owners or operators of the affected facilities must submit a one-time-only report of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 153 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Primary magnesium refining facilities.

Estimated Number of Respondents: 1.

Frequency of Response: Initially, occasionally, and semiannually.

Estimated Total Annual Hour Burden: 611.

Estimated Total Annual Cost: $52,991, which is comprised of labor costs of $51,791, no annualized capital/startup costs, and operation and maintenance (O&M) costs of $1,200.

Changes in the Estimates: The changes in burden from the most recently approved ICR are due to an adjustment. Calculation errors in the previous ICR were corrected, resulting in a small decrease to the calculated respondent burden hours and cost and an increase to the calculated Agency burden hours and cost.

Dated: January 29, 2010.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2010–2387 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9109–2]

Notice of Availability of Draft National Pollutant Discharge Elimination System (NPDES) General Permits for Small Municipal Separate Storm Sewer Systems (MS4)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft NPDES general permits.

SUMMARY: The Director of the Office of Ecosystem Protection, Environmental Protection Agency-Region 1 (EPA), is issuing this Notice of Availability of Draft NPDES general permits for discharges from small MS4s to certain waters of the Commonwealth of Massachusetts. These draft NPDES general permits establish Notice of Intent (NOI) requirements, prohibitions, and management practices for stormwater discharges from small MS4s. EPA is proposing to issue three general permits. Throughout this document the terms "this permit" and "the permit" will refer to all three general permits.

Owner and/or operators of small MS4s that discharge stormwater will be required to submit a NOI to EPA–Region 1 to be covered by the general permit. Following a review and public notice of the NOI, MS4s will receive a written notification from EPA regarding permit coverage and authorization to discharge under the general permit. The eligibility requirements are discussed in the draft permit. The small MS4 must meet the eligibility requirements of the permit prior to the submission of the NOI.

The draft general permit, appendices, and fact sheet are available at: *http://www.epa.gov/region1/npdes/stormwater*

DATES: The public comment period is from the February 4, 2010 to March 31, 2010. Interested persons may submit comments on the draft general permit as part of the administrative record to the EPA–Region 1, at the address given below, no later than midnight March 31, 2010. The general permit shall be effective on the date specified in the **Federal Register** publication of the Notice of Availability of the final general permit. The final general permit will expire five years from the effective date.

ADDRESSES: Submit comments by one of the following methods:

- *E-mail: Murphy.thelma@epa.gov.*
- *Mail:* Thelma Murphy, U.S. EPA—Region 1, 5 Post Office Square—Suite 100, Mail Code—OEP06–4, Boston, MA 02109–3912.

No facsimiles (faxes) will be accepted.

The draft permit is based on an administrative record available for public review at EPA–Region 1, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, Massachusetts 02109–3912. The following **SUPPLEMENTARY INFORMATION** section sets forth principal facts and the significant factual, legal, and policy questions considered in the development of the draft permit. A reasonable fee may be charged for copying requests.

Public Meeting Information: EPA—Region 1 will hold a public meeting to provide information about the draft general permit and its requirements. The public meeting will include a brief presentation on the draft general permits and a brief question and answer session. Written, but not oral, comments for the official draft permit record will be accepted at the public meeting. The public meeting will be held at the following time and location: Thursday—March 18, 2010, Thomas P. O'Neil, Jr. Federal Building, 10 Causeway Street—Auditorium First Floor, Boston, MA 02222, 9 a.m.–10 a.m.

Public Hearing Information: Following the public meeting, a public hearing will be conducted in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to provide written and/or oral

comments for the official draft permit record. The public hearing will be held at the following time and location: Thursday—March 18, 2010, Thomas P. O'Neil, Jr. Federal Building, 10 Causeway Street—Auditorium First Floor, Boston, MA 02222, 10:15 a.m.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft permit may be obtained between the hours of 9 a.m. and 5 p.m. Monday through Friday excluding holidays from: Thelma Murphy, Office of Ecosystem Protection, Environmental Protection Agency, 5 Post Office Square—Suite 100, Boston, MA 02109–3912; telephone: 617–918–1615; email: *Murphy.thelma@epa.gov*.

SUPPLEMENTARY INFORMATION:

Background of Proposed Permit

As stated previously, the Director of the Office of Ecosystem Protection, EPA—Region 1, is proposing to reissue three NPDES general permits for the discharge of stormwater from small MS4s to certain waters within the Commonwealth of Massachusetts. The three permits are:

MAR041A00—Traditional cities and towns.

MAR042A00—Non-traditional state/federal owned systems.

MAR043A00—Non-traditional transportation systems.

The conditions in the draft permit are established pursuant to Clean Water Act (CWA) section 402(p)(3)(iii) to ensure that pollutant discharges from small MS4s are reduced to the maximum extent practicable (MEP), protect water quality, and satisfy the appropriate requirements of the CWA. The regulations at 40 CFR 122.26(b)(16) define a small municipal separate storm sewer system as "* * * all separate storm sewers that are:

(1) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.

(2) Not defined as 'large' or 'medium' municipal separate storm sewer systems pursuant to paragraphs (b)(4) or (b)(7) or designated under paragraph (a)(1)(v) of this section [40 CFR 122.26].

(3) This term includes systems similar to separate storm sewer systems in municipalities such as systems at military bases, large hospital or prison complexes, and highways or other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings."

For example, an armory located in an urbanized area would not be considered a regulated small MS4.

The draft general permit sets forth the requirements for the small MS4 to "reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design and engineering methods * * *"(*See* section 402(p)(3)(B)(iii) of the CWA). MEP is the statutory standard that establishes the level of pollutant reductions that MS4 operators must achieve. EPA believes implementation of best management practices (BMPs) designed to control storm water runoff from the MS4 is generally the most appropriate approach for reducing pollutants to satisfy the MEP standard. Pursuant to 40 CFR 122.44(k), the draft permit contains BMPs, including development and implementation of a comprehensive stormwater management program (SWMP) as the mechanism to achieve the required pollutant reductions.

Section 402(p)(3)(B)(iii) of CWA also authorizes EPA to include in an MS4 permit "such other provisions as [EPA] determine appropriate for control of * * * pollutants." EPA believes that this provision forms a basis for imposing water quality-based effluent limitations (WQBELs), consistent with the authority in Section 301(b)(1)(C) of the CWA. *See Defenders of Wildlife* v. *Browner*. 191 F.3d 1159 (9th Cir. 1999): *see also* EPA's preamble to the Phase II regulations, 64 FR 68722, 68753, 68788 (Dec 8, 1999). Accordingly, the draft permits contain the water quality-based effluent limitations, expressed in terms of BMPs, which EPA has determined are necessary and appropriate under the CWA.

EPA—Region 1 issued a final general permit to address stormwater discharges from small MS4s on May 1, 2003. The 2003 general permit required small MS4s to develop and implement a SWMP designed to control pollutants to the maximum extent practicable and protect water quality. This draft permit builds on the requirements of the previous general permit.

EPA views the MEP standard in the CWA as an iterative process. MEP should continually adapt to current conditions and BMP effectiveness. EPA believes that compliance with the requirements of this general permit will meet the MEP standard. The iterative process of MEP consists of a municipality developing a program consistent with specific permit requirements, implementing the program, evaluating the effectiveness of the BMPs included as part of the program, then revising those parts of the program that are not effective at controlling pollutants, then implementing the revisions, and evaluating again. The changes contained in the draft general permits reflect the iterative process of MEP. Accordingly, the draft general permits contain more specific tasks and details than the 2003 general permit.

Summary of Permit Conditions

Obtaining Authorization

In order for a small MS4 to obtain authorization to discharge, it must submit a complete and accurate NOI containing the information in Appendix F of the draft general permit. The NOI must be submitted within 90 days of the effective date of the final permit. The effective date of the final permit will be specified in the **Federal Register** publication of the Notice of Availability of the final permit. A small MS4 must meet the eligibility requirements of the general permit found in Part 1.2 and Part 1.9 prior to submission of its NOI. A small MS4 will be authorized to discharge under the permit upon the effective date of coverage. The effective date of coverage is upon receipt of written notice from EPA following a public notice of the NOI.

The draft general permit provides interim coverage for permittees covered by the previous permit and whose coverage was effective upon the expiration date of that permit (May 1, 2008). For those discharges covered by the previous permit, authorization under the previous permit is continued automatically on an interim basis for up to 180 days from the effective date of the final permit. Interim coverage will terminate earlier than the 180 days when a complete and accurate NOI has been submitted by the small MS4 and coverage is either granted or denied. If a permittee was covered under the previous permit and submitted a complete and accurate NOI in a timely manner, and notification of authorization under the final permit has not occurred within 180 days of the effective date of the final permit, the permittee's authorization under the previous permit can be continued beyond 180 days on an interim basis. Interim coverage will terminate after

authorization under this general permit, an alternative permit, or denial of permit coverage.

EPA—Region 1 will provide an opportunity for the public to comment on each NOI that is submitted. Following the public notice, EPA—Region 1 will either authorize the discharge, request additional information, or require the small MS4 to apply for an alternative permit or an individual permit.

Water Quality-Based Effluent Limitations

The draft permit includes provisions to ensure that discharges do not cause or contribute to exceedances of water quality standards. The provisions in Parts 2.1, 2.2, and 2.3 of the general permit constitute the water quality-based effluent limitations of the permit. The purpose of this part of the permit is to establish the board inclusion of water quality-based effluent limitations for those discharges requiring additional controls in order to achieve water quality standards and other water quality related objectives, consistent with 40 CFR 122.44(d). The non-numeric effluent limitation requirements of this permit are expressed in the form of control measures and BMPs (see Part 2.4 of the general permit).

Non-Numeric Effluent Limitations

When EPA has not promulgated effluent limitations for a category of discharges, or if an operator is discharging a pollutant not covered by an effluent limitation guideline, effluent limitations may be based on the best professional judgment (BPJ) of the agency or permit writer. The BPJ limits in the general permit are in the form of non-numeric control measures, commonly referred to as best management practices (BMPs). Non-numeric limits are employed under limited circumstances, as described in 40 CFR 122.44(k). EPA has interpreted the CWA to allow BMPs to take the place of numeric effluent limitations under certain circumstances. 40 CFR 122.44(k) provides that permits may include BMPs to control or abate the discharge of pollutants when: "(1) [a]uthorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances form ancillary industrial activities; (2) [a]uthorized under section 402(p) of the CWA for the control of stormwater discharges; (3) [n]umeric effluent limitations are infeasible; or (4) [t]he practices are reasonable to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA." The permit regulates stormwater discharges using BMPs. Due to the variability associated with stormwater, EPA believes the use of BMPs is the most appropriate method to regulate discharges of stormwater from municipal systems in accordance with the above referenced regulation.

The draft permit requires small MS4s to continue to control stormwater discharges from the municipal system in a manner designed to reduce the discharge of pollutant to the maximum extent practicable and to protect water quality. The small MS4s are required to implement a SWMP consisting of control measures. These control measures include the following: public education and outreach; public participation; illicit discharge detection and elimination; construction stormwater management; stormwater management in new development and redevelopment; and good housekeeping in municipal operations. Implementation of the SWMP involves the identification of BMPs and measurable goals for BMPs. The draft permit identifies an objective for each control measure. The small MS4 must implement the control measures required by the general permit and document actions in the SWMP that demonstrate progress toward achievement of the objective of the control measure. The permit also contains outfall monitoring requirements that are associated with implementation of the illicit discharge detection and elimination program, recordkeeping and reporting.

Dated: January 25, 2010.

H. Curtis Spalding,

Regional Administrator, Region 1.

[FR Doc. 2010–2399 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9110–5]

Good Neighbor Environmental Board; Notification of Public Advisory Committee Teleconference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Public Advisory Committee Teleconference.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Good Neighbor Environmental Board (GNEB) will hold a public teleconference on February 25, 2010 from 1 p.m. to 3 p.m. Eastern Standard Time. The meeting is open to the public. For further information regarding the teleconference and background materials, please contact Dolores Wesson at the number listed below.

Background: GNEB is a Federal advisory committee chartered under the Federal Advisory Committee Act, PL 92463. GNEB provides advice and recommendations to the President and Congress on environmental and infrastructure issues along the U.S. border with Mexico.

Purpose of Meeting: The purpose of this teleconference is to continue discussion on the Good Neighbor Environmental Board's Thirteenth Report.

SUPPLEMENTARY INFORMATION: If you wish to make oral comments or submit written comments to the Board, please contact Dolores Wesson at least five days prior to the meeting.

General Information: Additional information concerning the GNEB can be found on its Web site at *http://www.epa.gov/ocem/gneb.*

Meeting Access: For information on access or services for individuals with disabilities, please contact Dolores Wesson at (202) 564–1351 or e-mail at *wesson.dolores@epa.gov.* To request accommodation of a disability, please contact Dolores Wesson at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: January 29, 2010.

Dolores Wesson,

Designated Federal Officer.

[FR Doc. 2010–2384 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0045; FRL–8807–5]

Notice of Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Agency's receipt of several initial filings of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before March 8, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID)

number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: A contact person, with telephone number and e-mail address, is listed at the end of each pesticide petition summary. You may also reach each contact person by mail at Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

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

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

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

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

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

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

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

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

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

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

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

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

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have a typical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain the data or information prescribed in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

As specified in FFDCA section 408(d)(3), (21 U.S.C. 346a(d)(3)), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

New Tolerances

1. *PP 9E7606*. (EPA–HQ–OPP–2009–0906). Syngenta Crop Protection, Inc., 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300, proposes to establish an import tolerance in 40 CFR part 180 for residues of the fungicide isopyrazam (SYN520453), in or on banana at 0.05 parts per million (ppm). An adequate, validated method (GRM006.01B) is available for enforcement purposes for the determination of residues of isopyrazam, analyzed as the isomers SYN534968 and SYN534969, in crop samples. The limit of quantitation (LOQ) has been set at 0.005 mg/kg for each isomer (0.01 mg/kg for SYN520453 in total). Final determination is by liquid chromatography-mass spectrometry/mass spectrometry (LC-MS/MS). An analytical method suitable for the determination of residues of the metabolites CSCD459488 and CSCD459489 (syn and anti forms respectively) in crop samples using an external standardization procedure is also available (GRM006.03A). The LOQ has been set at 0.005 mg/kg for both analytes. Final determination is by LC-MS/MS. Contact: Shaunta Hill, (703) 347–8961; *hill.shaunta@epa.gov*.

2. *PP 9E7632*. (EPA–HQ–OPP–2009–0861). The Interregional Research Project No. 4 (IR-4), 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes to establish a tolerance in 40 CFR part 180 for residues of the insecticide spirodiclofen, (3-(2,4-dichlorophenyl)-2-oxo-1-oxaspiro[4,5]dec-3-en-4-yl 2,2-dimethylbutanoate), in or on the bushberry subgroup 13-07B at 4.0 ppm. Adequate analytical methodology using LC-MS/MS detection is available for enforcement purposes. Contact: Laura Nollen, (703) 305–7390; *nollen.laura@epa.gov*.

3. *PP 9E7642*. (EPA–HQ–OPP–2009–0890). The Interregional Research Project No. 4 (IR-4), 500 College Road East, Suite 201W, Princeton, NJ 08540, in cooperation with Chemtura Corp., 199 Benson Rd (2–5), Middlebury, CT 06749, proposes to establish tolerances in 40 CFR part 180 for residues of the insecticide bifenazate, (1-methylethyl 2-(4-methoxy[1,1'-biphenyl]-3-yl)hydrazinecarboxylate) and diazinecarboxylic acid, 2-(4-methoxy-[1,1'-biphenyl]-3-yl), 1-methylethyl ester (expressed as bifenazate), in or on sugar apple, cherimoya, atemoya, custard apple, ilama, soursop, and biriba at 1.5 ppm; avocado at 7.0 ppm; fruit, small, vine climbing subgroup 13-07F, except fuzzy kiwi fruit at 0.75 ppm; and berry, low growing, subgroup 13-07G at 1.5 ppm. Chemtura Corporation, has developed practical analytical methodology for detecting and measuring residues of bifenazate in or on raw agricultural commodities. As D3598, a significant metabolite, was found to interconvert readily to/from bifenazate, the analytical method was designed to convert all residues of D3598 to the parent compound (bifenazate) for analysis. The method, "Determination of Combined Bifenazate and D3598 Residues in Sugar Apple", utilizes reversed phase high performance liquid chromatography (HPLC) to separate the bifenazate from matrix derived interferences, and oxidative coulometric electrochemical detection for the identification and quantification of this analyte. The lowest level of method validation (LLMV) in this study was 0.05 ppm for each analyte. Based on recoveries of samples fortified at the LLMV, the limit of detection (LOD) and limit of quantitation (LOQ) were calculated as 0.0308 ppm and 0.0923 ppm, respectively, for bifenazate and as 0.0332 ppm and 0.0997 ppm, respectively, for D3598. Contact: Sidney Jackson, (703) 305–7610; *jackson.sidney@epa.gov*.

4. *PP 9E7651*. (EPA–HQ–OPP–2009–0980). Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419–8300, proposes to establish import tolerances in 40 CFR part 180 for residues of the insecticide fluazifop-p-butyl, in or on potato, tuber at 1.1 ppm; potato, peel (wet) at 1.1 ppm; potato, chips at 3.0 ppm; and potato, granules/flakes at 5.0 ppm. Syngenta has developed and validated analytical methodology for enforcement purposes. This method has been submitted to the Agency and is in the Pesticide Analytical Manual, Vol. II (PAM II). An extensive database of method validation data using this method on various crop commodities is available. Contact: Michael Walsh, (703) 308–2972; *walsh.michael@epa.gov*.

5. *PP 9F7568*. (EPA–HQ–OPP–2009–0481). Valent U.S.A. Company, 1600 Riviera Ave., Walnut Creek, CA 94596–8025, proposes to establish tolerances in 40 CFR part 180 for residues of the fungicide 2,6-Dichlorobenzamide (BAM), in or on cattle, fat; cattle, meat byproducts; goat, fat; goat, meat byproducts; horse, fat; horse, meat byproducts; sheep, fat; and sheep, meat byproducts at 0.05 ppm; and cattle, meat; goat, meat; horse, meat; sheep, meat at 0.02 ppm, and milk at 0.02 ppm. A practical analytical method utilizing liquid chromatography and mass spectrometry detection that is validated for detecting and measuring levels of fluopicolide and BAM in animal matrices has been submitted. A confirmation method for milk, with a limit of quantitation of 0.002 ppm, has also been developed and is being submitted as part of this petition. Contact: Janet Whitehurst, (703) 305–6129; *whitehurst.janet@epa.gov*.

6. *PP 9F7590*. (EPA–HQ–OPP–2009–0873). BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709, proposes to establish tolerances in 40 CFR part 180 for residues of the fungicide pyraclostrobin, carbamic acid [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its metabolite methyl-*N*-[[[1-(4-chlorophenyl) pyrazol-3-yl]oxy]o-tolyl] carbamate (BF 500–3); expressed as parent compound, in or on soybean, forage at 11.0 ppm; and soybean, hay at 14.0 ppm. In plants, the method of analysis is aqueous organic solvent extraction, column clean up and quantitation by LC-MS/MS. In animals, the method of analysis involves base hydrolysis, organic extraction, column clean up and quantitation by LC-MS/MS

or derivatization (methylation) followed by quantitation by gas chromatography/MS (GC/MS). Contact: Shaunta Hill, (703) 347–8961; *hill.shaunta@epa.gov*.

7. *PP 9F7617*. (EPA–HQ–OPP–2009–0481). Valent U.S.A. Company, 1600 Riviera Ave., Walnut Creek, CA 94596–8025, proposes to establish a tolerance in 40 CFR part 180 for residues of the fungicide fluopicolide, 2,6-dichloro-*N*-[[3-chloro-5-(trifluoromethyl)-2-pyridyl]methyl]benzamide, as an indicator of combined residues of fluopicolide and its metabolite, 2,6-dichlorobenzamide (BAM), in or on vegetable, *Brassica*, leafy greens, subgroup 05B at 20 ppm. Practical analytical methods for detecting and measuring levels of fluopicolide and its metabolites have been developed and validated in/on all appropriate plant and animal matrices. An analytical method for detecting fluopicolide and BAM in mustard greens has been submitted with this petition. The LOQ of fluopicolide and the metabolite in the analytical method for mustard greens is 10 parts per billion (ppb) (0.01 ppm), which will allow monitoring for residues at the levels proposed for the tolerances. Contact: Janet Whitehurst, (703) 305–6129; *whitehurst.janet@epa.gov*.

8. *PP 9F7620*. (EPA–HQ–OPP–2009–0836). Gowan Company, 370 S. Main Street, Yuma, AZ 85364, proposes to establish a tolerance in 40 CFR part 180 for residues of the herbicide S-ethyl dipropylthiocarbamate (EPTC), in or on grasses grown for seed, hay at 0.1 ppm and grasses grown for seed, forage at 0.2 ppm. Adequate methods are available for the determination of EPTC and three hydroxy metabolites in crops, including grass grown for seed. The EPA reviewed these methods and noted in the "1999 EPTC Reregistration Eligibility Decision (RED)" that methods are available and adequate. The LOQ of the methods is 0.05 ppm for EPTC and 0.01 ppm for each of the hydroxy metabolites. Contact: Bethany Benbow, (703) 347–8072; *benbow.bethany@epa.gov*.

9. *PP 9F7639*. (EPA–HQ–OPP–2009–0920). Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419, proposes to establish a tolerance in 40 CFR part 180 for residues of the herbicide diquat dibromide, in or on canola, seed at 1.0 ppm; and canola, meal at 3.0 ppm. An adequate analytical method, extraction with sulfuric acid with HPLC detection, is available for enforcement purposes. Analytical methods for enforcing these tolerances have been published in the PAM II. Contact: Bethany Benbow, (703) 347–8072; *benbow.bethany@epa.gov*.

Amended Tolerances

1. *PP 9E7632*. (EPA–HQ–OPP–2009–0861). The Interregional Research Project No. 4 (IR-4), 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes to amend the tolerances in 40 CFR 180.608 by revising the tolerance expression under paragraphs (a)(1) and (a)(2) to read as follows: (a)(1). Tolerances are established for residues of the insecticide spirodiclofen, including its metabolites and degradates. Compliance with the tolerance levels specified is to be determined by measuring only spirodiclofen (3-(2,4-dichlorophenyl)-2-oxo-1-oxaspiro[4,5]dec-3-en-4-yl 2,2-dimethylbutanoate). (a)(2). Tolerances are established for residues of the insecticide spirodiclofen, including its metabolites and degradates. Compliance with the tolerance levels specified is to be determined by measuring only the sum of spirodiclofen (3-(2,4-dichlorophenyl)-2-oxo-1-oxaspiro[4,5]dec-3-en-4-yl 2,2-dimethylbutanoate) and its metabolite 3-(2,4-dichlorophenyl)-4-hydroxy-1-oxaspiro[4,5]dec-3-en-2-one, calculated as the stoichiometric equivalent of spirodiclofen. Adequate analytical methodology using LC-MS/MS detection is available for enforcement purposes. Contact: Laura Nollen, (703) 305–7390; *nollen.laura@epa.gov*.

2. *PP 9F7576*. (EPA–HQ–OPP–2009–0673). BASF Corporation, 26 Davis Dr., Research Triangle Park, NC 27709, proposes to increase the tolerance in 40 CFR 180.361 for residues of the herbicide pendimethalin, *N*-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine, and its metabolite 4-[(1-ethylpropyl)amino]-2-methyl-3,5-dinitrobenzyl alcohol, in or on alfalfa, forage from 3.0 ppm to 3.5 ppm. In plants, the method is aqueous organic solvent extraction, column clean up, and quantitation by GC. The method has a LOQ of 0.05 ppm for pendimethalin and the alcohol metabolite. Contact: Philip Errico, (703) 305–6663; *errico.philip@epa.gov*.

New Tolerance Exemptions

1. *PP 9E7627*. (EPA–HQ–OPP–2009–0046). Joint Inerts Task Force, Cluster Support Team 25, EPA Company Number 84866, c/o CropLife America, 1156 15th St., NW, Suite 400, Washington, DC 20005, proposes to establish an exemption from the requirement of a tolerance for residues of *N*-alkyl (C_8-C_{18}) primary amines and acetate salts (NAPAAS) under 40 CFR 180.910 and 180.930 when used as inert ingredients in pesticide formulations, limited to a maximum of 10% by weight in herbicide products, and 4% by weight in other pesticidal products for the following *N*-alkyl (C_8-C_{18}) primary amines and acetate salts where the alkyl group is linear and may be saturated and or unsaturated including: The *N*-alkyl (C_8-C_{18}) primary amines acetate salts: amines, coco alkyl, acetates (61790–57–6); amines, soya alkyl, acetates (61790–60–1); amines, hydrogenated tallow alkyl, acetates (61790–59–8); and amines, tallow alkyl, acetates (61790–58–7); and the following *N*-alkyl (C_8-C_{18}) primary amines: amines, coco alkyl (61788–46–3); amines, coco alkyl (61790–33–8); and amines, $C_{14\text{-}18}$ and $C_{16\text{-}18}$ unsaturated alkyl (68155–38–4). The petitioner believes no analytical method is needed because requirements for an analytical method are not applicable to a request to establish an exemption from the requirement of a tolerance. Contact: Karen Samek, (703) 347–8825; *samek.karen@epa.gov*.

2. *PP 9E7628*. (EPA–HQ–OPP–2009–0131). Joint Inerts Task Force, Cluster Support Team 2, EPA Company Number 84914, c/o CropLife America, 1156 15th St., NW, Suite 400, Washington, DC 20005, proposes to establish an exemption from the requirement of a tolerance for residues of alkyl alcohol alkoxylate phosphate derivatives (AAAPD) under 40 CFR 180.910 and 180.930 when used as inert ingredients in pesticide formulations, limited to a maximum of 30% by weight in end-use products for the α-alkyl (minimum C_6 linear or branched, saturated and or unsaturated)-ω-hydroxypolyoxyethylene polymer with or without polyoxypropylene, mixture of di- and monohydrogen phosphate esters and the corresponding ammonium, calcium, magnesium, monoethanolamine, potassium, sodium and zinc salts of the phosphate esters; minimum oxyethylene content averages 2 moles; minimum oxypropylene content is 0 moles, including: Poly(oxy-1,2-ethanediyl), α-tridecyl-ω-hydroxy-, phosphate (9046–01–9); Poly(oxy-1,2-ethanediyl), α-dodecyl-ω-hydroxy-, phosphate (39464–66–9); Poly(oxy-1,2-ethanediyl), α-hexadecyl-ω-hydroxy-, phosphate (50643–20–4); Poly(oxy-1,2-ethanediyl), α-decyl-ω-hydroxy-, phosphate (52019–36–0); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-$C_{12\text{-}15}$-alkyl ethers, phosphates (69071–35–2); Polyphosphoric acids, esters with polyethylene glycol decyl ether (68458–48–0); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-$C_{10\text{-}14}$-alkyl ethers, phosphates (68585–36–4); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-$C_{12\text{-}15}$-branched alkyl

ethers, phosphates (68815–11–2); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-C_{10-12}-alkyl ethers, phosphates (68908–64–5); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-C_{12-14}-alkyl ethers, phosphates (68511–37–5); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-C_{8-10}-alkyl ethers, phosphates (68130–47–2); Poly(oxy-1,2-ethanediyl), α-dodecyl-ω-hydroxy-, phosphate, sodium salt (42612–52–2); Poly(oxy-1,2-ethanediyl), α-dodecyl-ω-hydroxy-, phosphate, potassium salt (58318–92–6); Poly(oxy-1,2-ethanediyl), α-hexadecyl-ω-hydroxy-, phosphate, potassium salt (60267–55–2); Poly(oxy-1,2-ethanediyl), α-decyl-ω-hydroxy-, phosphate, potassium salt (68070–99–5); Poly(oxy-1,2-ethanediyl), α-tridecyl-ω-hydroxy-, phosphate, potassium salt (68186–36–7); Poly(oxy-1,2-ethanediyl), α-decyl-ω-hydroxy-, phosphate, sodium salt (68186–37–8); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-C_{12-15}-alkyl ethers, phosphates, sodium salts (68610–65–1); Poly(oxy-1,2-ethanediyl), α-isodecyl-ω-hydroxy-, phosphate, potassium salt (68071–17–0); (branched C10) Poly(oxy-1,2-ethanediyl), α-phosphono-ω-[(2-propylheptyl)oxy]-, potassium salt (1:2) (936100–29–7); (branched C10) Poly(oxy-1,2-ethanediyl), α-phosphono-ω-[(2-propylheptyl)oxy]-, sodium salt (1:2) (936100–30–0); Poly(oxy-1,2-ethanediyl), α-isotridecyl-ω-hydroxy-, phosphate (73038–25–2); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-C_{11-14}-isoalkyl ethers, C_{13}-rich, phosphates (78330–24–-2); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono(C_{10}-rich C_{9-11}-isoalkyl) ethers, phosphates (154518–39–5); Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, mono-C_{12-14}-sec-alkyl ethers, phosphates (317833–96–8); Poly(oxy-1,2-ethanediyl), α-isodecyl-ω-hydroxy-, phosphate (108818–88–8); Poly(oxy-1,2-ethanediyl), α-phosphono-ω-[(2-propylheptyl)oxy] (873662–29–4); Poly(oxy-1,2-ethanediyl), α-dodecyl-ω-hydroxy-, phosphate, monoethanolamine salt (61837–79–4); Poly(oxy-1,2-ethanediyl), α-tridecyl-ω-hydroxy-, phosphate monoethanolamine salt (68311–02–4); Poly(oxy-1,2-ethanediyl), α-decyl-ω-hydroxy-, phosphate, monoethanolamine salt (68425–73–0); Oxirane, methyl-, polymer with oxirane, phosphate (37280–82–3); Oxirane, methyl-, polymer with oxirane, mono-C_{10-16}-alkyl ethers, phosphates (68649–29–6); Oxirane, methyl-, polymer with oxirane, phosphate, potassium salt (67711–84–6); and Oxirane, methyl-, polymer with oxirane, mono-C_{10-16}-alkyl ethers, phosphates, potassium salt (68891–13–4). The petitioner believes no analytical method is needed because requirements for an analytical method are not applicable to a request to establish an exemption from the requirement of a tolerance. Contact: Karen Samek, (703) 347–8825; *samek.karen@epa.gov*.

3. *PP 9E7638*. (EPA–HQ–OPP–2009–0937). Cognis Corporation, c/o Lewis & Harrison, LLC, 122 C Street NW, Suite 740, Washington, DC 20001, proposes to establish an exemption from the requirement of a tolerance for residues of the alkyl polyglycosides (CAS Nos. 68515–73–1, 110615–47–9, and 132778–08–6) under 40 CFR 180.950 when used as inert ingredients in pesticide formulations. The petitioner believes no analytical method is needed because requirements for an analytical method are not applicable to a request to establish an exemption from the requirement of a tolerance. Contact: Karen Samek, (703) 347–8825; *samek.karen@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 27, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–2382 Filed 2–3–10; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 29, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number.

DATES: Persons wishing to comment on this information collection should submit comments by April 5, 2010. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via e–mail at Nicholas_A._Fraser@omb.eop.gov and to Cathy Williams, Federal Communications Commission (FCC), via e–mail at PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection send an e–mail to PRA@fcc.gov or contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1053.

Title: 47 CFR 64.604 – Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities; IP Captioned Telephone Service, Declaratory Ruling, CG Docket No. 03–123.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit entities.

Number of Respondents and Responses: 7 respondents and 14 responses.

Estimated Time per Response: 8 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirement is found at Sec. 225 [47 U.S.C. 225] Telecommunications Services for Hearing–Impaired Individuals; The Americans with Disabilities Act of 1990, (ADA), Public Law 101–336, 104 Stat. 327, 366–69, was enacted on July 26, 1990.

Total Annual Burden: 112 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personal identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: In August 2003, the Commission released Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, Declaratory Ruling, published at 68 FR 55898, September 28, 2003. In the Declaratory Ruling, the Commission clarified that one–line captioned telephone voice carry over (VCO) service (CTS) is a type of telecommunications relay service (TRS) eligible for compensation from the Interstate TRS Fund (Fund). The Commission also clarified that certain TRS mandatory minimum standards do not apply to one–line CTS, and waived portions of 47 CFR 64.604(a)(1) and (a)(3). Parts of the waivers were contingent on the filing of annual reports with the Commission detailing providers' compliance with the Declaratory Ruling, and any technological advances that might enable CTS providers to meet those waived standards. Among the standards not waived, however, was the requirement in 47 CFR 64.604(c)(1) that each provider maintain a log of consumer complaints that must be submitted to the Commission annually.

In July 2005, the Commission released Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67 and CG Docket No. 03–123, Order, published at 70 FR 54294, September 14, 2005, clarifying that two–line CTS is a type of TRS eligible for compensation from the Fund. In so doing, the Commission found that two–line CTS "is simply a variation of" CTS that offers the same functionality while also offering the user additional features. Therefore, the same waivers and waiver reporting and complaint log obligations applicable to one–line CTS have also applied to two–line CTS.

In January 2007, the Commission released Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities; Internet–based Captioned Telephone Service, CG Docket No. 03–123, Declaratory Ruling, published at 72 FR 6960, February 14, 2007, clarifying that Internet Protocol CTS (IP CTS) is a type of TRS eligible for compensation from the Fund when offered in compliance with the applicable TRS mandatory minimum standards. In so doing, the Commission waived or declared inapplicable some of these standards for IP CTS, consistent with waivers granted and other findings with respect to the provision of CTS and IP Relay, to the extent that IP CTS shares characteristics with both of those services. Like with those services, however, the Commission required IP CTS providers to file waiver reports for those waivers contingent on the filing of such reports, and the requirement to file complaint logs was not waived.

This notice covers the information collection burdens associated with the filing of these waiver reports and complaint logs.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010–2362 Filed 2–3–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

January 29, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control OMB number.

DATES: Persons wishing to comments on this information collection should submit comments on March 8, 2010 If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send them to: PRA@fcc.gov.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0952.

Title: Proposed Demographic Information and Notifications, Second Further Notice of Proposed Rulemaking (NPRM), CC Docket No. 98–147.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents: 1,400 respondents; 1,400 responses.

Estimated Time Per Response: 2 hours x 2 filings per year.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 47 U.S.C. sections 151–154, 201, 202, 251–254, 256, 271 and 303(r).

Total Annual Burden: 5,600 hours.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. Any respondent who submits information to the Commission that they believe is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Need and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) during this comment period in order to obtain the three year clearance from them. There is no change to the Commission's reporting and/third party disclosure requirements.

The Commission asked whether physical collocation in remote terminals presents technical or security concerns and, if so, whether these concerns warrant modification of its collocation rules. The Commission asked whether incumbent LECs should be required to provide requesting carriers with demographic and other information regarding particular remote terminals similar to the information available regarding incumbent LEC central offices. Requesting carriers use demographic and other information obtained from incumbent LECs to determine whether they wish to collocate at particular remote terminals.

This proposed collection in the Second Further Notice of Proposed Rulemaking (FCC 00–297) will be used by the Commission, the state commissions, and competitive carriers to facilitate the deployment of advanced services and other telecommunications services in implementation of section 251(c)(6) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2010–2363 Filed 2–3–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL TRADE COMMISSION

[File No. 091 0159]

Danaher Corporation and MDS, Inc.; Analysis of Agreement Containing Consent Orders to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

DATES: Comments must be received on or before March 1, 2010.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "DanaherMDS, File No. 091 0159" to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . .," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/DanaherMDS*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (*https://public.commentworks.com/ftc/DanaherMDS*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the "DanaherMDS, File No. 091 0159" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act ("FTC Act") and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

FOR FURTHER INFORMATION CONTACT: Michael R. Moiseyev (202-326-3106) or Lynda Lao (202-326-3054), Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 27, 2010), on the World Wide Web, at (*http://www.ftc.gov/os/actions.shtm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission") has accepted from Danaher Corporation ("Danaher") and MDS, Inc. ("MDS"), subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement"), which is designed to remedy the anticompetitive effects resulting from Danaher's acquisition of the stock and assets of MDS Analytical Technologies (US) Inc. ("MDS Analytical Technologies"), a subsidiary of MDS.

Under the terms of the Consent Agreement, Danaher will divest the assets of MDS's Arcturus business segment, which includes assets relating to the manufacture and sale of laser microdissection devices and associated reagent products, to Life Technologies Corp. ("Life Technologies") within 10 days after the date the Decision and Order ("Order") becomes final. The proposed Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed Consent Agreement and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make it final.

On September 2, 2009, Danaher entered into an agreement to acquire the stock and assets of MDS Analytical Technologies from MDS. The Commission's complaint alleges the facts described below and that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. 45, by lessening competition in the market for laser microdissection devices.

II. The Parties

Danaher, headquartered in Washington, DC, is a global supplier of professional, medical, industrial, commercial, and consumer products. Danaher's Leica Microsystems ("Leica") business operates within its Medical Technologies segment. Leica manufactures and sells laser microdissection devices.

Headquartered in Mississauga, Ontario, MDS is a life sciences company that operates three core businesses, MDS Analytical Technologies, MDS Nordion, and MDS Pharma Services. MDS's Arcturus business, which assembles and sells laser microdissection devices and chemical reagents, is a part of MDS Analytical Technologies.

III. Laser Microdissection Devices

Laser microdissection devices are used to separate small groups of cells — or even a single cell — from larger tissue samples for specialized tests, such as DNA analysis, RNA analysis, or protein profiling. These devices are fully integrated machines that incorporate a laser, a computer, and a monitor with a microscope. Laser microdissection is a particularly useful technique in the fields of molecular pathology, cell biology, oncology, and forensic medicine where scientists and researchers must separate small cell samples from heterogeneous tissue in order to analyze disease progression and develop more targeted treatments. For these scientists and researchers, the evidence indicates that laser microdissection devices constitute a relevant market for antitrust inquiry. Although other techniques exist for separating cells or proteins, none are as precise or reliable as laser microdissection. Accordingly, if the price of laser microdissection devices were to increase by five or ten percent, customers would not switch to any other technique or device.

The relevant geographic area in which to evaluate the market for laser microdissection devices is no larger than North America. Customers are unwilling to consider laser microdissection device suppliers that do not have a service and support infrastructure that can provide a timely response to a maintenance call. Additionally, customers in North America strongly prefer laser microdissection suppliers that have an established reputation among their colleagues in the United States and the rest of North America. Whether the geographic market is defined as North America or the United States, however, is unlikely to have any impact on the ultimate antitrust analysis because the same firms compete in each area.

With only four current competitors, the market for laser microdissection devices is highly concentrated. The proposed acquisition would combine Danaher's Leica brand of laser microdissection devices with MDS's Arcturus brand, leaving only three viable competitors. Laser microdissection devices are generally purchased through a competitive evaluation process. The four available products are highly differentiated, which leads to competition in a number of areas, including features, reliability, performance, price, and service. The elimination of the direct competition between the Leica and Arcturus devices could allow Danaher to exercise market power unilaterally by increasing prices or decreasing innovation or service, particularly to those customers who view Leica and Arcturus as their top two choices.

Neither new entry nor repositioning and expansion sufficient to deter or counteract the anticompetitive effects of the proposed acquisition in the laser microdissection market is likely to occur within two years. A *de novo* entrant to the laser microdissection market would face significant impediments to timely and sufficient entry. A firm would have to design, develop, and test a product with at least comparable functionality to the existing devices, which would also require navigating around the patents of the current competitors. Furthermore, a new entrant would have to establish a service and support infrastructure in North America. Perhaps most importantly, a new entrant would have to engage leading researchers and practitioners to develop a reputation for quality and reliability. For existing foreign firms that currently sell laser

microdissection devices outside of North America, cultivating the necessary reputation is a major barrier to competitively significant entry into the North American market. It can take several years to acquire a reputation on par with the current laser microdissection device brands in order to make a significant market impact. Accordingly, entry by a foreign firm is unlikely to make a significant market impact sufficient to counteract any anticompetitive effects from the proposed transaction within the next two years.

IV. The Consent Agreement

The proposed Consent Agreement eliminates the competitive concerns raised by Danaher's proposed acquisition of MDS Analytical Technologies by requiring the divestiture of MDS's assets relating to the manufacture and sale of laser microdissection devices. Danaher and MDS have agreed to sell the Arcturus assets, including the laser microdissection device business, as well as a related reagents business, to Life Technologies within 10 days after the date the Order becomes final.

Life Technologies possesses the knowledge, experience, and financial viability to successfully purchase and manage the divestiture assets and replace MDS as an effective competitor in the laser microdissection market. Headquartered in Carlsbad, California, Life Technologies is a life sciences company that manufactures and sells scientific research equipment that it distributes throughout the world. Life Technologies does not currently compete against Danaher and MDS in the sale of laser microdissection devices, but it does manufacture and sell reagents for downstream analysis using tissue samples obtained through laser microdissection. The Arcturus business would be a natural fit into Life Technologies's product portfolio, since both sets of products are marketed to the same customer base.

Pursuant to the Consent Agreement, Life Technologies would receive all the assets necessary to operate MDS's current laser microdissection business, including equipment used to assemble the Arcturus laser microdissection device, Arcturus software, and reagents that are sold as complementary downstream products to Arcturus customers. In addition to key Arcturus employees, who would be made available to Life Technologies, the Consent Agreement requires MDS to provide Life Technologies with access to certain other employees who may be needed to facilitate the transition of the Arcturus laser microdissection assets. The Consent Agreement also requires MDS to transfer all the Arcturus intellectual property, including patent licenses for infrared laser microdissection device technology. Divestiture of all of the Arcturus laser microdissection assets will ensure that Life Technologies has a full line of high-quality laser microdissection devices, enabling it to compete immediately with the merged entity.

The Commission may appoint an interim monitor to oversee the divestiture of the Arcturus laser microdissection business at any time after the Consent Agreement has been signed. In order to ensure that the Commission remains informed about the status of the proposed divestitures, the proposed Consent Agreement requires the parties to file periodic reports with the Commission until the divestiture is accomplished. If the Commission determines that Danaher has not fully complied with its obligations under the Order within 10 days after the date the Order becomes final, the Commission may appoint a divestiture trustee to divest the Arcturus assets to a Commission-approved acquirer.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Order or the Agreement to Maintain Assets, or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2010–2460 Filed 2–3–10: 7:15 am]

BILLING CODE 6750–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse, Special Emphasis Panel; International Research Collaborations on HIV/AIDS and Drug Use.

Date: February 18, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sofitel Washington DC, Lafayette Square, 806 15th Street, NW., Madeline Room, Washington, DC 20005.

Contact Person: Scott Chen, PhD, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6101 Executive Boulevard, Room 220, MSC 8401, Bethesda, MD 20892, 301–443–9511, *chensc@mail.nih.gov.*

Name of Committee: National Institute on Drug Abuse, Special Emphasis Panel, Targeted Library Synthesis and Screening at Novel Targets for Potential Drug Addiction (R21/R33).

Date: February 25, 2010.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Minna Liang, PhD, Scientific Review Officer, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, 6101 Executive Blvd., Room 220, MSC 8401, Bethesda, MD 20852, 301–435–1432, *liangm@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse, Special Emphasis Panel, Diversity-promoting Institutions' Drug Abuse Research Development Program.

Date: February 25, 2010.

Time: 10:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852.

Contact Person: Nadine Rogers, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, 301–402–2105, *rogersn2@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Diversity-promoting Institutions' Drug Abuse Research Development Program B.

Date: February 25, 2010.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852.

Contact Person: Meenaxi Hiremath, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6101 Executive Blvd., Suite 220, MSC 8401, Bethesda, MD 20892, 301–402–7964, *mh392g@nih.gov.*

Name of Committee: National Institute on Drug Abuse Initial Review Group; Training and Career Development Subcommittee.

Date: March 8–9, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Eliane Lazar-Wesley, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Room 220, MSC 8401, Bethesda, MD 20892–8401, 301–451–4530, *el6r@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: January 26, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–2074 Filed 2–3–10; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5378–N–01]

Notice of Proposed Information Collection: Comment Request Fair Housing Initiatives Program Grant Application and Monitoring Reports

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO), Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date: April 5, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposed information collection requirement. Comments should refer to the proposal by name and/or OMB Control Number, and should be sent to: Myron Newry, Director, FHIP Division, Office of Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5224, Washington, DC 20410–2000.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney, Jr., Paperwork Reduction Act Program Manager, Office of Chief Information Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4178, Washington, DC 20410–2000; telephone: 202–402–5564 (this is not a toll free number). (Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at: 1–800–877–8339.)

SUPPLEMENTARY INFORMATION: The Department is submitting this proposed information collection requirement to the OMB for review, as required under the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35, as amended]. Required forms were approved under Departmental clearance under the FHIP NOFA process.

This notice solicits comments from members of the public and affected agencies concerning the proposed information collection in order to: (1) Evaluate whether the proposed information collection is necessary for the proper performance of the Department's program functions; (2) Evaluate the accuracy of the Department's assessment of the paperwork burden that may result from the proposed information collection; (3) Enhance the quality, utility and clarity of the information which must be collected; and (4) Minimize the burden of the information collection on responders, including the use of appropriate automated collection techniques or other forms of information technology (*e.g.*, electronic transmission of data).

Title of Regulation: 24 CFR Part 125, Fair Housing Initiatives Program.

OMB Control Number, if applicable: 2529–0033.

Description of the need for the information and proposed use: This is a revision of the currently approved information collection for selecting applicants for the Fair Housing Initiatives Program (FHIP) grants that will be part of the Notice of Funding Availability (NOFA). These grants are to fund fair housing enforcement and/or education and outreach activities under the following initiatives: Administrative Enforcement; Private Enforcement, Education and Outreach, and Fair Housing Organizations. Information is also collected to monitor grants and grant funds. Proposed revisions to the currently approved information collection include: changes in the program description from "Fair Housing Initiatives Program Grant Application" to "Fair Housing Initiatives Program Grant Application and Monitoring Reports." Monitoring reports will continue to be submitted electronically and manually. Electronic reports include the attached forms: "Types of Closures", "Bases and Issues in Tests", and "Basis and Issues of Reports of Discrimination."

Agency form number(s), if applicable: HUD 904 A, B, and C, SF–425, SF–424, SF–LLL, HUD–2880, HUD–2990, HUD–2993, HUD–424CB, HUD–424–CBW, HUD2994–A, HUD–96010, and HUD–27061.

Members of affected public: The collection of information involves Qualified Fair Housing Organizations (QFHOs); Fair Housing Organizations (FHOs); public or private non-profit organizations or institutions and other public or private entities that are working to prevent or eliminate discriminatory housing practices; State and local governments; and Fair Housing Assistance Program Agencies.

Estimation of the total numbers of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response: An estimation of 46,420 total hours will be needed to prepare the information collection. The number of respondents is 400 with a frequency response of 1 per annum, and the total hours per respondent is 76.50 hours for application development. The estimated 104 agencies that will receive funding and have to provide quarterly and final reports, with approximately 59 having to provide Enforcement Logs and 1 agency reporting on a semi-annual basis. The estimated number of respondents is based on the average of the number of submissions for NOFA years 2008 to current. The number of hours is an average based on grantee estimates of time to review instructions, search existing data sources, prepare required responses to the application, complete the certification, and assemble exhibits.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 28, 2010.

Cheryl Ziegler,

Deputy Assistant Secretary for Enforcement and Programs.

[FR Doc. 2010–2364 Filed 2–3–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5388–N–01]

Annual Indexing of Basic Statutory Mortgage Limits for Multifamily Housing Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: In accordance with Section 206A of the National Housing Act, HUD has adjusted the Basic Statutory Mortgage Limits for Multifamily Housing Programs for calendar year 2010.

DATES: *Effective Date:* January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Joseph A. Sealey, Director, Technical Support Division, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 402–2559 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The FHA Downpayment Simplification Act of 2002 (Pub. L. 107–326, approved December 4, 2002) amended the National Housing Act by adding a new Section 206A (12 U.S.C. 1712a). Under Section 206A, the following are affected:

(1) Section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

(2) Section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

(3) Section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

(4) Section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));

(5) Section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));

(6) Section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

(7) Section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A)).

The dollar amounts in these sections, which are collectively referred to as the 'Dollar Amounts,' shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the $400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA) (Pub. L. 103–325, approved September 23, 1994). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

HUD has been notified of the percentage change in the CPI–U used for the HOEPA adjustment and the effective date of the HOEPA adjustment. The percentage change in the CPI–U is 0.9926 percent (1.00–.0074) and the effective date of the HOEPA adjustment is January 1, 2010. The Dollar Amounts have been adjusted correspondingly and have an effective date of January 1, 2010.

The adjusted Dollar Amounts for calendar year 2010 are shown below:

Basic Statutory Mortgage Limits for Calendar Year 2010

Multifamily Loan Program

■ Section 207—Multifamily Housing

■ Section 207 pursuant to Section 223(f)—Purchase or refinance housing

■ Section 220—Housing in urban renewal areas

Bedrooms	Non-Elevator	Elevator
0	$45,088	$52,027
1	49,945	58,270
2	59,657	71,451
3	73,532	89,488
4+	83,246	101,184

■ Section 213—Cooperatives

Bedrooms	Non-Elevator	Elevator
0	$48,863	$52,027
1	56,338	58,946
2	67,946	71,677
3	86,971	92,727
4+	96,891	101,787

■ Section 221(d)(3)—Moderate income housing

■ Section 234—Condominium housing

Bedrooms	Non-Elevator	Elevator
0	$49,860	$52,470
1	57,488	60,148
2	69,332	73,140
3	88,747	94,619
4+	98,867	103,863

■ Section 221(d)(4)—Moderate income housing

Bedrooms	Non-Elevator	Elevator
0	$44,871	$48,470
1	50,935	55,565
2	61,567	67,566
3	77,277	87,408
4+	87,569	95,948

■ Section 231—Housing for the Elderly

Bedrooms	Non-Elevator	Elevator
0	$42,662	$48,470
1	47,692	55,565
2	56,951	67,566
3	68,537	87,408
4+	80,576	95,948

■ Section 207—Manufactured Home Parks

Per Space $20,700

Dated: January 26, 2010.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2010–2361 Filed 2–3–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5374–N–05]

Buy American Exceptions Under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: In accordance with the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–05, approved February 17, 2009) (Recovery Act), and implementing guidance of the Office of Management and Budget (OMB), this notice advises that certain exceptions to the Buy American requirement of the Recovery Act have been determined applicable for work using Capital Fund Recovery Formula and Competition (CFRFC) grant funds. Specifically, a waiver was granted to the Housing Authority of Portland, Oregon for the installation of continuous venting range hoods as a part of the modernization of five public housing projects (Demar Downs, Fir Acres, Stark Manor, Townhouse Terrace and Celilo Court).

FOR FURTHER INFORMATION CONTACT: Dominique G. Blom, Deputy Assistant Secretary for Public Housing Investments, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410–4000, telephone number 202–402–8500 (this is not a toll-free number). 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.

SUPPLEMENTARY INFORMATION: Section 1605(a) of the Recovery Act provides that none of the funds appropriated or made available by the Recovery Act may

be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Subsection 1605(b) provides that the Buy American requirement shall not apply in any case or category in which the head of a Federal department or agency finds that: (1) Applying the Buy American requirement would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality; or (3) inclusion of iron, steel, and manufactured goods will increase the cost of the overall project by more than 25 percent. Subsection 1605(c) provides that if the head of a Federal department or agency makes a determination under subsection 1605(b), the head of the department or agency shall publish a detailed written justification in the **Federal Register**.

In accordance with subsection 1605(c) of the Recovery Act and OMB's implementing guidance published on April 23, 2009 (74 FR 18449), this notice advises the public that, on January 20, 2010, upon request of the Housing Authority of Portland, HUD granted an exception to the applicability of the Buy American requirements with respect to work, using CFRFC grant funds, in connection with the modernization of five public housing projects (Demar Downs, Fir Acres, Stark Manor, Townhouse Terrace and Celilo Court). The exception was granted by HUD on the basis that the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

Dated: January 28, 2010.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2010–2401 Filed 2–3–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0120

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for its Nomination and Request for Payment Form for OSM Technical Training Courses, has been submitted to the Office of Management and Budget (OMB) for review and approval. The information collection request describes the nature of the information collection and its expected burden and cost.

DATES: Comments must be submitted on or before March 8, 2010, to be assured of consideration.

ADDRESSES: Comments may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Department of the Interior Desk Officer, via e-mail at *OIRA_Docket@omb.eop.gov,* or by facsimile to (202) 395–5806. Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202–SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.* Please reference 1029–0120 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John Trelease at (202) 208–2783. You may also contact Mr. Trelease by e-mail at *jtrelease@osmre.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [*see* 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to renew its approval of the collection of information found in its Nomination and Request for Payment Form for OSM Technical Training Courses. OSM is requesting a 3-year term of approval for this collection. This collection is required to obtain or retain a benefit.

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 number for this collection of information is 1029–0120.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on October 27, 2009 (74 FR 55255). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Nomination and Request for Payment Form for OSM Technical Training Courses.

OMB Control Number: 1029–0120.

Summary: The information is used to identify and evaluate the training courses requested by students to enhance their job performance, to calculate the number of classes and instructors needed to complete OSM's technical training mission, and to estimate costs to the training program.

Bureau Form Numbers: OSM 105.

Frequency of Collection: On occasion.

Description of Respondents: State and Tribal regulatory and reclamation employees and industry personnel.

Total Annual Responses: 879 responses.

Total Annual Burden Hours: 73 hours.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the offices listed in the **ADDRESSES** section. Please refer to OMB control number 1029–0120 in all correspondence.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 27, 2010.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 2010–2081 Filed 2–3–10; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0080

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the

Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for 30 CFR part 850—Permanent Regulatory Program Requirements Standards for Certification of Blasters, has been forwarded to the Office of Management and Budget (OMB) for review and approval. This information collection request describes the nature of the information collection and its expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection requests but may respond after 30 days. Therefore, public comments should be submitted to OMB by March 8, 2010, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Department of the Interior Desk Officer, via e-mail at *OIRA_Docketomb.eop.gov,* or by facsimile to (202) 395–5806. Also, please send a copy of your comments to Adrienne Alsop, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202–SIB, Washington, DC 20240, or electronically to *aalsop@osmre.gov.* Please reference 1029–0080 in your correspondence.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact Adrienne Alsop at (202) 208–2818. You may also contact Ms. Alsop at *aalsop@osmre.gov.*

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [*see* 5 CFR 1320.8(d)]. OSM has submitted the request to OMB to renew its approval for the collection of information found at 30 CFR part 850. OSM is requesting a 3-year term of approval for this information collection activity.

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 number for this collection of information is 1029–0080, and may be found in OSM's regulations at 30 CFR 850.10. Individuals are required to respond to obtain a benefit.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection was published on November 10, 2009 (74 FR 58043). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: 30 CFR part 850—Permanent Regulatory Program Requirements Standards for Certification of Blasters.

OMB Control Number: 1029–0080.

Summary: The information is used to identify and evaluate new blaster certification programs.

Bureau Form Numbers: None.

Frequency of Collection: Once.

Description of Respondents: State regulatory authorities.

Total Annual Responses: 1.

Total Annual Burden Hours: 133 hours.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the places listed in **ADDRESSES**. Please refer to control number 1029–0080 in all correspondence.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 25, 2010.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 2010–2089 Filed 2–3–10; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2010–N013; 20124–1113–0000–F5]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under the Endangered Species Act of 1973, as amended (Act). The Act requires that we invite public comment on these permit applications.

DATES: To ensure consideration, written comments must be received on or before March 8, 2010.

ADDRESSES: Written comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 6034, Albuquerque, NM 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave., SW., Room 6034, Albuquerque, NM. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Endangered Species Division, P.O. Box 1306, Albuquerque, NM 87103; (505) 248–6920.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit TE–00284A

Applicant: Stephanie Rainwater, Collinsville, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for American burying beetle (*Nicrophorus americanus*) within Oklahoma, Texas, Kansas, Nebraska, Arkansas, and South Dakota.

Permit TE–00294A

Applicant: Jeanette Larsen, Cherokee, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for the following species: Texas blind salamander (*Typhlomolge rathbuni*), San Marcos salamander (*Eurycea nana*), Barton Springs salamander (*Eurycea*

sosorum), Peck's Cave amphipod (*Stygobromus pecki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs riffle beetle (*Heterelmis comalensis*), Coffin Cave mold beetle (*Batrisodes texanus*), Helotes mold beetle (*Batrisodes venyivi*), Kretschmarr Cave mold beetle (*Texamaurops redelli*), ground beetle (*Rhadine exilis*), ground beetle (*Rhadine infernalis*), Tooth Cave ground beetle (*Rhadine persephone*), Robber Baron Cave meshweaver (*Cicurina baronia*), Madla Cave meshweaver (*Cicurina madla*), Braken Bat Cave meshweaver (*Cicurina venii*), Government Canyon Bat Cave meshweaver (*Cicurina vespera*), Government Canyon Bat Cave spider (*Neoleptoneta microps*), Tooth Cave spider (*Leptoneta myopica*), Tooth Cave psuedoscorpion (*Tartarocreagris texana*), Bee Creek Cave harvestman (*Texella reddelli*), Bone Cave harvestman (*Texella reyesi*), and Cokendolpher Cave harvestman (*Texella cokendolpheri*) within Texas.

Permit TE–151216

Applicant: Lawrence Stevens, Flagstaff, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys for Virgin River chub (*Gila seminuda*) within Arizona.

Permit TE–00599A

Applicant: Frank Holland, Willow Park, Texas.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for golden-cheeked warbler (*Dendroica chrysoparia*) and black-capped vireo (*Vireo atricapilla*) within Texas.

Permit TE–00975A

Applicant: Osage Nation, Department of Environment and Natural Resources, Pawhuska, Oklahoma.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys for American burying beetle (*Nicrophorus americanus*) within Oklahoma.

Permit TE–022190

Applicant: Arizona Sonora Desert Museum, Tucson, Arizona.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys for southwestern willow flycatcher (*Empidonax taillii extimus*) within Arizona.

Permit TE–01690A

Applicant: Aaron Corcoran, Winston Salem, North Carolina.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys of lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*) within Arizona.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: January 27, 2010.

Thomas L. Bauer,

Regional Director, Southwest Region, Fish and Wildlife Service.

[FR Doc. 2010–2376 Filed 2–3–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Intent To Prepare an Environmental Impact Statement for the New Merced Wild and Scenic River Comprehensive Management Plan Yosemite National Park, Mariposa and Madera Counties, CA

ACTION: Notice of second extension of public scoping period.

SUMMARY: Pursuant to the National Environmental Policy Act (Pub. L. 91–190) and the Wild and Scenic Rivers Act (Pub. L. 90–542), the National Park Service reopened public scoping for planning and environmental impact analysis for a new Merced Wild and Scenic River Comprehensive Management Plan and Environmental Impact Statement in Yosemite National Park. The original notice of intent to prepare the Draft EIS was published in the **Federal Register** on June 30, 2009; the original public scoping period was extended through December 4, 2009 (as noted in the **Federal Register** on August 25, 2009). In deference to continued public interest, the scoping period has been further extended for two months.

DATES: Comments must be received by February 4, 2010. If you submitted comments previously, you do not need to resubmit them. We will also consider any comments that we received between the previous deadline of December 4, 2009 and February 4, 2010.

SUPPLEMENTARY INFORMATION: Interested individuals, organizations, and agencies are encouraged to provide written comments. To be considered any response must be postmarked or transmitted by February 4, 2010. Any comments already provided need not be resubmitted. All new responses should be addressed to the Superintendent, Attn: Merced River Plan, Yosemite National Park, P.O. Box 577, Yosemite National Park, CA 95389, or may be faxed to (209) 379–1294. Before including your address, phone number, e-mail address, or other personal identifying information, 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.

To inquire about additional public meetings that may be scheduled, or to obtain other current information, please contact the planning team at (209) 379–1112, or refer to periodic updates posted at *http://www.nps.gov/yose/parkmgmt/newmrp.htm*.

Rory D. Westberg,

Acting Regional Director, Pacific West Region.

[FR Doc. 2010–2408 Filed 2–3–10; 8:45 am]

BILLING CODE 4312–FY–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORP00000.L10200000.PI0000; Hag10–0119]

John Day/Snake Resource Advisory Council; Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting Notice for the John Day/Snake Resource Advisory Council.

SUMMARY: Pursuant to the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the U.S. Department of the Interior, Bureau of Land Management (BLM) John Day/Snake Resource Advisory Council (JDSRAC) will meet as indicated below:

DATES: The JDSRAC meeting will begin 8 a.m. PST on February 24, 2010.

ADDRESSES: The JDSRAC will meet at the Oxford Suites Pendleton, 2400 SW Court Place, Pendleton, Oregon 97801.

SUPPLEMENTARY INFORMATION: The meeting agenda includes new member orientation, setting the calendar for 2010 meetings, election of officers for 2010, Baker Resource Management Plan RAC Involvement, Sub-Committee Reports, and other matters as may reasonably come before the council. The public is welcome to attend all portions of the meeting and may make oral comments to the Council at 1 p.m. on February 24, 2010. Those who verbally address the JDSRAC are asked to provide a *written* statement of their comments or presentation. Unless otherwise approved by the JDSRAC Chair, the public comment period will last no longer than 15 minutes, and each speaker may address the JDSRAC for a

maximum of five minutes. If reasonable accommodation is required, please contact the BLM's Prineville District at (541) 416–6889 as soon as possible.

FOR FURTHER INFORMATION CONTACT: Christina Lilienthal, Public Affairs Specialist, 3050 NE Third, Prineville, OR 97754, (541) 416–6889 or e-mail: *christina_lilienthal@blm.gov*.

Dated: January 29, 2010.

Deborah J. Henderson-Norton,

District Manager, Prineville District Office.

[FR Doc. 2010–2426 Filed 2–3–10; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–665]

In the Matter of: Certain Semiconductor Integrated Circuits and Products Containing Same; Notice of Commission Determination To Review in Part a Final Initial Determination Finding No Violation of Section 337 and on Review To Take No Position on One Issue; Termination of the Investigation With a Finding of No Violation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination ("ID") issued by the presiding administrative law judge ("ALJ") on October 14, 2009, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in this investigation. On review, the Commission has determined to take no position on one issue, and to terminate this investigation with a finding of no violation.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–665 on December 24, 2008, based on a complaint filed by Qimonda AG of Munich, Germany ("Qimonda"). 73 FR 79165 (Dec. 24, 2008). The complaint alleged a violation of section 337 in the importation, sale for importation, and sale within the United States after importation of certain semiconductor integrated circuits and products containing same by reason of infringement of various claims of U.S. Patent Nos. 5,213,670 ("the '670 patent"); 5,646,434 ("the '434 patent"); 5,851,899 ("the '899 patent"); 6,495,918 ("the '918 patent"); 6,593,240 ("the '240 patent"); 6,714,055 ("the '055 patent"); and 6,103,456 ("the '456 patent"). The complaint further alleged that there exists a domestic industry with respect to each of the asserted patents. The complaint named the following respondents: LSI Corporation of Milpitas, California ("LSI"); Seagate Technology of the Cayman Islands; Seagate Technology (US) Holdings Inc. of Scotts Valley, California; Seagate Memory Products (US) Corporation of Scotts Valley, California; and Seagate (US) LLC of Scotts Valley, California (collectively "Seagate"). Qimonda accuses of infringement certain LSI integrated circuits, as well as certain Seagate hard disk drives that contain the accused LSI integrated circuits.

The ALJ conducted an evidentiary hearing from June 1–9, 2009. Prior to the hearing, Qimonda tacitly withdrew three of the asserted patents: The '055 patent, the '240 patent, and the '456 patent. Qimonda did not present evidence regarding those patents at the hearing, and did not include any analysis of those patents in its post-hearing briefing.

On October 14, 2009, the ALJ issued his final ID. The ID formally withdrew the '055 patent, the '240 patent, and the '456 patent from the investigation. The ALJ found that based on his claim constructions, Qimonda had not demonstrated that it practices any of the patents in suit. Accordingly, the ALJ ruled that an industry does not exist in the United States that exploits any of the four remaining asserted patents, as required by 19 U.S.C. 1337(a)(2). The ALJ ruled that certain LSI products infringe certain claims of the '918 patent, but that no accused products infringe any of the other asserted patents. The ALJ ruled that all of the asserted claims of the '918 patent, and some of the asserted claims of the '434 patent, are invalid under 35 U.S.C. 102, but that the asserted claims of the '670 and '899 patents are not invalid.

On October 27, 2009, Qimonda filed a petition for review of the ID. Qimonda did not petition for review of the ALJ's finding of no violation of section 337 as to the '670 patent. Thus, only three patents—the '434, '899, and '918 patents—remain in suit. On November 5, 2009, the Respondents and IA filed responses to Qimonda's petition.

Having examined the record of this investigation, including the ALJ's final ID, the petition for review, and the responses thereto, the Commission has determined to review the final ID in part. Specifically, the Commission has determined to review and to take no position on whether U.S. Patent No. 6,424,051 to Shinogi anticipates, under 35 U.S.C. 102, any of the asserted claims of the '918 patent. *See Beloit Corp.* v. *Valmet Oy,* 742 F.2d 1421, 1422–23 (Fed. Cir. 1984).

The Commission has determined not to review the remainder of the ID. Accordingly, the Commission has terminated this investigation with a finding of no violation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.42–46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46).

By order of the Commission.

Issued: January 29, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–2319 Filed 2–3–10; 8:45 am]

BILLING CODE 7020–08–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 332–509; Inv. No. 332–510]

Small and Medium-Sized Enterprises: U.S. and EU Export Activities, and Barriers and Opportunities Experienced by U.S. Firms and Small and Medium-Sized Enterprises: Characteristics and Performance

AGENCY: United States International Trade Commission.

ACTION: Notice of time and place of additional public hearings in St. Louis, MO, and Portland, OR, and reaffirming of time and place of Washington, DC hearing.

SUMMARY: The Commission will hold a public hearing on these investigations in St. Louis, MO, beginning at 9:30 a.m. on March 10, 2010 at the Hilton St. Louis at the Ballpark, and in Portland, OR, beginning at 9:30 a.m. on March 12, 2010 at the Holiday Inn Portland Airport. As previously announced, the Commission will also hold a public hearing on these investigations in Courtroom A at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on Tuesday, February 9, 2010 (and continuing on February 10, 2010, if needed).

ADDRESSES: All written correspondence should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Project Leaders Justino De La Cruz (202–205–3252 or *justino.delacruz@usitc.gov*) or Laura Bloodgood (202–708–4726 or *laura.bloodgood@usitc.gov*) for information specific to these investigations. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background Information: The hearings relate to the second and third of a series of three investigations that the Commission is conducting under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) at the request of the United States Trade Representative (USTR). The Commission received the request for the investigations on October 6, 2009. The Commission delivered its report to the USTR on the first investigation, No. 332–508, *Small and Medium-Sized Enterprises: Overview of Participation in U.S. Exports,* on January 12, 2010, and it is available to the public at *www.usitc.gov.* The Commission is scheduled to deliver its reports to the USTR on the second and third investigations, investigation No. 332–509, *Small and Medium-Sized Enterprises: U.S. and EU Export Activities, and Barriers and Opportunities Experienced by U.S. Firms, and investigation No. 332–510, Small and Medium-Sized Enterprises: Characteristics and Performance,* by July 6, 2010, and October 6, 2010, respectively. Notices announcing institution of the three investigations were published in the **Federal Registers** of October 28, 2009 (74 FR 55581); December 1, 2009 (74 FR 62812); and December 11, 2009 (74 F.R. 65787). The second and third notices also announced the Washington, DC hearing and the intent to hold additional hearings in St. Louis, MO and Portland, OR.

Public Hearings: The times and places of the three hearings and deadlines for filing requests to appear and any pre- or post-hearing briefs or statements or summaries of testimony are as follows:

Washington, DC:

The hearing will be held in Courtroom A at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on Tuesday, February 9, 2010 (and continuing on February 10, 2010, if needed).

January 26, 2010: Deadline for filing requests to appear.
January 28, 2010: Deadline for filing pre-hearing briefs, statements, or summaries of testimony.
February 9, 2010: Public hearing (Washington, DC).
February 10, 2010: Public hearing, second day if needed.
February 23, 2010: Deadline for filing post-hearing briefs or statements.

St. Louis, MO:

The hearing will be held at the Hilton St. Louis at the Ballpark, One South Broadway, St. Louis, MO 63102, beginning at 9:30 a.m. local time on Wednesday, March 10, 2010.

February 24, 2010: Deadline for filing requests to appear.
February 26, 2010: Deadline for filing pre-hearing briefs, statements, or summaries of testimony.
March 10, 2010: Public hearing (St. Louis, MO).
March 26, 2010: Deadline for filing post-hearing briefs or statements.

Portland, OR:

The hearing will be held at the Holiday Inn Portland Airport, 8439 NE Columbia Boulevard, Portland, OR 97220, beginning at 9:30 a.m. local time on Friday, March 12, 2010.

February 26, 2010: Deadline for filing requests to appear.
March 2, 2010: Deadline for filing pre-hearing briefs, statements, or summaries of testimony.
March 12, 2010: Public hearing (Portland, OR).
March 26, 2010: Deadline for filing post-hearing briefs or statements.

The above hearings will be open to the public. Accordingly, persons testifying should not include confidential business information in their testimony. Any person desiring to submit confidential business information to the Commission in these investigations should do so in writing in accordance with the procedures set out in the "Written Submissions" section below.

To assist the Commission in the preparation of the two reports, the Commission is particularly interested in obtaining information and views on the following:

- The most significant constraints that U.S. SMEs face in their efforts to export.
- The strategies that SMEs have adopted to address or overcome those constraints.
- The benefits to SMEs of increased export opportunities from free trade agreements or other trading arrangements.
- The U.S. free trade agreements or other trading arrangements that have been most beneficial to SMEs that export.
- The characteristics of SMEs that export services.
- How exporting affects SME business performance.
- The extent to which U.S. SMEs have global operations.
- How SMEs based in the United States differ in their exporting activities from SMEs based in the European Union and other leading economies.

In the event that as of the close of business on the deadline for filing requests to appear no witnesses have filed requests to appear at a hearing, that hearing will be canceled. Any person interested in attending a hearing as an observer or non-participant may call the Office of the Secretary (202–205–2000) after the deadline for filing requests to appear for information concerning whether that hearing will be held.

Notice of Appearance: Written requests to appear at the Commission hearings must be filed with the Secretary to the Commission in Washington, DC by 5:15 p.m. Eastern Time of the filing deadline for the hearing at which the person wishes to appear. The request, which may be in

the form of a letter and which should be on company or other appropriate stationery, should identify the hearing at which the person wishes to appear, the investigation to which their testimony pertains (it could be both investigations), their name, title, and company or other organizational affiliation (if any), address, telephone number, e-mail address, and industry or main line of business of the company if any they are representing. Requests to appear must be made by post mail or delivered in person (*see* "**ADDRESSES**"). The Commission will also accept requests to appear filed by e-mail to *SMEhearings@usitc.gov,* or through Laura Bloodgood at *laura.bloodgood@usitc.gov.* The Commission does not accept requests filed by fax.

Pre- and Post-Hearing Briefs And Statements, Summaries: Participants are encouraged to provide a pre-hearing brief or statement or, in lieu thereof, may provide a one-page summary of the testimony they plan to present. Such summaries will be placed in the public record and therefore should not include any confidential business information. Any confidential business information included in a pre-hearing brief or statement should be submitted in accordance with the procedures set forth below under "Written Submissions." Post-hearing briefs and statements would generally be for the purpose of responding to matters raised at the hearing, including questions asked by the Commissioners or testimony presented by other interested parties.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning these investigations. All written submissions should be addressed to the Secretary to the Commission, and all such submissions (other than pre- and post-hearing statements) should be received not later than 5:15 p.m. Eastern Time, March 26, 2010. One signed original (or a copy so designated) and fourteen (14) copies of each document must be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see below for further information regarding confidential business information). Written submissions may be filed by post mail or delivered in person (*see* **ADDRESSES**), or filed using the Commission's electronic filing procedure described below.

To use the Commission's electronic filing procedure, filers must first be registered users of the Commission's Electronic Document Information System (EDIS), accessible from the USITC Web site (*http://www.usitc.gov/secretary/edis.htm*). The Commission's rules for electronic filing are available in its *Handbook on Electronic Filing Procedures* (*http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Persons with questions regarding electronic filing and EDIS should contact the Office of the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

In his request letter, the USTR stated that his office intends to make the Commission's reports available to the public in their entirety, and asked that the Commission not include any confidential business information or national security classified information in the reports that the Commission transmits to his office. Any confidential business information received by the Commission in these investigations and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: January 29, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–2260 Filed 2–3–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Modification of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on January 28, 2010, a proposed Amended Consent Decree in *United States* v. *Nassau Metals Corporation, Inc.,* Civil Action No. 3: 96–CV–562, D.J. Ref. 90–11–3–1057A was lodged with the United States District Court for the Middle District of Pennsylvania.

In this action the United States sought reimbursement of response costs incurred in connection with the release or threatened release of hazardous substances at the C&D Recycling Superfund Site, Luzerne County, Pennsylvania (the "Site"). The Consent Decree obligates the Settling Defendant to reimburse $753,222 of the United States' past response costs paid in connection with the Site, and to pay future response costs to be incurred by the United States at the Site as well.

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. *Nassau Metals Corporation, Inc.,* Civil Action No. 3: 96–CV–562, D.J. Ref. 90–11–3–1057A.

The Consent Decree may be examined at the Office of the United States Attorney, Middle District of Pennsylvania, 228 Walnut Street, Suite 220, Harrisburg, PA 11754, and at U.S. EPA Region 3. During the public comment period, the Consent Decree may also 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 no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $3.50 (@ 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. 2010–2261 Filed 2–3–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of a Modified Consent Decree Under the Clean Water Act

Notice is hereby given that on January 27, 2010, a proposed Modified Consent Decree in *United States* v. *Sewerage & Water Board of New Orleans et al.,* Civil Action No. 93–3213, was lodged with the United States District Court for the Eastern District of Louisiana.

The proposed settlement modifies a 1998 Clean Water Act ("CWA") Consent Decree between the U.S. Environmental Protection Agency, joined by several Plaintiff-Intervenor citizen groups, and the Sewerage & Water Board of New Orleans ("Board"), the City of New Orleans ("City"), and the State of Louisiana as statutory defendant. In that original Consent Decree, which resolved a 1993 lawsuit brought by the United States alleging CWA violations including unauthorized discharges from the East Bank Collection System, the Board agreed to a 12-year comprehensive program to remediate its antiquated sewage collection system in order to reduce or eliminate sewage overflows into the Mississippi River, Lake Pontchartrain and the City's storm drainage canal system. The program was stalled for several years due to the devastating effects of Hurricane Katrina.

Under the proposed Modified Consent Decree, the Board agrees to continue the comprehensive remediation program and complete it by no later than July 2015. Among other things, the Board will repair its 62 pump stations damaged by the hurricane as well as other hurricane damage in the portions of the collection system served by those pump stations. The Board will also design and implement a new preventive maintenance plan to inspect and clean its pump stations and sewer lines and will proceed under its sewage overflow action plan to take steps to minimize the impact of sewage overflows on the environment. The Board will undertake additional remedial measures including measures designed to provide dependable electrical services at its treatment plant in the event of a future catastrophic event.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Modified 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. *Sewerage & Water Board of New Orleans et al.,* D.J. Ref. 90–5–1–1–4032.

The proposed Modified Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Louisiana, 500 Poydras Street, Suite B–210, New Orleans, LA 70130 (contact Sharon Smith, 504–680–3000), and at U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202 (contact Ellen Chang-Vaughan, 214–665–7328). During the public comment period, the proposed Modified Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed Modified Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood *(tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $33.25 (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 M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–2262 Filed 2–3–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Qualification and Certification of Electrical Training

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.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the Title 30, CFR 75.153(a)(2) and § 77.103(a)(2) require that a program be provided for the qualification of certain experienced personnel as mine electricians. A qualified person is one who has had at least one year of experience in performing electrical work underground in a coal mine, in the surface work area of an underground coal mine, in a surface coal mine, in a noncoal mine, in the mine equipment manufacturing industry, or in any other industry using or manufacturing similar equipment, and has satisfactorily completed a coal mine electrical training program.

DATES: Submit comments on or before April 5, 2010.

ADDRESSES: Send comments to John Rowlett, Management Services Division, 1100 Wilson Boulevard, Room 2141, Arlington, VA 22209–3939. Commenters are encouraged to send their comments via E-mail to *Rowlett.John@DOL.GOV.* Mr. Rowlett can be reached at (202) 693–9827 (voice), or (202) 693–9801 (facsimile). Because of potential delays in receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. We cannot guarantee that comments mailed will be received before the comment closing date.

FOR FURTHER INFORMATION CONTACT: The employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Persons performing tasks and certain required examinations at coal mines which are related to miner safety and health, and which require specialized experience, are required to be either "certified" or "qualified". The regulations recognize State certification and qualification programs. However, where state programs are not available, under the Mine Act and MSHA standards, the Secretary may certify and qualify persons for as long as they continue to satisfy the requirements needed to obtain the certification or qualification, fulfill any applicable retraining requirements, and remain employed at the same mine or by the same independent contractor.

Applications for Secretarial certification must be submitted to the MSHA Qualification and Certification Unit in Denver, Colorado. MSHA Form 5000–1 provides the coal mining industry with a standardized reporting format that expedites the certification process while ensuring compliance with the regulations. The information provided on the forms enables the Secretary of Labor's delegate—MSHA, Qualification and Certification Unit—to determine if the applicants satisfy the requirements to obtain the certification or qualification. Persons must meet certain minimum experience requirements depending on the type of certification or qualification applied for.

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 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION** section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov/*) and 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 provisions whereby persons may be temporarily qualified or certified to perform tests and examinations; requiring specialized expertise; related to miner safety and health at coal mines.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Qualification and Certification of Electrical Training.

OMB Number: 1219–0001.

Recordkeeping: MSHA Form 5000–1 is used by instructors, who may be mining personnel, consultants, or college professors, to report to MSHA those miners who have satisfactorily completed a coal mine electrical training program. Based on the information submitted on Form 5000–1, MSHA issues certification cards that identify these individuals as qualified to perform certain tasks at the mine.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Respondents: 17,960.

Responses: 2,796.

Total Burden Hours: 160.

Total Burden Cost (operating/maintaining): $13,124.

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 at Arlington, Virginia, this 29th day of January 2010.

John Rowlett,

Director, Management Services Division.

[FR Doc. 2010–2407 Filed 2–3–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Publication of Model Notice for Employers to Use Regarding Eligibility for Premium Assistance Under Medicaid or the Children's Health Insurance Program, Notice

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice of the Availability of the Model Notice for Employers Regarding Premium Assistance under Medicaid or the Children's Health Insurance Program, with Request for Comments.

SUMMARY: On February 4, 2009, President Obama signed the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA, Pub. L. 111–3). CHIPRA includes a requirement that the Departments of Labor and Health and Human Services develop a model notice for employers to use to inform employees of potential opportunities currently available in the State in which the employee resides for group health plan premium assistance under Medicaid and the Children's Health Insurance Program (CHIP). The Department of Labor (Department) is required to provide the model notice to employers within one year of CHIPRA's enactment. This document announces the availability of a Model Employer CHIP Notice. This notice also requests comments regarding compliance with the Employer CHIP Notice requirement for use in the development of future compliance assistance materials and/or regulations.

DATES: *Comment Date:* Comments are due on or before April 5, 2010.

ADDRESSES: Written comments may be submitted via any of the methods specified below. Please do not submit duplicates. All comments will be made available to the public. *Warning:* Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are posted on the Internet exactly as received, and can be retrieved by most Internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously.

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: E–OHPSCA.EBSA@dol.gov.*
- *Mail or Hand Delivery:* Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Room N–5653, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, *Attention:* Employer CHIP Notice.

Comments will be posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa,* and available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Amy Turner or Beth Baum, Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, (202) 693–8335. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Purpose

This document addresses the Employer CHIP Notice requirement under CHIPRA and announces the availability of a model notice that can be used to satisfy the content requirements for the Employer CHIP Notice.

II. Coordination of Administration

Section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act (ERISA), as added by CHIPRA, requires the Departments of Labor and Health and Human Services, in consultation with State Medicaid and CHIP Agencies, to develop model language for the Employer CHIP Notice required under section 701(f)(3)(B)(i) of ERISA, section 2701(f)(3)(B)(i) of the Public Health Service Act (PHS Act), and section 9801(f)(3)(B)(i) of the Internal Revenue Code (Code).

Section 311(b)(1)(D) of CHIPRA provides that the Departments of Labor and Health and Human Services shall develop initial model notices as provided under ERISA section 701(f)(3)(B)(i)(II) and the Department of Labor shall provide such notices to employers by February 4, 2010, which is one year after the enactment of CHIPRA.

Section 104 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires the Departments of Labor, the Treasury, and Health and Human Services (the Departments) to ensure that guidance under the health coverage provisions of Part 7 of the ERISA, Title XXVII of the PHS Act, and Chapter 100 of the Internal Revenue Code,[1] and issued by the Departments that relates to the same matter, be administered so as to have the same effect at all times.

In accordance with these requirements, this document has been developed in coordination with the Departments of Health and Human Services and the Treasury, and in consultation with State Medicaid and CHIP Agencies.

III. Background

Under ERISA section 701(f)(3)(B)(i)(I), PHS Act section 2701(f)(3)(B)(i)(I), and section 9801(f)(3)(B)(i)(I) of the Code, as added by CHIPRA, an employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act (SSA), or child health assistance under a State child health plan under title XXI of the SSA, in the form of premium assistance for the purchase of coverage under a group health plan, is required to make certain disclosures. Specifically, the employer is required to notify each employee of potential opportunities currently available in the State in which the employee resides for premium assistance under Medicaid and CHIP for health coverage of the employee or the employee's dependents. These notices are referred to in this document as "Employer CHIP Notices".

ERISA section 701(f)(3)(B)(i)(II) requires the Department to provide employers with model language for the Employer CHIP Notices to enable them to timely comply with this requirement. The model is required to include information on how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for premium assistance, including how to apply for such assistance.

Section 311(b)(1)(D) of CHIPRA provides that the Departments of Labor and Health and Human Services shall develop the initial model notices under ERISA section 701(f)(3)(B)(i)(II), and the Department of Labor shall provide such notices to employers, by February 4, 2010. Moreover, each employer is required to provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which the initial model notices are first issued.

ERISA section 701(f)(3)(B)(i)(III), PHS Act section 2701(f)(3)(B)(i)(II), and Code section 9801(f)(3)(B)(i)(II) provide that an employer may provide the Employer CHIP Notice concurrent with the furnishing of materials notifying the employee of health plan eligibility, concurrent with materials provided to the employee in connection with open season (or other coverage election process under the plan), or concurrent with the furnishing of the Summary Plan Description (SPD) provided under ERISA section 104(b).

IV. Compliance With the Employer CHIP Notice and Model Language

A. Employers Subject to the Employer CHIP Notice Requirement

For purposes of the Employer CHIP Notice requirement, an employer providing benefits (directly or through insurance, reimbursement, or otherwise) for medical care in a State is considered to maintain a group health plan in that State. If that State provides medical assistance under a State Medicaid plan, or child health assistance under a State child health plan, in the form of premium assistance for the purchase of group health plan coverage, the employer is required to provide the Employer CHIP Notice. The Department of Health and Human Services, in consultation with State Medicaid and CHIP offices, has informed the Department that, as of January 22, 2010, the following States offer one or more programs that meet this standard:

- Alabama,
- Alaska,
- Arizona,
- Arkansas,
- California,
- Colorado,
- Florida,
- Georgia,
- Idaho,
- Indiana,
- Iowa,
- Kansas,
- Kentucky,
- Louisiana,
- Maine,
- Massachusetts,
- Minnesota,
- Missouri,
- Montana,
- Nebraska,
- Nevada,
- New Hampshire,
- New Jersey,
- New Mexico,
- New York,
- North Carolina,
- North Dakota,
- Oklahoma,
- Oregon,
- Pennsylvania,
- Rhode Island,
- South Carolina,
- Texas,
- Utah,
- Vermont,
- Virginia,
- Washington,
- West Virginia,
- Wisconsin, and
- Wyoming.

Accordingly, if a group health plan provides benefits for medical care directly (such as through a health maintenance organization); or through insurance, reimbursement or otherwise to participants, beneficiaries, or providers in one of these States, the plan is required to provide the Employer CHIP Notice, regardless of the employer's location or principal place of business (or the location or principal place of business of the group health plan, its administrator, its insurer, or any other service provider affiliated with the employer or the plan). This principle is illustrated by the following example:

Example 1. (i) *Facts.* An employer in the District of Columbia sponsors a group health plan that provides reimbursement for medical care to plan participants or beneficiaries residing in the District of Columbia, Virginia, Maryland, West Virginia, Delaware, and Pennsylvania.

(ii) *Conclusion.* In this *Example 1,* the plan is considered maintained in all six States. Because at least one of these States offers a premium assistance program, the employer is subject to the Employer CHIP Notice requirement.

[1] The Employer CHIP Notice requirements in the provisions of section 701(f)(3)(B)(i) of ERISA, section 2701(f)(3)(B)(i) of the PHS Act, and section 9801(f)(3)(B)(i) of Code are included within Part 7 of ERISA, Title XXVII of the PHS Act, and Chapter 100 of the Code.

B. Employees Entitled to Notice

An Employer CHIP Notice must inform each employee, regardless of enrollment status, of potential opportunities for premium assistance in the State in which the employee resides. The State is which the employee resides may or may not be the same as the State in which the employer, the employer's principal place of business, the health plan, its insurer, or other service providers are located. This principle is illustrated by the following example:

Example 2. (i) *Facts.* Same facts as *Example 1,* above.

(ii) *Conclusion.* In this *Example 2,* employees residing in Virginia, West Virginia, and Pennsylvania are entitled to receive the notice because those three States offer premium assistance programs. Of course, the employer may send the notice to all employees if the employer chooses (for example, if it is administratively easier to send the notice to all than to distinguish between employees based on residency).

C. Form and Content of Notice

The Model Employer CHIP Notice was designed as a template to cover an array of situations where employees may be entitled to notice and may reside (or their families may reside) in States across the nation. Employers may use the model template as a national notice to fulfill their employer notice disclosure obligation under ERISA section 701(f)(3)(B)(i), and the parallel provisions of section 2701(f)(3)(B)(i) of the PHS Act and section 9801(f)(3)(B)(i) of the Code. The notice is required to be provided automatically, free of charge.

In consultation with State Medicaid and CHIP offices, some States suggested significant modifications to the template and more detailed descriptions of their own State programs. Of course, the Model Employer CHIP Notice is just a model and States may wish to include additional information on their Web sites and in their own compliance assistance materials that would encourage further disclosure of any individual State premium assistance program. Nonetheless, because employees (and their families) may reside in different States than their employer, its principal place of business, their health plan, its insurer, or its other service providers that may distribute the notice on behalf of the employer, the approach of the Model Employer CHIP Notice is to provide a very brief description of premium assistance and rely on State contact information for State-specific program descriptions. An employer which is not facing multi-State complexities and who wants to provide more comprehensive State-specific information to its workforce may modify the Model Employer CHIP Notice to its employees. However, employers should be mindful of the requirement to include at least the minimum relevant State contact information for any employee residing in a State with premium assistance.

The employer CHIP disclosure requirement in ERISA, the PHS Act, and the Code requires that the notice inform employees of potential opportunities for premium assistance "currently available." CHIPRA section 311(b)(1)(D) requires the Department of Labor to provide "initial" model notices within one year of CHIPRA's enactment. Employers are required to provide "initial annual notices beginning with the first plan year after the date on which such initial model notices are first issued." The Department, working with the Departments of Health and Human Services and the Treasury, and the States, intends to update its Web site annually to reflect any changes in the number of States offering premium assistance programs (or the contact information for those States), to help enable employers to meet their CHIP disclosure requirements.

D. Timing and Delivery of the Notice

Employers are required to provide these notices by the date that is the later of (1) the first day of the first plan year after February 4, 2010; or (2) May 1, 2010. Accordingly, for plan years beginning between from February 4, 2010 through April 30, 2010, the Employer CHIP notice must be provided by May 1, 2010. For employers whose next plan year begins on or after May 1, 2010, the Employer CHIP notice must be provided by the first day of the next plan year (January 1, 2011 for calendar year plans).

The Employer CHIP notice is not required to be provided in a separate mailing. Plans may combine information to reduce administrative costs, if the other requirements of this Notice are met. Thus, the Employer CHIP Notice may be furnished concurrent with enrollment packets, open season materials, or the plan SPD, provided that (1) such materials are provided no later than the date determined above, (2) such materials are provided to all employees entitled to receive the Employer CHIP Notice, and (3) the Employer CHIP Notice appears separately and in a manner which ensures that an employee who may be eligible for premium assistance could reasonably be expected to appreciate its significance.

Accordingly, an employer may provide the Employer CHIP notice concurrent with other materials (including, for example, enrollment packets, open season materials, or the plan SPD) that may be provided in advance of the upcoming plan year. This principle is illustrated by the following example:

Example 3. (i) *Facts.* An employer maintains a group health plan with a plan year beginning January 1, 2011. The plan has an annual open enrollment season that occurs from October 15, 2010 through November 30, 2010 with coverage effective January 1, 2011. Open season packets are to be distributed on October 1, 2010 to all employees of the employer.

(ii) *Conclusion.* In this *Example 3,* the employer may distribute the Employer CHIP notice as a separate, prominent document in the open season packet on October 1, 2010 and the notice is required to be provided no later than January 1, 2011.

The notice must be provided in writing in a manner calculated to be understood by the average employee. It may be provided by first-class mail. Alternatively, it may be provided electronically to the extent the criteria of the Department's electronic disclosure safe harbor at 29 CFR 2520.104b–1(c) are satisfied.

CHIPRA requires the notice to be provided annually. The Department expects to update its Web site with the list of States that offer premium assistance programs and provide other additional information annually to help enable employers to meet their Employer CHIP notice obligations. Comments regarding the Employer CHIP notice requirement are invited.

V. Model Employer CHIP Notice

The model Employer CHIP Notice is available in modifiable, electronic form on the Department's Web site: *http://www.dol.gov/ebsa.*

VI. Additional Information

In addition to the Employer CHIP Notice requirement, CHIPRA also provides that, in order for States to evaluate an employment-based plan to determine whether premium assistance is a cost effective way to provide medical or child health assistance to an individual, group health plans are required to provide, upon request, information about their benefits to State Medicaid or CHIP programs. The Departments, in conjunction with an advisory committee, are separately developing a model coverage coordination disclosure form that will be issued in the future. States may begin requesting this information from plans beginning with the first plan year after this model form is issued.

Group health plans and group health insurance issuers must also offer new special enrollment opportunities after

CHIPRA. Effective April 1, 2009, plans and issuers are required to permit employees and dependents who are eligible for, but not enrolled in, a group health plan to enroll in the plan upon: (1) Losing eligibility for coverage under a State Medicaid or CHIP program, or (2) becoming eligible for State premium assistance under Medicaid or CHIP. The employee or dependent must request coverage within 60 days of being terminated from Medicaid or CHIP coverage or within 60 days of being determined to be eligible for premium assistance. Information is available on the Department's Web site at *http://www.dol.gov/ebsa* regarding special enrollment. Information is also available on the Department of Health and Human Service's Web site at *http://www.cms.hhs.gov*.

Individuals should contact their State's Medicaid or CHIP program to determine if they are eligible for Medicaid or CHIP, and to see if their State will subsidize group health plan premiums. Information is also available by calling 1–877–KIDS NOW or on the Internet at *http://www.insurekidsnow.gov*. If they are eligible for premium assistance, individuals must contact their plan administrator or employer to take advantage of the new special enrollment opportunity and enroll in the group health plan.

Individuals needing assistance or with questions about the application of these provisions to their employment-based group health plan can call toll free 1.866.444.3272 (EBSA) to speak to a Benefits Advisor. Information is also available on EBSA's Web site at *http://www.dol.gov/ebsa*.

VII. Paperwork Reduction Act Statement

According to the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (PRA), no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The Department notes that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. *See* 44 U.S.C. 3507. Also, notwithstanding any other provisions of law, no person shall 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* 44 U.S.C. 3512.

OMB has approved the model Employer CHIPRA notice information collection request pursuant to the emergency review procedures under 5 CFR 1320.13. The public reporting burden for this collection of information is estimated to average approximately 30 seconds per respondent. Interested parties are encouraged to send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Office of the Chief Information Officer, *Attention:* Departmental Clearance Officer, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210 or e-mail *DOL_PRA_PUBLIC@dol.gov* and reference the OMB Control Number 1210–0137.

VIII. Statutory Authority

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 101(f), Public Law 110–233, 122 Stat. 881; sec. 512(d), Public Law 110–343, 122 Stat. 3765; Public Law 110–460, 122 Stat. 5123; Public Law 111–3, 123 Stat. 8; Secretary of Labor's Order 6–2009, 74 FR 21524 (May 7, 2009).

Signed at Washington, DC, this 1st day of February 2010.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2010–2409 Filed 2–3–10; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (10–016)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Brenda Maxwell, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Brenda Maxwell, NASA PRA Officer, NASA Headquarters, 300 E Street, SW., JF000, Washington, DC 20546, (202) 358–4616, *Brenda.Maxwell@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Information is needed to guide implementation of GLOBE (Global Learning and Observations to Benefit the Environment) based on feedback from participating teachers, students, and partners in order to help meet the Program's goal of improving student achievement in mathematics and science.

II. Method of Collection

The GLOBE Partner survey is Web-based on-line instrument. The survey gathers data on all activities related to GLOBE implementation for the year prior to administration of the survey.

III. Data

Title: GLOBE Program Evaluation.

OMB Number: 2700–0114.

Type of review: Extension of currently approved collection.

Affected Public: State, Local, or Tribal Government; individuals or households; and not-for-profit institutions.

Number of Respondents: 258.

Responses per Respondent: 1.

Annual Responses: 258

Hours per Request: 2.

Annual Burden Hours: 516.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection.

They will also become a matter of public record.

Brenda Maxwell,

NASA PRA Clearance Officer.

[FR Doc. 2010–2272 Filed 2–3–10; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before March 8, 2010. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Impact of Broadband Speed and Prime on Small Business.

SBA Form Number: N/A.

Frequency: On Occasion.

Description of Respondents: Small Businesses using Broadband Internet services.

Responses: 1,200.

Annual Burden: 250.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 2010–2411 Filed 2–3–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29126]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

January 29, 2010.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of January, 2010. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 23, 2010, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

Credit Suisse Institutional Money Market Fund, Inc. [File No. 811–10471]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 28, 2009, applicant made a liquidating distribution to shareholders of its Government Portfolio, based on net asset value. On September 22, 2009, applicant made a liquidating distribution to shareholders of its Prime Portfolio, based on net asset value. Expenses of $7,500 incurred in connection with the liquidation were paid by Credit Suisse Asset Management, LLC, applicant's investment adviser. Applicant has retained $22,856 in cash to pay additional outstanding expenses associated with the liquidation.

Filing Dates: The application was filed on December 3, 2009 and amended on December 21, 2009.

Applicant's Address: Eleven Madison Ave., New York, NY 10010.

Credit Suisse Cash Reserve Fund, Inc. [File No. 811–4171]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 22, 2009, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $25,595 incurred in connection with the liquidation were paid by Credit Suisse Asset Management, LLC, applicant's investment adviser. Applicant has retained $3,099 in cash to pay additional outstanding expenses associated with the liquidation.

Filing Dates: The application was filed on December 3, 2009 and amended on December 21, 2009.

Applicant's Address: Eleven Madison Ave., New York, NY 10010.

ND Tax-Free Fund, Inc. [File No. 811–5681]; Montana Tax-Free Fund, Inc. [File No. 811–7738]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On July 31, 2009, each applicant transferred its assets to a corresponding series of Viking Mutual Funds, based on net asset value. Expenses of approximately $11,859 and $12,692, respectively, incurred in connection with the reorganizations were paid by Integrity Money Management, Inc., investment adviser to each applicant, and Corridor Investors, LLC, the parent company of the acquiring fund's investment adviser.

Filing Dates: The applications were filed on November 13, 2009, and amended on December 24, 2009.

Applicants' Address: 1 Main St. North, Minot, ND 58703.

Prospect Street High Income Portfolio Inc. [File No. 811–5557]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On July 17, 2008, applicant redeemed its auction rate cumulative preferred shares at a price equal to the liquidation preference of $25,000 per share plus any accumulated and unpaid dividends. On July 18, 2008, applicant transferred its assets to Highland Credit Strategies Fund, based on net asset value. Expenses of approximately $99,297 incurred in connection with the reorganization were paid by applicant.

Filing Dates: The application was filed on September 30, 2008 and amended on September 22, 2009.

Applicant's Address: NexBank Tower, 13455 Noel Rd., Suite 800, Dallas, TX 75240.

Nicholas Family of Funds, Inc. [File No. 811–10531]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 26, 2009, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $10,815 incurred in connection with the liquidation were paid with funds deposited into applicant's checking account by Nicholas Company, Inc., applicant's investment adviser. Applicant retained cash in the amount of $384 to pay certain miscellaneous expenses.

Filing Dates: The application was filed on October 30, 2009, and amended on January 11, 2010.

Applicant's Address: 700 North Water St., Milwaukee, WI 53202.

Helios Select Fund, Inc. [File No. 811–9079]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. From June 16, 2009—June 18, 2009, applicant made liquidating distributions to its three series, based on net asset value. Expenses of $164,000 incurred in connection with the liquidation were paid by Hyperion Brookfield Asset Management, Inc., applicant's investment adviser. Applicant has retained $1,521,400 in cash reserves to cover certain contingent liabilities and obligations.

Filing Dates: The application was filed on July 2, 2009, and amended on September 17, 2009.

Applicant's Address: Three World Financial Center, 200 Vesey St., 10th Floor, New York, NY 10281–1010.

SEI Opportunity Fund, L.P. [File No. 811–21353]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On June 30, 2009 and September 30, 2009, applicant made liquidating distributions to its shareholders, based on net asset value. Also on September 30, 2009, applicant transferred certain remaining assets to SEI Opportunity Fund, L.P. Liquidation Trust ("Liquidation Trust") together with any remaining liabilities and obligations. Any assets of the Liquidation Trust remaining after liquidating its assets and settling contingent liabilities and obligations will be distributed to applicant's shareholders, who are the beneficiaries of the Liquidation Trust. Expenses of $28,895 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on November 23, 2009.

Applicant's Address: One Freedom Valley Dr., Oaks, PA 19456.

S&P 500® GEARED Fund, Inc. [File No. 811–21611]; Defined Strategy Fund Inc. [File No. 811–21621]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On September 15, 2009, each applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $22,500 incurred in connection with each liquidation were paid by applicants and their investment adviser, IQ Investment Advisors LLC. Applicants have retained approximately $6,507 and $1,164, respectively, in cash to pay outstanding debts and liabilities.

Filing Date: The applications were filed on December 22, 2009.

Applicants' Address: 4 World Financial Center, 6th Floor, New York, NY 10080.

Oppenheimer MidCap Fund [File No. 811–8297]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 20, 2009, applicant transferred its assets to Oppenheimer Discovery Fund, based on net asset value. Expenses of $115,000 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on January 12, 2010.

Applicant's Address: 6803 S Tucson Way, Centennial, CO 80112.

Oppenheimer SMA International Bond Fund [File No. 811–21917]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 24, 2009, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on January 13, 2010.

Applicant's Address: 6803 S Tucson Way, Centennial, CO 80112.

Regions Morgan Keegan Select Funds [File No. 811–6511]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 15, 2009, applicant transferred its assets to corresponding series of Pioneer Fund, Pioneer Series Trust I, Pioneer Series Trust III, Pioneer Mid Cap Value Fund, Pioneer Series Trust IV, Pioneer Bond Fund, Pioneer Short Term Income Fund and Pioneer Money Market Trust, based on net asset value. Expenses of $1,817,465 incurred in connection with the reorganization were paid by Morgan Asset Management, Inc., applicant's investment adviser, and Pioneer Investment Management, Inc., investment adviser to the acquiring funds.

Filing Dates: The application was filed on August 18, 2009, and amended on January 5, 2010.

Applicant's Address: 50 North Front St., Memphis, TN 38103.

John Hancock World Fund [File No. 811–4932]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 2, 2009, applicant transferred its assets to John Hancock Rainier Growth Fund, a series of John Hancock Funds III, based on net asset value. Expenses of $147,000 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on January 8, 2010.

Applicant's Address: 601 Congress St., Boston, MA 02210.

Advantage Advisers Multi-Sector Fund I [File No. 811–10473]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 30, 2009, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $231,600 incurred in connection with the liquidation were paid by applicant. Applicant has retained $233,285 in cash to cover certain outstanding liabilities.

Filing Date: The application was filed on December 31, 2009.

Applicant's Address: 200 Park Ave., 24th Floor, New York, NY 10166.

Astral Investments Trust [File No. 811–21968]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 23, 2009, applicant made a liquidating distribution to its shareholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on November 27, 2009.

Applicant's Address: 20550 Maxim Parkway, Orlando, FL 32833.

Nuveen Washington Premium Income Municipal Fund [File No. 811–7488]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On August 12, 1999, applicant transferred its assets to Nuveen Premium Income Municipal Fund 4, Inc., based on net asset value. Applicant's preferred shareholders received one share of municipal auction rate cumulative preferred shares ("preferred shares") of the acquiring fund for each preferred share of applicant. Expenses of $139,950 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on December 16, 2009.

Applicant's Address: 333 West Wacker Dr., Chicago, IL 60606.

Scudder Municipal Bond Fund Inc. [File No. 811–21255]; Scudder New York Municipal Bond Fund Inc. [File No. 811–21354]; Scudder California Municipal Bond Fund Inc. [File No. 811–21355]; DWS Dreman Enhanced Total Return Fund Inc. [File No. 811–22100]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants have never made a public offering of their securities and do not propose to make a public offering or engage in business of any kind.

Filing Date: The applications were filed on December 7, 2009.

Applicants' Address: 345 Park Ave., New York, NY 10154.

Oppenheimer Dividend Growth Fund [File No. 811–21718]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 13, 2008, applicant transferred its assets to Oppenheimer Rising Dividends Fund, based on net asset value. Expenses of $57,964 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on December 16, 2009.

Applicant's Address: 6803 S. Tucson Way, Centennial, CO 80112.

BlackRock Broad Investment Grade 2009 Term Trust Inc. [File No. 811–7250]; BCT Subsidiary, Inc. [File No. 811–9703]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On October 29, 2009, each applicant made a liquidating distribution to its shareholders, based on net asset value. BlackRock Broad Investment Grade 2009 Term Trust Inc. paid expenses of approximately $21,612 incurred in connection with its liquidation. BCT Subsidiary, Inc. incurred no expenses in connection with its liquidation.

Filing Date: The applications were filed on January 5, 2010.

Applicants' Address: 100 Bellevue Parkway, Wilmington, DE 19809.

Calvert Municipal Fund, Inc. [File No. 811–6525]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On July 31, 2009, applicant transferred its assets to Calvert Tax-Free Bond Fund, a series of Calvert Tax-Free Reserves, based on net asset value. Expenses of $3,114 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on January 5, 2010.

Applicant's Address: 4550 Montgomery Ave., Suite 1000N, Bethesda, MD 20814.

RidgeWorth Variable Trust [File No. 811–9032]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 27, 2009, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $5,758 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on August 31, 2009, and amended on November 17, 2009.

Applicant's Address: 3435 Stelzer Road, Columbus, OH 43219.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2380 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 29127; 812–13559]

ShariahShares Exchange-Traded Fund Trust, et al.; Notice of Application

January 29, 2010.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) certain open-end management investment companies and their series to issue shares ("Fund Shares") that can be redeemed only in large aggregations ("Creation Unit Aggregations"); (b) secondary market transactions in Fund Shares to occur at negotiated prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Fund Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Unit Aggregations; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Fund Shares.

APPLICANTS: ShariahShares Exchange-Traded Fund Trust (the "Trust") and Florentez Investment Management, Inc. (the "Adviser").

FILING DATES: The application was filed on July 31, 2008, and amended on September 16, 2009, and January 29, 2010. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 19, 2010 and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–

1090; Applicants, 12 Brillantez, Irvine, CA 92620.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel at (202) 551–6817, or Julia Kim Gilmer, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is registered as an open-end management investment company and is organized as a Delaware statutory trust. The Trust will initially offer two series ("Initial Index Funds"), each of which will track an index of selected equity securities.[1] Applicants may establish one or more registered investment companies in addition to the Trust that may be formed as a separate trust or a separate series of the Trust, or one or more trusts in the future ("Future Index Funds," collectively with the Initial Index Funds, the "Index Funds"). Each Future Index Fund will be advised by the Adviser or an entity controlling, controlled by, or under common control with the Adviser, and comply with the terms and conditions stated in the application.[2]

2. The Adviser will serve as the investment adviser to the Index Funds. The Adviser will be registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") prior to the commencement of investment operations of any Index Fund. The Adviser may enter into sub-advisory agreements with one or more sub-advisers with respect to the Index Funds (the "Sub-Advisers"). Each Sub-Adviser will be registered under the Advisers Act. A broker-dealer registered under the Securities Exchange Act of 1934 (the "Exchange Act" and such broker-dealer, a "Broker") will serve as the principal underwriter and distributor for the Creation Unit Aggregations of Fund Shares ("Distributor"). The Distributor will not be affiliated with the Adviser or a national securities exchange as defined in section 2(a)(26) of the Act ("Exchange").

3. Each Index Fund will hold certain equity securities ("Portfolio Securities") selected to correspond generally to the price and yield performance, before fees and expenses, of a specified equity securities index (an "Underlying Index").[3] Certain of the Underlying Indicies will be comprised of equity securities issued by domestic issuers and non-domestic issuers meeting the requirements for trading in U.S. markets ("Domestic Index"). Other Underlying Indicies may be comprised of foreign equity securities or a combination of domestic and foreign equity securities ("Foreign Index"). Index Funds that track Domestic Indices are referred to as "Domestic Funds" and Index Funds that track Foreign Indices are referred to as "Foreign Funds." No entity that creates, compiles, sponsors or maintains an Underlying Index ("Index Provider") is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, an Index Fund, the Adviser, any Sub-Adviser to or promoter of an Index Fund, or the Distributor. The Index Provider to the Initial Index Funds is FTSE Group.

4. The investment objective of each Index Fund will be to provide investment results, before fees and expenses, that correspond generally to the price and yield performance of its Underlying Index.[4] The value of each Index Fund's Underlying Index will be disseminated every 15 seconds throughout the trading day. An Index Fund will utilize either a "replication" or "representative sampling" strategy which will be disclosed with regard to each Index Fund in its prospectus ("Prospectus").[5] An Index Fund using a replication strategy will invest in the Component Securities in its Underlying Index in approximately the same proportions as in the Underlying Index. An Index Fund using a representative sampling strategy will invest in some, but not necessarily all of the Component Securities.[6] This may be the case, for example, when there are practical difficulties or substantial costs involved in compiling an entire Underlying Index basket that contains hundreds of Component Securities, or in certain instances, when a Component Security is illiquid. Applicants anticipate that an Index Fund that uses representative sampling will not track the performance of its Underlying Index with the same degree of accuracy as an investment vehicle that invests in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Index Fund will have a tracking error relative to the performance of its Underlying Index of less than 5 percent.

5. Funds Shares will be sold at a price between $40 and $250 in Creation Unit Aggregations which will have an initial price range of $1,000,000 to $25,000,000. All orders to purchase Creation Unit Aggregations must be placed with the Distributor by or through a party that has entered into an agreement with the Distributor ("Authorized Participant"). The Distributor will be responsible for transmitting the orders to the Index Funds. An Authorized Participant must be either: (a) A broker-dealer or other participant in the continuous net settlement system of the National Securities Clearing Corporation, a clearing agency registered with the Commission, or (b) a participant in the Depository Trust Company ("DTC", and such participant, "DTC Participant"). Fund Shares generally will be sold in Creation Unit Aggregations in exchange for an in-kind deposit by the purchaser of a portfolio of securities designated by the Adviser or the Sub-Adviser to correspond generally to the price and yield performance of the relevant Underlying Index (the "Deposit Securities"), together with the deposit of a specified cash payment ("Balancing Amount"). The Balancing Amount is an amount equal to the difference between

[1] The Initial Index Funds are ShariahShares FTSE USA Fund and ShariahShares FTSE Developed ex-U.S. Fund.

[2] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the application.

[3] The Underlying Indicies for the Initial Index Funds are FTSE Shariah USA Index and FTSE Shariah Developed ex U.S. Index.

[4] Applicants represent that an Index Fund will invest at least 80% of its total assets, exclusive of securities lending collateral, in the component securities that comprise its Underlying Index ("Component Securities") or, in the case of Foreign Funds, Component Securities and depositary receipts representing such securities. "Depositary Receipts" will typically be American Depositary Receipts but may include Global Depositary Receipts and Euro Depositary Receipts. Each Index Fund also may invest up to 20% of its assets in certain futures, stock options, options on stock index futures and swap contracts as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, as well as in stocks not included in its Underlying Index, but which the Adviser or Sub-Adviser believes will help the Index Fund track its Underlying Index.

[5] All representations and conditions contained in the application that require an Index Fund to disclose particular information in the Index Fund's Prospectus and/or annual report shall be effective with respect to the Index Fund until the time that the Index Fund complies with disclosure requirements adopted by the Commission in Investment Company Act Release No. 28584 (Jan. 13, 2009).

[6] Under the representative sampling strategy, stocks are selected for inclusion in an Index Fund to have aggregate investment characteristics, fundamental characteristics, and liquidity measures similar to those of the Index Fund's Underlying Index taken in its entirety.

(a) the net asset value ("NAV") (per Creation Unit Aggregation) of an Index Fund and (b) the total aggregate market value (per Creation Unit Aggregation) of the Deposit Securities.[7] An Index Fund may permit a purchaser of Creation Unit Aggregations to substitute cash in lieu of depositing some or all of the requisite Deposit Securities if the Adviser or Sub-Adviser believed such method would reduce the Index Fund's transaction costs or enhance the Index Fund's operating efficiency.[8]

6. An investor purchasing or redeeming a Creation Unit Aggregation from an Index Fund will be charged a fee ("Transaction Fee") to prevent the dilution of the interests of the remaining shareholders resulting from costs in connection with the purchase or redemption of Creation Unit Aggregations.[9] The exact amounts of Transaction Fees relevant to each Index Fund (including the maximum Transaction Fee) will be fully disclosed in the Prospectus of such Index Fund. The method for calculating the Transaction Fees will be disclosed in each Prospectus or statement of additional information ("SAI"). The Distributor will be responsible for delivering a Prospectus to those persons purchasing Creation Unit Aggregations, and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished. In addition, the Distributor will maintain a record of the instructions given to the applicable Index Fund to implement the delivery of Fund Shares.

7. Purchasers of Fund Shares in Creation Unit Aggregations may hold such Fund Shares or may sell such Fund Shares into the secondary market. Fund Shares will be listed and traded on an Exchange. It is expected that one or more member firms of a listing Exchange will be designated to act as a specialist or market maker and maintain a market for Fund Shares trading on the Exchange (each a "Market Maker"). Prices of Fund Shares trading on an Exchange will be based on the current bid/offer market. Fund Shares sold in the secondary market will be subject to customary brokerage commissions and charges.

8. Applicants expect that purchasers of Creation Unit Aggregations will include institutional investors and arbitrageurs (which could include institutional investors). A Market Maker, in providing a fair and orderly secondary market for the Fund Shares, also may purchase Creation Unit Aggregations for use in its market-making activities. Applicants expect that secondary market purchasers of Fund Shares will include both institutional investors and retail investors.[10] Applicants expect that the price at which Fund Shares trade will be disciplined by arbitrage opportunities created by the ability to continually purchase or redeem Creation Unit Aggregations at their NAV, which should ensure that Fund Shares will not trade at a material discount or premium.

9. Fund Shares will not be individually redeemable, and owners of Fund Shares may acquire those Fund Shares from the Index Fund, or tender such Fund Shares for redemption to the Index Fund, in Creation Unit Aggregations only. To redeem, an investor will have to accumulate enough Fund Shares to constitute a Creation Unit Aggregation. Redemption orders must be placed by or through an Authorized Participant. An investor redeeming a Creation Unit Aggregation generally will receive (a) Portfolio Securities designated to be delivered for Creation Unit Aggregation redemptions ("Fund Securities") on the date that the request for redemption is made[11] and (b) a "Cash Redemption Payment," consisting of an amount calculated in the same manner as the Balancing Amount, although the actual amount of the Cash Redemption Payment may differ from the Balancing Amount if the Fund Securities are not identical to the Deposit Securities on that day. An investor may receive the cash equivalent of a Fund Security in certain circumstances, such as if the investor is constrained from effecting transactions in the security by regulation or policy.

10. Neither the Trust nor any Index Fund will be marketed or otherwise held out as an "open-end investment company" or a "mutual fund." Instead, each Index Fund will be marketed as an "exchange-traded fund," an "investment company," a "fund," or a "trust." All marketing materials that describe the features or method of obtaining, buying or selling Creation Unit Aggregations or Fund Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Fund Shares are not individually redeemable and that the owners of Fund Shares may purchase or redeem Fund Shares from the Index Fund in Creation Unit Aggregations only. The same approach will be followed in the SAI, shareholder reports and investor educational materials issued or circulated in connection with the Fund Shares. The Index Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to shareholders.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy

[7] Each Index Fund will sell and redeem Creation Unit Aggregations on a "Business Day" which includes any day that an Index Fund is required to be open under Section 22(e) of the Act. Each Business Day, prior to the opening of trading on the primary listing Exchange, the list of names and amount of each security constituting the current Deposit Securities and the Balancing Amount, effective as of the previous Business Day, will be made available. Any Exchange on which Fund Shares are listed will disseminate, every 15 seconds during its regular trading hours, through the facilities of the Consolidated Tape Association, an amount per Fund Share representing the sum of the estimated Balancing Amount and the current value of the Deposit Securities.

[8] Applicants state that in some circumstances or in certain countries, it may not be practicable or convenient, or permissible under the laws of certain countries or the regulations of certain foreign stock exchanges, for a Foreign Fund to operate exclusively on an "in-kind" basis. Applicants also note that when a substantial rebalancing of a Foreign Fund's portfolio is required, the Adviser or Sub-Adviser might prefer to receive cash rather than stocks so that the Foreign Fund may avoid transaction costs involved in liquidating part of its portfolio to achieve the rebalancing.

[9] Where an Index Fund permits a purchaser to substitute cash in lieu of depositing a portion of the requisite Deposit Securities, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Securities, including operational, processing and brokerage costs, and part or all of the spread between the expected bid and the offer side of the market relating to such Deposit Securities.

[10] Fund Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Fund Shares. DTC or DTC Participants will maintain records reflecting beneficial owners of Fund Shares.

[11] As a general matter, the Deposit Securities and Fund Securities will correspond *pro rata* to the securities held by each Index Fund, but Fund Securities received on redemption may not always be identical to Deposit Securities deposited in connection with the purchase of Creation Unit Aggregations for the same day. The Index Funds will comply with the Federal securities laws in accepting Deposit Securities and satisfying redemptions with Fund Securities, including that the Deposit Securities and Fund Securities are sold in transactions that would be exempt from registration under the Securities Act of 1933.

and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an "open-end company" as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Fund Shares will not be individually redeemable, applicants request an order that would permit the Index Funds to register as open-end management investment companies and issue Fund Shares that are redeemable in Creation Unit Aggregations only. Applicants state that investors may purchase Fund Shares in Creation Unit Aggregations and redeem Creation Unit Aggregations from each Index Fund. Applicants further state that because Creation Unit Aggregations may always be purchased and redeemed at NAV, the market price of the Fund Shares should not vary substantially from their NAV.

Section 22(d) of the Act and Rule 22c-1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, which is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c-1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Fund Shares will take place at negotiated prices, not at a current offering price described in an Index Fund's Prospectus, and not at a price based on NAV. Thus, purchases and sales of Fund Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c-1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c-1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Fund Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c-1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and who could pay investors a little more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Fund Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Fund Shares does not directly involve Index Fund assets and will not result in dilution of an investment in Fund Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Fund Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because competitive forces in the marketplace will ensure that the difference between the market price of Fund Shares and their NAV remains narrow.

Section 22(e)

7. Section 22(e) generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for a Foreign Fund will be contingent not only on the securities settlement cycle of the United States market, but also on the delivery cycles in local markets for the underlying foreign securities held by a Foreign Fund. Applicants state that delivery cycles for transferring Portfolio Securities to redeeming investors, coupled with local market holiday schedules, may require a delivery process longer than seven calendar days for the Foreign Funds. Applicants request relief under section 6(c) of the Act from section 22(e) to allow the Foreign Funds to pay redemption proceeds up to fourteen calendar days after the tender of a Creation Unit Aggregation for redemption. Except as disclosed in the relevant Foreign Fund's Prospectus and/or SAI, applicants expect that each Foreign Fund will be able to deliver redemption proceeds within seven days.[12] With respect to future Foreign Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances similar to those described in the application exist.

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days, and the maximum number of days, up to fourteen calendar days, needed to deliver the proceeds for each Foreign Fund. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that will not effect in-kind purchases and redemptions of Creation Unit Aggregations.

Section 12(d)(1)

9. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment

[12] Rule 15c6–1 under the Exchange Act requires that most securities transactions be settled within three business days of the trade. Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may have under rule 15c6–1.

company, its principal underwriter and any other broker-dealer from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

10. Applicants request an exemption to permit management investment companies ("Purchasing Management Companies") and unit investment trusts ("Purchasing Trusts") registered under the Act that are not sponsored or advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser and are not part of the same "group of investment companies," as defined in section 12(d)(1)(G)(ii) of the Act, as the Index Funds (collectively, "Purchasing Funds") to acquire Fund Shares beyond the limits of section 12(d)(1)(A). Purchasing Funds do not include the Index Funds. In addition, applicants seek relief to permit the Index Funds or any Broker to sell Fund Shares to a Purchasing Fund in excess of the limits of section 12(d)(1)(B).

11. Each Purchasing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the "Purchasing Fund Adviser") and may be sub-advised by an adviser(s) within the meaning of section 2(a)(20)(B) of the Act ("Purchasing Fund Sub-Adviser"). Any investment adviser to a Purchasing Fund will be registered under the Advisers Act. Each Purchasing Trust will be sponsored by a sponsor ("Sponsor").

12. Applicants submit that the proposed conditions to the relief requested, including the requirement that Purchasing Funds enter into an agreement with an Index Fund for the purchase of Fund Shares (a "Purchasing Fund Agreement"), adequately address the concerns underlying the limits in section 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

13. Applicants believe that neither the Purchasing Funds nor a Purchasing Fund Affiliate would be able to exert undue influence over the Index Funds.[13] To limit the control that a Purchasing Fund may have over an Index Fund, applicants propose a condition prohibiting a Purchasing Fund Adviser or a Sponsor, any person controlling, controlled by, or under common control with a Purchasing Fund Adviser or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Purchasing Fund Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Purchasing Fund Adviser or Sponsor ("Purchasing Fund Advisory Group") from controlling (individually or in the aggregate) an Index Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Purchasing Fund Sub-Adviser, any person controlling, controlled by or under common control with the Purchasing Fund Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Purchasing Fund Sub-Adviser or any person controlling, controlled by or under common control with the Purchasing Fund Sub-Adviser ("Purchasing Fund Sub-Advisory Group").

14. Applicants propose other conditions to limit the potential for undue influence over the Index Funds, including that no Purchasing Fund or Purchasing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Index Fund) will cause an Index Fund to purchase a security in any offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate ("Affiliated Underwriting"). An "Underwriting Affiliate" is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Purchasing Fund Adviser, Purchasing Fund Sub-Adviser, employee or Sponsor of the Purchasing Fund, or a person of which any such officer, director, member of an advisory board, Purchasing Fund Adviser, Purchasing Fund Sub-Adviser, employee, or Sponsor is an affiliated person (except that any person whose relationship to the Index Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

15. Applicants assert that the proposed conditions address any concerns regarding excessive layering of fees. The board of directors or trustees of any Purchasing Management Company, including a majority of the directors or trustees who are not "interested persons" within the meaning of section 2(a)(19) of the Act ("disinterested directors or trustees"), will find that the advisory fees charged to the Purchasing Management Company are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Index Fund in which the Purchasing Management Company may invest. In addition, except as provided by condition 12, a Purchasing Fund Adviser or a trustee ("Trustee") or Sponsor of a Purchasing Trust will, as applicable, waive fees otherwise payable to it by the Purchasing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Index Fund under rule 12b–1 under the Act) received by the Purchasing Fund Adviser or Trustee or Sponsor or an affiliated person of the Purchasing Fund Adviser, Trustee or Sponsor, from the Index Fund in connection with the investment by the Purchasing Fund in the Index Fund. Applicants state that any sales charges or service fees charged with respect to shares of a Purchasing Fund will not exceed the limits applicable to a fund of funds set forth in National Association of Securities Dealers ("NASD") Conduct Rule 2830.[14]

16. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Index Fund may acquire securities of any investment company or company relying on sections 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Index Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure that Purchasing Funds comply with the terms and conditions of the requested relief from section 12(d)(1), any Purchasing Fund that intends to invest in an Index Fund in reliance on the requested order will be required to enter

[13] A "Purchasing Fund Affiliate" is a Purchasing Fund Adviser, Purchasing Fund Sub-Adviser, Sponsor, promoter, and principal underwriter of a Purchasing Fund, and any person controlling, controlled by, or under common control with any of those entities. A "Fund Affiliate" is an investment adviser, promoter, or principal underwriter of an Index Fund and any person controlling, controlled by, or under common control with any of these entities.

[14] All references to NASD Conduct Rule 2830 also includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

into a Purchasing Fund Agreement between the Index Fund and the Purchasing Fund requiring the Purchasing Fund to adhere to the terms and conditions of the requested relief. The Purchasing Fund Agreement also will include an acknowledgement from the Purchasing Fund that it may rely on the requested order only to invest in the Index Funds and not in any other investment company.

17. Applicants also note that an Index Fund may choose to reject a direct purchase of Fund Shares in Creation Unit Aggregations by a Purchasing Fund. To the extent that a Purchasing Fund purchases Fund Shares in the secondary market, an Index Fund would still retain its ability to reject initial purchases of Fund Shares made in reliance on the requested order by declining to enter into the Purchasing Fund Agreement prior to any investment by a Purchasing Fund in excess of the limits of section 12(d)(1)(A).

Section 17(a)(1) and (2) of the Act

18. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person ("second tier affiliates"), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines "affiliated person" to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities.

19. Applicants request an exemption from section 17(a) of the Act pursuant to sections 17(b) and 6(c) of the Act to permit persons to effectuate in-kind purchases and redemptions with an Index Fund when they are affiliated persons, or second-tier affiliates of an Index Fund solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Fund Shares of one or more Index Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the Fund Shares of one or more other registered investment companies (or series thereof) advised by the Adviser, or an entity controlling, controlled by, or under common control with the Adviser.

20. Applicants assert that no useful purpose would be served by prohibiting these types of affiliated persons from purchasing or redeeming Creation Unit Aggregations through "in-kind" transactions. The deposit procedures for both in-kind purchases and in-kind redemptions of Creation Unit Aggregations will be the same for all purchases and redemptions. Deposit Securities and Fund Securities will be valued in the same manner as Portfolio Securities. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for the specified affiliated persons, or second-tier affiliates, of an Index Fund, to effect a transaction detrimental to other holders of Fund Shares. Applicants also believe that in-kind purchases and redemptions will not result in self-dealing or overreaching of the Index Funds.

21. Applicants also seek relief from section 17(a) to permit an Index Fund that is an affiliated person of a Purchasing Fund to sell its Fund Shares to and redeem its Fund Shares from a Purchasing Fund and to engage in the accompanying in-kind transactions with the Purchasing Fund.[15] Applicants state that the terms of the transaction are fair and reasonable. Applicants note that any consideration paid by a Purchasing Fund for the purchase or redemption of Fund Shares directly from an Index Fund will be based on the NAV of the Index Fund.[16] Applicants believe that any proposed transactions directly between the Index Funds and Purchasing Funds will be consistent with the policies of each Purchasing Fund. The purchase of Creation Unit Aggregations by a Purchasing Fund directly from an Index Fund will be accomplished in accordance with the investment restrictions of any such Purchasing Fund and will be consistent with the investment policies set forth in the Purchasing Fund's registration statement. The Purchasing Fund Agreement will require any Purchasing Fund that purchases Creation Unit Aggregations directly from an Index Fund to represent that the purchase of Creation Unit Aggregations from an Index Fund by a Purchasing Fund will be accomplished in compliance with the investment restrictions of the Purchasing Fund and will be consistent with the investment policies set forth in the Purchasing Fund's registration statement.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:[17]

ETF Relief

1. As long as the Index Funds operate in reliance on the requested order, the Fund Shares will be listed on an Exchange.

2. Neither the Trust nor any Index Fund will be advertised or marketed as an open-end investment company or a mutual fund. Each Index Fund's Prospectus will prominently disclose that Fund Shares are not individually redeemable shares and will disclose that the owners of Fund Shares may acquire those Fund Shares from such Index Fund and tender those Fund Shares for redemption to the Index Fund in Creation Unit Aggregations only. Any advertising material that describes the purchase or sale of Creation Unit Aggregations or refers to redeemability will prominently disclose that Fund Shares are not individually redeemable and that owners of Fund Shares may acquire those Fund Shares from an Index Fund and tender those Fund Shares for redemption to such Index Fund in Creation Unit Aggregations only.

3. The Web site maintained for the Index Funds, which will be publicly accessible at no charge, will contain the following information, on a per Fund Share basis, for each Index Fund: (a) The prior Business Day's NAV and the mid-point of the bid-ask spread at the time of the calculation of NAV ("Bid/Ask Price"), and a calculation of the premium or discount of the Bid/Ask Price at the time of calculation of the NAV against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

[15] Applicants acknowledge that receipt of compensation by (a) an affiliated person of a Purchasing Fund, or an affiliated person of such person, for the purchase by the Purchasing Fund of Fund Shares or (b) an affiliated person of an Index Fund, or an affiliated person of such person, for the sale by the Index Fund of its Fund Shares to a Purchasing Fund may be prohibited by section 17(e)(1) of the Act. The Purchasing Fund Agreement also will include this acknowledgement.

[16] Applicants believe that a Purchasing Fund will purchase Fund Shares in the secondary market and will not purchase or redeem Creation Unit Aggregations directly from an Index Fund. However, the requested relief would apply to direct sales of Creation Unit Aggregations by an Index Fund to a Purchasing Fund and direct redemptions of Fund Shares.

[17] *See* note 5, *supra.*

4. Each Index Fund's Prospectus and annual report will also include: (a) The information listed in condition 3(b), (i) in the case of the Index Fund's Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Fund Share basis for one, five and ten year periods (or life of the Index Fund), (i) the cumulative total return and the average annual total return based on NAV and Bid/Ask Price, and (ii) the cumulative total return of the relevant Underlying Index.

5. Each Index Fund's Prospectus will clearly disclose that, for purposes of the Act, Fund Shares are issued by such Index Fund, which is a registered investment company, and that the acquisition of Fund Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in an Index Fund beyond the limits in section 12(d)(1), subject to certain terms and conditions, including that the registered investment company enter into a Purchasing Fund Agreement with the Index Fund regarding the terms of the investment.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based exchange-traded funds.

Section 12(d)(1) Relief

7. The members of a Purchasing Fund's Advisory Group will not control (individually or in the aggregate) an Index Fund within the meaning of section 2(a)(9) of the Act. The members of a Purchasing Fund's Sub-Advisory Group will not control (individually or in the aggregate) an Index Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding Fund Shares of an Index Fund, a Purchasing Fund's Advisory Group or a Purchasing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25% of the outstanding Fund Shares of an Index Fund, it will vote its Fund Shares in the same proportion as the vote of all other holders of the Fund Shares. This condition does not apply to the Purchasing Fund's Sub-Advisory Group with respect to an Index Fund for which the Purchasing Fund's Sub-Adviser or a person controlling, controlled by, or under common control with the Purchasing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

8. No Purchasing Fund or Purchasing Fund Affiliate will cause any existing or potential investment by the Purchasing Fund in an Index Fund to influence the terms of any services or transactions between the Purchasing Fund or Purchasing Fund Affiliate and the Index Fund or a Fund Affiliate.

9. The board of directors or trustees of a Purchasing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Purchasing Fund Adviser and Purchasing Fund Sub-Adviser are conducting the investment program of the Purchasing Management Company without taking into account any consideration received by the Purchasing Management Company or a Purchasing Fund Affiliate from an Index Fund or a Fund Affiliate in connection with any services or transactions.

10. No Purchasing Fund or Purchasing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Index Fund) will cause an Index Fund to purchase a security in any Affiliated Underwriting.

11. Before investing in an Index Fund in excess of the limits in section 12(d)(1)(A), each Purchasing Fund and the Index Fund will execute a Purchasing Fund Agreement stating, without limitation, that their boards of directors or trustees and their investment advisers or Sponsors and Trustees, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Fund Shares in excess of the limit in section 12(d)(1)(A)(i), a Purchasing Fund will notify the Index Fund of the investment. At such time, the Purchasing Fund will also transmit to the Index Fund a list of the names of each Purchasing Fund Affiliate and Underwriting Affiliate. The Purchasing Fund will notify the Index Fund of any changes to the list of names as soon as reasonably practicable after a change occurs. The relevant Index Fund and the Purchasing Fund will maintain and preserve a copy of the order, the Purchasing Fund Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

12. The Purchasing Fund Adviser, Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Purchasing Fund in an amount at least equal to any compensation (including fees received under any plan adopted by an Index Fund under rule 12b–1 under the Act) received from an Index Fund by the Purchasing Fund Adviser, Trustee or Sponsor, or an affiliated person of the Purchasing Fund Adviser, Trustee or Sponsor, other than any advisory fees paid to the Purchasing Fund Adviser, Trustee or Sponsor, or its affiliated person by an Index Fund, in connection with the investment by the Purchasing Fund in the Index Fund. Any Purchasing Fund Sub-Adviser will waive fees otherwise payable to the Purchasing Fund Sub-Adviser, directly or indirectly, by the Purchasing Management Company in an amount at least equal to any compensation received from an Index Fund by the Purchasing Fund Sub-Adviser, or an affiliated person of the Purchasing Fund Sub-Adviser, other than any advisory fees paid to the Purchasing Fund Sub-Adviser or its affiliated person by the Index Fund, in connection with any investment by the Purchasing Management Company in an Index Fund made at the direction of the Purchasing Fund Sub-Adviser. In the event that the Purchasing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Purchasing Management Company.

13. Any sales charges and/or service fees charged with respect to shares of a Purchasing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

14. Once an investment by a Purchasing Fund in Fund Shares exceeds the limits of section 12(d)(1)(A)(i) of the Act, the board of directors/trustees of an Index Fund ("Board"), including a majority of the directors or trustees that are not "interested persons" within the meaning of section 2(a)(19) of the Act ("disinterested Board members"), will determine that any consideration paid by the Index Fund to a Purchasing Fund or a Purchasing Fund Affiliate in connection with any services or transactions (a) is fair and reasonable in relation to the nature and quality of the services and benefits received by such Index Fund; (b) is within the range of consideration that the Index Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Index Fund and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

15. The Board, including a majority of the disinterested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by an Index Fund in an Affiliated Underwriting once the investment by a Purchasing Fund in an Index Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Purchasing Fund in an Index Fund. The Board will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Index Fund; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Index Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Index Fund.

16. Each Index Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings, once an investment by a Purchasing Fund in shares of the Index Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

17. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Purchasing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Index Fund in which the Purchasing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Purchasing Management Company.

18. No Index Fund will acquire securities of any other investment company or companies relying on sections 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Index Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2381 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61416; File No. SR–NASDAQ–2010–010]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Clarify Nasdaq Rule 7023

January 25, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 [2] thereunder, notice is hereby given that on January 21, 2010, The NASDAQ Stock Market LLC ("Nasdaq") 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 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 Substance of the Proposed Rule Change

The Exchange proposes to clarify Nasdaq Rule 7023 to make clear that Historical ModelView information will be available via NasdaqTrader.com and that references to the Historical TotalView data product will be deleted since it is offered through a technology subsidiary of the Exchange rather than the Exchange itself. The text of the proposed rule change is available from Nasdaq's Web site at *http://nasdaq.cchwallstreet.com,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.[3]

* * * * *

7023. NASDAQ TotalView

(a)–(c) No change.

(d) Historical ModelView [TotalView] Information [—ModelView] Nasdaq will make historical [TotalView information, under the] ModelView [entitlement package] *information*[,] available via NasdaqTrader.com. ModelView shall contain historical [TotalView] information regarding aggregate displayed and reserve liquidity at each price level *directly from* [in] the Nasdaq Market Center. ModelView shall be available for a subscription fee of $2,000 per month.

* * * * *

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

The Exchange proposes to clarify Nasdaq Rule 7023(d) to make clear that Historical ModelView information will be available via NasdaqTrader.com and will contain historical information regarding aggregate displayed and reserve liquidity at each price level directly from the Nasdaq Market Center. Additionally, references to the Historical TotalView data product will be deleted from Nasdaq Rule 7023(d) since it is offered through a technology subsidiary of the Exchange rather than the Exchange itself. Historical

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Changes are marked to the rules of The NASDAQ Stock Market LLC found at *http://nasdaqomx.cchwallstreet.com.*

TotalView can be created by any vendor that receives the real time data feed and, as such, is not exclusively created through the Exchange.

ModelView is designed to facilitate more efficient trading activity in the Nasdaq Market Center in an environment where trading and order-routing become increasingly automated, and broker-dealers, institutional traders and technology providers are constantly seeking to improve the quality of information upon which trading and order-routing decisions are made. The incremental data in ModelView helps customers give better visibility into data not previously available.

Specifically, ModelView provides the aggregate amount of both displayed and reserve size liquidity in the Nasdaq Market Center at each price level. With this information, developers of automated trading and order-routing models improve their Nasdaq trading efficiency, and the providers of liquidity to the Nasdaq Market Center find greater fill rates and execution quality. ModelView protects the anonymity of the trading strategies of Nasdaq Market Center participants while improving the execution quality of their orders. Also, ModelView does not contain explicit or implicit information regarding the identity of market participants trading in Nasdaq at the relevant time.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [4] in general, and furthers the objectives of Section 6(b)(5) of the Act [5] in particular, in that it is designed to promote just and equitable principles of trade, 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. The proposed change is designed to clarify the applicability of Nasdaq's rules.

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.

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.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) [6] of the Act and Rule 19b–4(f)(6)(iii) thereunder [7] 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 if consistent with the protection of investors and the public interest. In addition, at least five days prior to the instant filing, the Exchange provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Exchange believes that this proposal qualifies for immediate effectiveness as a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4.[8]

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–2010–010 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.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6)(iii).

[8] 17 CFR 240.19b–4(f)(6).

All submissions should refer to File Number SR–NASDAQ–2010–010. 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 inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2010–010 and should be submitted on or before February 25, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2329 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61429; File No. SR–NASDAQ–2010–009]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend Its Financial Responsibility Rules To Reflect Changes to Corresponding FINRA Rules

January 27, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

21, 2010, The NASDAQ Stock Market LLC (the "Exchange" or "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 the Exchange. The Exchange filed Amendment No. 1 on January 22, 2010. The Exchange has designated the proposed rule change as constituting a non-controversial rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing this proposed rule change to delete Rule 3130 and IM–3130, to adopt a new Rule 4000A series, and to amend Rules 9557 and 9559 to conform NASDAQ's rules to recent changes to the rules of the Financial Industry Regulatory Authority ("FINRA"). The Exchange will implement the proposed rule change thirty days after the date of the filing. The text of the proposed rule change is available at *http://nasdaqomx.cchwallstreet.com,* at the Exchange'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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ proposes certain conforming changes to its rules concerning members' financial responsibilities in light of changes made to the rules of FINRA. Many of NASDAQ's rules are based on rules of FINRA (formerly the National Association of Securities Dealers ("NASD")). During 2008, FINRA embarked on an extended process of moving rules formerly designated as "NASD Rules" into a consolidated FINRA rulebook. In most cases, FINRA has renumbered these rules, and in some cases has substantively amended them. Accordingly, NASDAQ also has initiated a process of modifying its rulebook to ensure that NASDAQ rules corresponding to FINRA/NASD rules continue to mirror them as closely as practicable. In some cases, it is not possible for the rule numbers of NASDAQ rules to mirror corresponding FINRA rules, because existing or planned NASDAQ rules make use of those numbers. However, wherever possible, NASDAQ plans to update its rules to reflect changes to corresponding FINRA rules.

This filing addresses changes to NASDAQ rules to conform them to FINRA's new consolidated financial responsibility rules.[4] These rules establish criteria that promote the permanency of member's capital, requiring the review and approval of material financial transactions and establishing criteria intended to identify member firms approaching financial difficulty and to monitor their financial and operational condition. FINRA's new financial responsibility rules incorporate many of the provisions of the prior NASD and NYSE rules, but streamlined and reorganized the provisions. FINRA also tiered many provisions to apply only to those firms that clear or carry customer accounts.

Currently, NASDAQ Rule 3130 and IM–3130 incorporate by reference old NASD Rule 3130 and IM–3130. These rules concerned FINRA's authority to regulate the activities of members experiencing financial or operational difficulties. In adopting the new financial responsibility rules, FINRA eliminated NASD Rule 3130 and IM–3130, and replaced them with several rules that represented a consolidation of the old NASD and NYSE rules concerning financial responsibility. As a consequence, NASDAQ is also deleting Rule 3130 and IM–3130, and replacing them with new rules found under a new Rule 4000A series.[5] These new NASDAQ rules incorporate by reference the analogous newly-adopted financial responsibility rules of FINRA found in FINRA Rules 4110, 4120, 4140 and 4521. Consistent with current NASDAQ Rule 3130(b), NASDAQ is proposing to make clear in proposed Rules 4110A, 4120A and 4140A that references to Rule 9557 are to NASDAQ's Rule 9557.

FINRA also revised FINRA Rule 9557 (Procedures for Regulating Activities Under FINRA Rules 4110, 4120 and 4130 Regarding a Member Experiencing Financial or Operational Difficulties) and FINRA Rule 9559 (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series). FINRA Rules 9557 and 9559 address service of notice to member firms that are experiencing financial or operational difficulties and the related hearing procedures. FINRA made a number of conforming revisions to Rules 9557 and 9559 in light of several of the new financial responsibility rules. NASDAQ Rules 9557 and 9559 mirror the analogous rules of FINRA in substance, with only minor technical differences.[6] As such, NASDAQ is proposing to make the same changes Rules 9557 and 9559 as FINRA made to its Rules 9557 and 9559, with minor technical differences.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Sections 6(b)(5) of the Act,[8] in particular, in that the proposal 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 regulating, clearing, settling, processing information with respect to, and 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. The proposed changes will conform NASDAQ rules to recent changes made to corresponding FINRA rules, to promote application of consistent regulatory standards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not

[3] 17 CFR 240.19b–4(f)(6).

[4] Securities Exchange Act Release No. 60933 (November 4, 2009), 74 FR 58334 (November 12, 2009) (SR–FINRA–2008–067).

[5] FINRA also eliminated NASD Rule 3131 and adopted FINRA Rule 4130 in its place. NASD Rule 3131 concerned the regulation of members registered with the SEC pursuant to Section 15C of the Exchange Act. NASDAQ does not have such a class of membership, and as such, did not adopt NASD Rule 3131 and is not proposing to adopt, or incorporate by reference, FINRA Rule 4130.

[6] For example, FINRA Rule 9557(c)(5) references "FINRA staff" whereas proposed NASDAQ Rule 9557(c)(5) references instead "Nasdaq Regulation staff."

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

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) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission believes that the earlier operative date is consistent with the protection of investors and the public interest because the proposed rule change permits Nasdaq to implement the rule without further delay and in time for the operative date of FINRA's financial responsibility rules.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[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, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2001–004 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–2010–009. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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–2010–009, and should be submitted on or before February 25, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2331 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that NASDAQ has satisfied the five-day pre-filing notice requirement.

[12] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on January 21, 2010, the date Nasdaq filed Amendment No. 1.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61433; File No. SR–ISE–2010–04]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Correct Inconsistencies in Certain Execution Rules

January 27, 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 January 13, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to correct inconsistencies in certain of its execution rules. 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

In January 2009,[3] the Exchange received Commission approval of a rule change to give certain non-broker-dealer orders (identified as Professional Orders) the priority given broker-dealer orders and market maker quotes rather than the priority given all public customer orders. Those public customers who continue to receive priority in the execution algorithm are called Priority Customers under the rule change. The rule change uniformly changed the execution priority in each of the Exchange's execution rules as they existed in January 2009. After reviewing its execution rules, the Exchange has identified three inconsistencies with the Priority Customer priority execution rules. Accordingly, the Exchange proposes to amend these execution rules to be consistent with what is now the standard execution algorithm:

(i) Rule 715(g) regarding Reserve Orders. The proposed change clarifies that the execution of the displayed portion of a Reserve Order will follow the standard priority rules that now provide priority only to Priority Customers.[4]

(ii) Rule 715(i) and Rule 721(a) regarding Customer Cross Orders. A Customer Cross Order is currently defined as a Public Customer order to buy and a Public Customer order to sell, and such orders are not permitted to trade at the same price as Public Customers on the book. Since only Priority Customer Orders receive priority, the proposed change narrows the definition of a Customer Cross Order to Priority Customers only and specifies that such orders cannot be executed at the same price as Priority Customer Orders.[5]

(iii) Rule 803, Supplementary Material .02 regarding flash orders. Execution of a flash order when the ISE BBO changes during the exposure period to a price that matches against the order being flashed is according to the standard priority rules that now provide priority only to Priority Customers.

The Exchange also proposes to delete a provision from Rule 721 regarding Customer Cross Orders that was related to a block exemption from the old linkage rules that does not now exist under the distributive linkage plan.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 ("Exchange Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism for a free and open market and a national market system, and in general, to protect investors and the public interest. In particular, the proposal corrects inconsistencies in the Exchange's rules.

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

Because the foregoing proposed rule change does not (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder.[8]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2010–04 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–ISE–2010–04. 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

[3] Securities Exchange Act Release No. 59287 (January 23, 2009), 74 FR 5694 (January 30, 2009).

[4] Reserve orders are limit orders that contain both a displayed portion and a non-displayed portion. The entire size of a displayed price (including Priority Customer Orders, Professional Orders, and market maker quotes) is executed in full before any portion of the non-displayed portion of a reserve order. *See* ISE Rule 713(c) and ISE Rule 715(g)5.

[5] Under ISE Rule 717(d) and (e), members are required to expose trading interest to the market before executing agency orders as principal or before executing agency orders against orders that were solicited from other broker-dealers (i.e., proprietary and solicited crossing transactions). However, the ISE options rules do not contain any limitations or exposure requirements regarding the execution of customer orders against other customer orders. Customer Cross Orders was adopted to provide a way to enter opposing customer orders using a single order type that protected customer orders on the book. See Securities Exchange Act Release No. 60253 (July 7, 2009), 74 FR 34063 (July 14, 2009). While only Priority Customers will be permitted to be executed using the Customer Cross Order under the proposed rule change, Rule 717(d) continues to allow the execution of all Public Customer Orders against other Public Customer Orders without an exposure period. Communication between Samir Patel, Assistant General Counsel, ISE and Ira Brandriss, Special Counsel, Division of Trading and Markets, Commission, on January 26, 2010. Members may continue to enter two Public Customer orders on the exchange with the intent to cross them without the use of the Customer Cross Order type.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] Pursuant to Rule 19b–4(f)(6)(iii), the Exchange gave the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date on which the Exchange filed the proposed rule change. *See* 17 CFR 240.19b–4(f)(6)(iii).

submission,[9] 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the 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–2010–04 and should be submitted on or before February 25, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2333 Filed 2–3–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61434; File No. SR–ISE–2010–06]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating to Fee Changes

January 27, 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 January 14, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. On January 27, 2010, ISE filed Amendment No. 1 to the proposed rule change. On January 27, 2010, ISE withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change.[3] 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 ISE is proposing to amend its Schedule of Fees. 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. Specifically, the Exchange proposes to adopt a $0.20 per contract execution fee for professional customers who execute orders as a result of posting liquidity to ISE's order book.

ISE recently adopted a rule change to distinguish between Priority Customer Orders and Professional Orders.[4] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A Professional Order is defined in ISE Rule 100(a)(37C) as an order that is for the account of a person or entity that is not a Priority Customer. For purpose of this discussion, "professional customers" are non-broker/dealer participants who enter at least 390 orders per day on average during a calendar month for their own beneficial account(s). The level of trading activity by professional customers more resembles that of market makers and proprietary traders on the Exchange than it does of other customers.

Currently, the primary distinction between the two types of customers is that Priority Customers take priority on the order book over professional customers. Professional customers are on parity with market makers and broker/dealers. However, professional customers generally do not pay transaction fees. Market makers and broker/dealers on the other hand pay transaction fees to the Exchange. Specifically, for market makers, the Exchange applies a sliding scale, between $0.01 and $0.18 per contract side, based on the number of contracts an ISE market maker trades in a month. Broker/dealer orders pay a flat execution fee of $0.20 per traded contract, regardless of whether they post liquidity to or take liquidity from ISE's order book when they enter orders. Broker/dealer fees are posted on the Exchange's fee schedule under the Firm Proprietary line item.

The Exchange now proposes to adopt a $0.20 per contract execution fee for professional customers who execute orders as a result of posting liquidity to ISE's order book. The proposed fee applies only to professional customer orders, i.e., non-broker/dealer customer orders; it does not apply to market maker and broker/dealer orders who, as noted above, already pay transaction fees.

As discussed, professional customers engage in trading activity similar to that conducted by market makers and proprietary traders. For example, professional customers continue to join bids and offers on the Exchange and thus compete for incoming order flow. Professional customers do so in direct competition with ISE's market makers, but with the distinct advantage of generally not paying transaction fees to the Exchange. ISE believes that adopting a "maker fee" for professional customers will put these market participants on a more equal footing with market makers and proprietary traders regarding fees paid for transacting on the Exchange.

The Exchange further notes that the proposed fees, while comparable to fees currently paid by broker/dealer orders, are less than those fees as the Exchange is only proposing to charge professional customers who execute orders as a result of posting liquidity to ISE's order

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[9] The text of the proposed rule change is available on ISE's Web site at *http://www.ise.com*, on the Commission's Web site at *http://www.sec.gov*, at ISE, and at the Commission's Public Reference Room.

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 2 deleted a sentence in the purpose section of the filing and in Exhibit 1.

[4] *See* Exchange Act Release No. 59287 (Jan. 23, 2009), 74 FR 5694 (Jan. 30, 2009).

book. The Exchange is not currently proposing to charge professional customers a fee for taking liquidity from ISE's order book.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Exchange Act,[5] in general, and furthers the objectives of Section 6(b)(4),[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. In particular, the proposed rule change will help equalize competition between market makers, proprietary traders and professional customers on the Exchange.

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) of the Act[7] and Rule 19b–4(f)(2)[8] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

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–ISE–2010–06 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–ISE–2010–06. 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,[10] 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 am and 3 p.m. Copies of the filing also will be available for inspection and 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–2010–06 and should be submitted on or before February 25, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2334 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 19b–4(f)(2).

[9] The Commission considers the 60-day period within which the Commission may summarily abrogate the proposal pursuant to Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C), to commence on January 27, 2010, the date ISE filed Amendment No. 2 to the proposal.

[10] The text of the proposed rule change is available on ISE's Web site at *http://www.ise.com*, on the Commission's Web site at *http://www.sec.gov*, at ISE, and at the Commission's Public Reference Room.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61438; File No. SR–Phlx–2010–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Relating To Amending Rule 1092, Obvious Errors and Catastrophic Errors

January 28, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on January 26, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1092, Obvious Errors and Catastrophic Errors, to adopt the ability to review transactions on the Exchange's own motion.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 1092 pertaining to the nullification and adjustment of options transactions. Specifically, the Exchange proposes to adopt a provision which provides that in the interest of maintaining a fair and orderly market and for the protection of investors, the President of the Exchange or his/her designee who is an officer (collectively "Exchange officer"), may, on his or her own motion or upon request, determine to review any transaction occurring on the Exchange that is believed to be erroneous.[3] A transaction reviewed pursuant to this provision may be nullified or adjusted only if it is determined by the Exchange officer that the transaction is an obvious error as provided in Rule 1092. A transaction would be adjusted or nullified in accordance with the provision under which it is deemed an erroneous transaction. The Exchange officer may be assisted by an Options Exchange Official in reviewing a transaction.

The Exchange officer shall act pursuant to this paragraph as soon as possible after receiving notification of the transaction, and ordinarily would be expected to act on the same day as the transaction occurred. However, because a transaction under review may have occurred near the close of trading or due to unusual circumstances, the rule provides that the Exchange officer shall act no later than 9:30 a.m. (ET) on the next trading day following the date of the transaction in question. A party affected by a determination to nullify or adjust a transaction pursuant to this provision may appeal such determination in accordance with Rule 1092; however, a determination by an Exchange officer not to review a transaction, or a determination not to nullify or adjust a transaction for which a review was requested or conducted, is not appealable. The Exchange believes it is appropriate to limit review on appeal to only those situations in which a transaction is actually nullified or adjusted.

This provision is not intended to replace a party's obligation to request a review, within the required time periods under Rule 1092, of any transaction that it believes meets the criteria for an obvious error. And, if a transaction is reviewed and a determination has been rendered pursuant to Rule 1092, no additional relief may be granted under this new provision. Moreover, the Exchange does not anticipate exercising this new authority in every situation in which a party fails to make a timely request for review of this transaction pursuant to Rule 1092. The Exchange believes this provision should help to protect the integrity of its marketplace by vesting an Exchange officer with the authority to review a transaction that may be erroneous, in those situations where a party failed to make a timely request for a review.

The Exchange believes that the provision would also be useful in situations where some parties, but not all, to trades around the same time have requested a review. Under the rule, reviews are currently request-based. Under the proposal, in this situation, the Exchange would be able to invoke this provision to review a series of trades, whether or not all parties requested it.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that it is designed to promote just and equitable principles of trade, 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. The Exchange notes that the Exchange officer can adjust or nullify a transaction under the authority granted by this provision only if the transaction meets the objective criteria for an obvious error under the Exchange rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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; or (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange may promptly implement the proposed rule change. The Exchange believes that a recent trading situation that resulted in divergent outcomes on some other options markets could have been handled in a more clear and orderly way if the new provision had been in place. The Commission notes that the proposed rule change is substantively identical to a previously approved proposal from CBOE[8] and thus presents no new regulatory issues. The Commission believes that, under the circumstances, it is appropriate and consistent with the protection of investors and the public interest to waive the 30-day operative delay. Therefore, the Commission hereby designates the proposed rule change operative upon filing.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

[3] In the event a party to a transaction requests that the Exchange review a transaction, the Exchange officer nonetheless would need to determine, on his or her own motion, whether to review the transaction.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] *See* Exchange Act Release No. 60978 (November 10, 2009), 74 FR 59296 (November 17, 2009) (approving SR–CBOE–2009–68).

[9] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–Phlx–2010–13 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 No. SR–Phlx–2010–13. 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 inspection and copying 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 Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Phlx–2010–13 and should be submitted on or before February 25, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2335 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61443; File No. SR–NASDAQ–2010–007]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating To Elimination of Market Maker Requirement for Each Option Series

January 29, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 14, 2009, The NASDAQ Stock Market LLC ("NASDAQ") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. On January 26, 2009, the Exchange filed Amendment No. 1 to the proposal. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is filing a proposal for the NASDAQ Options Market ("NOM" or "Exchange") to delete from the NASDAQ rulebook Section 5, Minimum Participation Requirement for Opening Trading of Option Series,[3] of Chapter IV, Securities Traded on NOM.

The text of the proposed rule change is available from NASDAQ's website at *http://nasdaq.cchwallstreet.com,* at NASDAQ'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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing the elimination of a requirement that at least one Options Market Maker be registered for trading a particular series before it may be opened for trading on NOM.

An Options Market Maker is a Participant[4] registered with NASDAQ as a Market Maker.[5] Market Makers on NOM have certain obligations such as maintaining two-sided markets and participating in transactions that are "reasonably calculated to contribute to the maintenance of a fair and orderly market."[6] To register as a Market Maker, a Participant must file a written application with NASDAQ Regulation, which will consider an applicant's market making ability and other factors it deems appropriate in determining whether to approve an applicant's registration.[7] All Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder.[8] The NOM Rules place no limit on the number of qualifying entities that may become Market Makers.[9] The good standing of a Market Maker may be suspended, terminated, or withdrawn if the conditions for approval cease to be maintained or the Market Maker violates any of its agreements with NASDAQ or any provisions of the NOM Rules.[10] A Participant that has qualified as a Market Maker may register to make markets in individual series of options.[11]

Currently Section 5 of Chapter IV of the NOM rulebook provides in relevant part that after a particular class of options has been approved for listing on

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Amendment No. 1.

[4] The term "Options Participant" or "Participant" means a firm, or organization that is registered with the Exchange pursuant to Chapter II of the NOM Rules for purposes of participating in options trading on NOM as a "NASDAQ Options Order Entry Firm" or "NASDAQ Options Market Maker."

[5] *See* NOM Rules, Chapter VII, Section 2.

[6] *See* NOM Rules, Chapter VII, Section 5(a).

[7] *See* NOM Rules, Chapter VII, Section 2(a).

[8] *See* NOM Rules, Chapter VII, Section 2.

[9] *See* NOM Rules, Chapter VII, Rule 2(c).

[10] *See* NOM Rules, Chapter VII, Section 4(b).

[11] *See* NOM Rules, Chapter VII, Section 3(a).

NOM by NASDAQ Regulation, NASDAQ will allow trading in series of options in that class only if there is at least one Market Maker registered for trading that particular series. The Exchange is proposing to eliminate this requirement in order to expand the number of series available to investors for trading and for hedging risks associated with securities underlying those options, as well as to enhance markets in products which are likely to receive customer order flow. The Exchange places a high value on its Market Makers and believes that eliminating the listing requirement to have a Market Maker in every series would permit Market Makers, who currently may choose to serve as Market Makers solely to permit an options to trade on NOM, to focus their expertise on the products that are more consistent with their business objectives or more likely to receive customer order flow.

Eliminating the Market Maker listing requirement would provide the Exchange the opportunity to trade options that may have occasional interest but that do not necessarily require a two-sided market at all times. The lack of a two-sided or tight market would not cause customer orders to receive prices inferior to the best prices available across all exchanges. In fact, NOM is designed to systematically avoid trading through protected quotations on other options exchanges, and as such, orders accepted into NOM in options that do not have Market Makers will not trade at inferior prices even if there is not a two-sided market on NOM. As a result of NOM's design, incoming orders are protected from receiving dislocated execution prices simply by the fact that there is robust quote competition in the exchange listed options business with seven competing options exchanges and a multitude of competing Market Makers and liquidity providers. Additionally, the Options Order Protection and Locked/Crossed Market Plan requires plan participants to "establish, maintain and enforce written policies and procedures that are reasonably designed to prevent Trade-Throughs in that participant's market in Eligible Options Classes." [12] With the implementation of this plan, a more robust network of private routing has been constructed that ensures routable customer orders can access the best prevailing prices in the market.

Moreover, in its approval order for the proposed rule change establishing NOM, the Commission agreed that the Act does not mandate a particular market model for national securities exchanges, and stated that it believed that many different types of market models could satisfy the requirements of the Act. The Commission stated that it does not believe that the Act requires an exchange to have Market Makers.[13] It noted that although Market Makers could be an important source of liquidity on NOM, they likely would not be the only source.[14] It observed that, in particular, the NOM System is designed to match buying and selling interest of all Participants on NOM. The Exchange here is proposing simply to remove the Market Maker participation requirement as superfluous to the existence of a vibrant options market, nevertheless acknowledging the value Market Makers provide to the Exchange.

With regard to the impact on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of an expanded number of series as proposed by this filing.

The Exchange also proposes to delete paragraph (b) of Section 5, Chapter IV, which states that a class of options will be put into a non-regulatory halt if at least one series for that class is not open for trading. Originally, this provision was put in place so that the exchange could approve underlying securities for the listing of options but delay the listing if the Market Makers on the Exchange were not yet ready to register in any series of options for that class. With the elimination of the other paragraphs in Section 5 requiring a Market Maker, the Exchange will no longer need to delay the listings of particular series and thus will no longer need this provision.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [15] in general, and furthers the objectives of Section 6(b)(5) of the Act [16] in particular, in that it is designed to promote just and equitable principles of trade, 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, by expanding the ability of investors to hedge risks associated with securities underlying options which are not currently listed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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

[12] *See* Securities Exchange Act Release Nos. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009) (File No. 4–546) (approval order for the Protection and Locked/Crossed Plan); and 60525 (August 18, 2009), 74 FR 43188 (August 26, 2009) (approval order for NOM's proposed rule change to implement the Protection and Locked/Crossed Plan).

[13] *See* Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (File No. SR–NASDAQ–2007–004). As the Commission noted in its approval order for the NOM market, in its release adopting Regulation ATS, the Commission rejected the suggestion that a guaranteed source of liquidity was a necessary component of an exchange. *See* Securities Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844 (December 22, 1998) ("Regulation ATS Release"). *See also* Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (File No. SR–PCX–00–25) (order approving Archipelago Exchange as the equities trading facility of the Pacific Exchange).

[14] Indeed, NASDAQ believes that Market Makers are valuable sources of liquidity and important components of a highly competitive marketplace with various Participant types who provide liquidity.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

Number SR–NASDAQ–2010–007 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–2010–007. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NASDAQ–2010–007 and should be submitted on or before February 25, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2337 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61439; File No. SR–CBOE–2009–087]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change To Establish a Pilot Program To Modify FLEX Option Exercise Settlement Values and Minimum Value Sizes

January 28, 2010.

On December 3, 2009, Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish a pilot program to modify exercise settlement values and minimum value sizes for Flexible Exchange Options ("FLEX Options").[3] The proposed rule change was published for comment in the **Federal Register** on December 24, 2009.[4] The Commission received six comments regarding the proposal. One commenter provided background information about financial derivatives as they related to variable annuity products,[5] and five commenters supported the proposed rule change.[6]

The Exchange is proposing two pilots with this proposed rule change. First, CBOE is proposing to implement a fourteen-month pilot program to permit p.m. and specified average price settlements of FLEX Index Options that expire on, or within two business days of, a third-Friday-of-the-month expiration ("Blackout Period").[7] Under current FLEX Option rules, only a.m. settlements based on opening prices of the underlying components of an index can be used to settle a FLEX Index Option if it expires within the Blackout Period. In its proposal, CBOE has stated that, at least two months prior to the expiration of the pilot program, it will provide the Commission with an annual report analyzing volume and open interest for each broad-based FLEX Index Options class overlying an Expiration Friday, p.m.-settled FLEX Index Options series.[8] The annual report will also contain information and analysis of FLEX Options trading patterns, and index price volatility and underlying share trading activity for each broad-based index class overlying an Expiration Friday, p.m.-settled FLEX Index Option that exceeds certain minimum open interest parameters.[9] The Exchange will also provide to the Commission, on a periodic basis, interim reports of volume and open interest.

CBOE also proposes to eliminate the minimum value size requirements for all FLEX Options on a fourteen-month pilot basis. CBOE will submit a pilot program report if it elects to extend or expand the pilot program, or to make the program permanent. The pilot program report would include data and analysis of open interest and trading volume, and analysis of the types of investors that initiated opening FLEX

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A FLEX option is a customized option that provides parties to the transaction with the ability to fix terms including the exercise style, expiration date, and certain exercise prices. *See* CBOE Rule 24A.4(a). A FLEX Option may be either a FLEX Index Option or a FLEX Equity Option.

[4] *See* Securities Exchange Act Release No. 61183 (December 16, 2009), 74 FR 68435 ("Notice").

[5] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Mark E. White, Assistant Superintendent, Regulation Sector, Office of the Superintendent of Financial Institutions Canada, dated January 7, 2010 (noting that the Office did "not feel comfortable making comments on the particular proposal," but wanted to "provide some information related to variable annuity products that the SEC may find helpful when considering the CBOE's submission.").

[6] *See* Submissions via SEC WebForm from Miller Blew, CEO, Safe Haven Advisors, LLC, dated January 12, 2010 (supporting proposal to eliminate minimum size requirements); Charles L. Gilbert, President, Nexus Risk Management, dated January 8, 2010 (supporting the elimination of the p.m. settlement restriction and minimum size requirements as a means to enable insurers to more effectively hedge their risks); Ram Kelkar, Capital Markets and Trading, Milliman, Inc., dated January 8, 2010 (the ability to use FLEX Options as a hedging tool for life insurers "should be enhanced by reducing the minimum size requirements and by allowing p.m. settlements for all days of the month"); Kannoo Ravindran, dated January 14, 2010 (stating that the elimination of the p.m. settlement restriction and minimum size requirements will contribute to more effective risk management by institutions); Donald C. Smyth, dated January 12, 2010 (noting that "the more flexibility/granulatity we have in terms of FLEX option dates with p.m. expirations and small minimum notionals (preferably $0), the more effectively we can [tailor] and use FLEX options for our [equity indexed annuity] hedging needs.").

[7] A third-Friday-of-the-month expiration is generally referred to as "Expiration Friday".

[8] The annual report would also contain analyses of volume and open interest for Expiration Friday Non-FLEX Index series, where a broad-based Non-FLEX Index class overlies the same index as an Expiration Friday, p.m.-settled FLEX Index option. *See* Notice, *supra* note 4, 74 FR at 68436.

[9] *See* Notice, *supra* note 4, 74 FR at 68437. Any positions established under the pilot would not be impacted by the expiration of the pilot. For example, a position in a p.m.-settled FLEX Index Option series that expires on Expiration Friday in January 2015 could be established during the 14-month pilot. If the pilot program were not extended, then the position could continue to exist. However, any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction. The Exchange stated that it would notify members of this restriction in a circular to members. *See* Notice, *supra* note 4, 74 FR at 68436.

Equity and Index Options transactions.[10]

The Commission has carefully reviewed CBOE's proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[11] and, in particular, Section 6(b)(5) of the Act,[12] which requires that an exchange have rules designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, to allow CBOE to conduct limited, and carefully monitored, pilots as proposed.

Since the Commission approved the initial listing and trading of FLEX Options in 1993,[13] it has been concerned about the adverse effects and impact of p.m. settlements upon market volatility and the operation of fair and orderly markets on the underlying cash market at or near the close of trading. For example, FLEX Index Options were initially approved by the Commission with the restriction that they could not expire during the Blackout Period, which the Commission believed would "diminish the impact that FLEX Options could have on the market."[14] When the Commission approved a proposed rule change allowing a.m.-settled FLEX Options to expire during the Blackout Period, it noted that requiring FLEX Index Options expiring during the Blackout Period to be a.m.-settled would "reduce the potential for adverse effects on the underlying component securities."[15]

The Commission's concern about the effect upon market volatility of p.m. settlements for FLEX Index Options during the Blackout Period remains. Nevertheless, the Commission agrees with the Exchange that allowing p.m. and averaged price settlements for FLEX Index Options during the Blackout Period may allow more market participants to benefit from trading customized-type options in the Exchange's FLEX Options market rather than the OTC market.

Moreover, the Commission believes that CBOE's proposed fourteen-month pilot will allow for the CBOE and the Commission to monitor the potential for adverse market effects. In particular, the Commission notes that CBOE will provide the Commission with both annual and interim reports analyzing volume and open interest for each broad-based FLEX Index Options class overlying an Expiration Friday, p.m.-settled FLEX Index Options series. The annual report will also contain information and analysis of FLEX Options trading patterns, and index price volatility and underlying share trading activity for series that exceed certain minimum interest parameters. This information will enable the Commission to evaluate whether allowing p.m. settlements for FLEX Index Options during the Blackout Period has resulted in increased market and price volatility in the underlying component stocks. Further, the Exchange's position reporting requirements,[16] along with the ongoing analysis of the pilot, should help the Exchange to monitor any potential risk from large p.m.-settled positions and take appropriate action if warranted.[17]

The Commission also believes that CBOE's proposal to eliminate minimum size requirements for all FLEX Options on a pilot basis is consistent with the Act. Historically, the intended customers of FLEX Options were institutional and high net worth customers, rather than retail customers.[18] Although eliminating minimum size requirements raises the possibility that retail customers will access the FLEX Options market, the Commission received several comment letters noting that this proposal would assist institutional customers, such as insurance companies.[19]

As noted above, the Exchange will be monitoring the type of customers initiating opening FLEX Options transactions as part of the minimum size pilot over its fourteen-month period. In the event the Exchange elects to extend, expand or make the minimum-size pilot permanent, this information will enable the Commission to evaluate how market participants have responded to this proposal, and what types of customers are using the FLEX Options market.

Finally, we note that the combination of eliminating restrictions on settlement values during the Blackout Period, together with reducing the minimum size, increases the potential for the FLEX Options market to act as a surrogate for the non-FLEX Options market. The Commission has previously expressed concern that the FLEX Options market not act as a surrogate for trading in standardized options, especially because the standardized options market contains certain protections for investors. For example, because the FLEX Options market is designed to contain the benefits of an auction market with the features of negotiated transactions, continuous quotes may not always be available.[20] In addition, due to their customized nature, FLEX Options do not have trading rotations at either the opening or closing of trading.[21] The p.m. settlement and minimum size pilot information should help the Commission assess the impact on these markets as well as on the standardized market and determine whether other changes are necessary.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CBOE–2009–087) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2336 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

[10] Any positions established under this pilot would not be impacted by the expiration of the pilot. For example, a 10-contract FLEX Equity Option opening position that overlies less than $1 million in the underlying security and expires in January 2015 could be established during the 14-month pilot. If the pilot program were not extended, then the position could continue to exist and any further trading in the series would be subject to the minimum value size requirements for continued trading in that series. *See* Notice, *supra* note 4, 74 FR at 68437.

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (SR–CBOE–92–17).

[14] *Id.*

[15] *See* Securities Exchange Act Release No. 59417 (February 18, 2009), 74 FR 8591 (February 25, 2009) (SR–CBOE–2008–115).

[16] *See* CBOE Rule 24A.7; CBOE Rule 24B.7; *see also* CBOE Rule 4.13.

[17] As to the changes allowing settlement values to be a specified average price, the Commission notes that when it originally allowed for FLEX Options to expire with a.m. settlements in the Blackout Period, it was unsure what potential market impact specified averages would have because CBOE had not established any average price parameters. In the current proposal, CBOE states that average parameters would be limited to three alternatives.

[18] *See* Securities Exchange Act Release No. 57429 (March 4, 2008), 73 FR 13058 (March 11, 2008) (SR–CBOE–2006–36).

[19] *See, e.g.*, Submission via SEC WebForm from Ram Kelkar, Capital Markets and Trading, Milliman, Inc., dated January 8, 2010 (supporting the reduction of minimum size requirements and noting that "[t]he ability to hedge the risk for smaller notional amounts is vital for small and medium-size insurance companies and for smaller sized liability portfolios for large insurers.").

[20] *See* Securities Exchange Act Release No. 59417 (February 18, 2009), 74 FR 8591 (February 25, 2009) (SR–CBOE–2008–115).

[21] *See* Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280 (March 3, 1993) (SR–CBOE–92–17).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61431; File No. SR–CBOE–2010–003]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Temporary Waiver of Certain Fees

January 27, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 7, 2010 the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to amend its Fees Schedule to (i) temporarily waive the Change of Status Fee for a membership status change involving a Temporary Member or a person on an Interim Trading Permit ("ITP") who goes onto a CBOE transferable membership and (ii) temporarily waive the Lease Application Fee for a lease under which a Temporary Member or a person on an ITP goes onto a CBOE transferable membership. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary, and at the Commission'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, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule to (i) temporarily waive the Change of Status fee for a membership status change involving a Temporary Member[2] or a person on an ITP[3] who goes onto a CBOE transferable membership and (ii) temporarily waive the Lease Application fee for a lease under which a Temporary Member or a person on an ITP goes onto a CBOE transferable membership. The Exchange proposes to institute these fee waivers effective January 7, 2010.

The Exchange currently has a number of unleased CBOE transferable memberships. The Exchange intends to provide incentives for Temporary Members and persons on ITPs to go onto CBOE transferable memberships to reduce the number of unleased CBOE transferable memberships. Specifically, CBOE will waive the $500 change of status fee for any Temporary Member who goes onto a CBOE transferable membership as well as for any person on an ITP who goes onto a CBOE transferable membership (to the extent that the change of status fee would otherwise be applicable to the person switching off of the ITP). In addition, CBOE will waive the $600 lease application fee for any CBOE transferable membership lease under which a Temporary Member or person on an ITP goes onto a CBOE transferable membership. These fee waivers will be in effect through April 2, 2010.

For example, Floor Broker ABC (a Temporary Member) is employed by Firm XYZ (a member organization) and is an individual member with a Temporary Membership that has been registered for Firm XYZ. Firm XYZ now wishes to lease a CBOE transferable membership for Floor Broker ABC to have Floor Broker ABC become a nominee of Firm XYZ and eliminate his Temporary Membership status. Currently, the change of status to a nominee and the lease of a CBOE transferable membership by Firm XYZ would result in a $500 Change in Status fee for Floor Broker ABC and a $600 Lease Application fee for the new lease. CBOE believes it is appropriate to temporarily waive this Change in Status fee and Lease Application fee to provide incentives for these types of status changes. These fee waivers would result in a total cost savings of $1,100 to Firm XYZ and Floor Broker ABC ($500 savings for the Change in Status fee and $600 savings for the Lease Application fee).

[2] *See* Securities Exchange Act Release No. 56458 (September 18, 2007), 72 FR 54309 (September 24, 2007) (SR–CBOE–2007–107) for a description of the Temporary Membership status under Rule 3.19.02.

[3] *See* Securities Exchange Act Release No. 58178 (July 17, 2008), 73 FR 42634 (July 22, 2008) (SR–CBOE–2008–40) for a description of the Interim Trading Permits under Rule 3.27.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")[4], in general, and furthers the objectives of Section 6(b)(4)[5] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities in that it is designed to provide incentives to reduce the number of unleased CBOE transferable memberships.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (f)(2) of Rule 19b–4[7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2010–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2010–003. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2010–003 and should be submitted on or before February 25, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2332 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61427; File No. SR–FINRA–2010–002]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Update Certain Cross-References and Make Other Various Non-Substantive Technical Changes to Certain FINRA Rules

January 27, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 14, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to update cross-references within certain FINRA rules to reflect changes adopted in the consolidated FINRA rulebook and to make non-substantive technical changes to certain FINRA rules.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is in the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook").[4] That process involves FINRA submitting to the Commission for approval a series of proposed rule changes over time to adopt rules in the Consolidated FINRA Rulebook. The phased adoption and implementation of those rules necessitates periodic amendments to update rule cross-references and other non-substantive technical changes in the Consolidated FINRA Rulebook.

The proposed rule change first would update rule cross-references to reflect recent changes adopted in the Consolidated FINRA Rulebook. The proposed rule change would update FINRA Rule 0150 to reflect the adoption into the Consolidated FINRA Rulebook of (1) FINRA Rule 2060 and the deletion of NASD Rule 3120,[5] (2) FINRA Rules 4120 and 4130 and the deletion of NASD Rules 3130 and 3131 and NASD IM–3130,[6] and (3) FINRA Rules 5210 and 5220 and the deletion of NASD Rules 3310 and 3320 and NASD IM–3310 and IM–3320.[7] The rule cross-references in FINRA Rule 6635 would be similarly updated to reflect the adoption of (1) FINRA Rule 2251 and the deletion of NASD Rule 2260,[8] (2) FINRA Rules 5210 and 5520 and the deletion of NASD IM–3310 and IM–

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

[5] *See* Securities Exchange Act Release No. 61071 (November 30, 2009), 74 FR 64109 (December 7, 2009) (Order Approving File No. SR–FINRA–2009–067).

[6] *See* Securities Exchange Act Release No. 60933 (November 4, 2009), 74 FR 58334 (November 12, 2009) (Order Approving File No. SR–FINRA–2008–067).

[7] *See* Securities Exchange Act Release No. 60835 (October 16, 2009), 74 FR 54616 (October 22, 2009) (Order Approving File No. SR–FINRA–2009–055).

[8] *See* Securities Exchange Act Release No. 61052 (November 23, 2009), 74 FR 62857 (December 1, 2009) (Order Approving File No. SR–FINRA–2009–066).

3320,[9] and (3) FINRA Rule 4120 and the deletion of NASD Rule 3130.[10] Finally, the rule references in FINRA Rule 9217, which sets forth FINRA's Minor Rule Violation Plan, would be updated to (1) delete the reference to Incorporated NYSE Rule 312(h) and (2) delete Incorporated NYSE Rule 421 and replace it with FINRA Rule 4521(d), as the provision is substantively similar.[11]

The proposed rule change also would amend FINRA Rules 6380A, 6380B, 6622, 7230A, 7230B and 7330 to reflect the transfer of NASD Rule 11890 into the Consolidated FINRA Rulebook as part of a new FINRA Rule 11890 Series.[12] The proposed rule change would also make a non-substantive change to FINRA Rule 11893 to re-label paragraph (d) as paragraph (c).

In addition, the proposed rule change would make a technical amendment to FINRA Rule 9610 to delete the reference to FINRA Rule 6183 as such rule has been removed from the Consolidated FINRA Rulebook. FINRA Rule 6183 (formerly NASD Rule 5150) automatically terminated on July 9, 2008.[13]

Finally, the proposed rule change would amend FINRA Rules 2251[14] and 4110[15] to reflect a change in FINRA's style convention when referencing federal securities laws. FINRA has filed the proposed rule change for immediate effectiveness. The implementation date for the proposed rule change to FINRA Rules 2251, 6380A, 6380B, 6622, 7230A, 7230B, 7330, 9610, and 11893 will be February 15, 2010.[16] The proposed rule change to FINRA Rule 0150 will be February 15, 2010, except the proposed rule change that would eliminate the references to NASD Rules 3130 and 3131 and IM–3130 and add references to FINRA Rules 4120 and 4130, which will be implemented on February 8, 2010.[17] The proposed rule change to FINRA Rule 6635 will be February 15, 2010, except the proposed rule change that would eliminate the reference to NASD Rule 3130 and add reference to FINRA Rule 4120, which will be implemented on February 8, 2010.[18] The implementation date for the proposed rule change to FINRA Rules 4110 and 9217 will be February 8, 2010.[19]

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[20] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change will provide greater clarity to members and the public regarding FINRA's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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) of the Act[21] and Rule 19b–4(f)(6) thereunder.[22]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2010–002. 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[23], 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2010–002 and should be submitted on or before February 25, 2010.

[9] *See* note 7.

[10] *See* note 6.

[11] *See* note 6.

[12] *See* Securities Exchange Act Release No. 61080 (December 1, 2009), 74 FR 64117 (December 7, 2009) (Order Approving File No. SR–FINRA–2009–068).

[13] *See* Securities Exchange Act Release No. 58643 (September 25, 2008) 73 FR 57174 (October 1, 2008) (Order Approving File Nos. SR–FINRA–2008–021; SR–FINRA–2008–022; SR–FINRA–2008–026; SR–FINRA–2008–028 and SR–FINRA–2008–029).

[14] *See* note 8.

[15] *See* note 6.

[16] *See Regulatory Notice* 09–72 (December 2009). *See also* note 12. The effective date of SR–FINRA–2009–068 will be announced in a *Regulatory Notice* and is intended to be February 15, 2010.

[17] *See Regulatory Notice* 09–71 (December 2009).

[18] *See* note 17.

[19] *See* note 17.

[20] 15 U.S.C. 78*o*–3(b)(6).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6).

[23] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov/.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–2330 Filed 2–3–10; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 6892]

Lifting of Nonproliferation Measures Against One Russian Entity

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A determination has been made, pursuant to Section 6 of Executive Order 12938 of November 14, 1994, as amended, to remove nonproliferation measures on one Russian entity.

DATES: Effective Date: February 4, 2010.

FOR FURTHER INFORMATION CONTACT: Pamela K. Durham, Office of Missile Threat Reduction, Bureau of International Security and Nonproliferation, Department of State (202–647–4930).

SUPPLEMENTARY INFORMATION: Pursuant to the authorities vested in the President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) ("IEEPA"), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), and section 301 of title 3, United States Code, and Section 6 of Executive Order 12938 of November 14, 1994, as amended, a determination was made on January 26, 2010, that it is in the foreign policy and national security interests of the United States to remove the restrictions imposed pursuant to Sections 4(b), 4(c), and 4(d) of the Executive Order on the following Russian entity, its sub-units and successors:

1. Baltic State Technical University.

These restrictions were imposed on July 30, 1998 (*see* 63 FR 42089).

Dated: January 29, 2010.

C.S. Eliot Kang,

Acting Assistant Secretary of State for International Security and Nonproliferation.

[FR Doc. 2010–2418 Filed 2–3–10; 8:45 am]

BILLING CODE 4710–27–P

[24] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 6889]

Meeting of the United States-Peru Environmental Affairs Council

ACTION: Notice of the meeting of the U.S.-Peru Environmental Affairs Council and request for comments.

SUMMARY: The Department of State and the Office of the United States Trade Representative (USTR) are providing notice that the United States and Peru intend to hold the first meeting of the Environmental Affairs Council (the "Council") in Washington, DC, on February 17, 2010. This body was created pursuant to Chapter 18 (Environment) of the United States-Peru Trade Promotion Agreement (PTPA). A public information session will be held on February 17th, at 2:45 p.m., in room 1107 at the U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. If you would like to attend the session, please send the following information to Jacqueline Tront at the fax number or email address listed below under the heading **ADDRESSES**: (1) Your name, (2) your date of birth, and (3) the number of a valid identification card that a government has issued to you.

The purpose of the Council meeting is detailed below under Supplementary Information. The meeting agenda will include an overview of Chapter 18 and review of its implementation, a progress report on implementation of the Annex on Forest Sector Governance (Annex 18.3.4), and consideration and discussion of implementation of the U.S.-Peru Environmental Cooperation Agreement (ECA).

The Department of State and USTR invite interested organizations and members of the public to submit written comments or suggestions regarding agenda items and to attend the public session.

In preparing comments, we encourage submitters to refer to:

- Chapter 18 of the PTPA, including Annex 18.3.4.
- The Final Environmental Review of the PTPA.
- The ECA.

These documents are available at: *http://www.ustr.gov* and *http://www.state.gov/g/oes/env/trade/peru/index.htm*.

DATES: The public session of the Council meeting is to be held on February 17, 2010, 2:45 p.m. in Washington, DC. To be assured of timely consideration, comments and suggestions are requested in writing no later than February 14, 2010.

ADDRESSES: Written comments or suggestions should be submitted to both:

(1) Jacqueline Tront, Office of Environmental Policy, Bureau of Oceans, International Environmental, and Scientific Affairs, U.S. Department of State, by electronic mail at *trontjm@state.gov* with the subject line "U.S.-Peru EAC Meeting" or by fax to (202) 647–5947; and

(2) Mara M. Burr, Deputy Assistant United States Trade Representative for Environment and Natural Resources, Office of the United States Trade Representative by electronic mail at *mburr@ustr.eop.gov* with the subject line "U.S.-Peru EAC Meeting" or by fax to (202) 395–9517.

Persons with access to the Internet may also view and comment on this notice by going to the U.S. Government Regulations.gov Web site at *http://regulations.gov/index.cfm*.

FOR FURTHER INFORMATION CONTACT: Jacqueline Tront, Telephone (202) 647–4750 or Mara M. Burr, Telephone (202) 395–7320.

SUPPLEMENTARY INFORMATION: The United States-Peru TPA entered into force on February 1, 2009. Article 18.6 of the TPA establishes an Environmental Affairs Council, which is required to meet at least once a year to discuss the implementation of, and progress under, Chapter 18. Chapter 18 requires that meetings of the Council include a public session, unless the Parties otherwise agree.

At the upcoming meeting of the Council, the Council will review the status of implementation of Chapter 18 and assess the progress on implementing the Annex on Forest Sector Governance (Annex 18.3.4). The public is advised to refer to the State Department Web site at *http://www.state.gov/g/oes/env/trade/peru/index.htm* and the USTR Web site at *http://www.USTR.gov* for further information.

Dated: February 1, 2010.

Willem H. Brakel,

Acting Director, Office of Environmental Policy, Department of State.

[FR Doc. 2010–2416 Filed 2–3–10; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 6893]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Indonesia-U.S. Youth Leadership Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/PY–10–28.

Catalog of Federal Domestic Assistance Number: 19.415.

Application Deadline: March 31, 2010.

Executive Summary: The Office of Citizen Exchanges, Youth Programs Division, of the Bureau of Educational and Cultural Affairs announces an open competition for the Indonesia-U.S. Youth Leadership Program. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals for a reciprocal exchange program between Indonesia and the United States. Applicants should plan to recruit and select between 24 and 34 youth and adult participants in Indonesia and in the United States and to provide the participants with a three-week exchange program in the partner country. The exchange activities will focus broadly on the themes of civic rights and responsibilities, leadership, respect for diversity, and community activism, and specifically on the theme of the environment. Activities will be geared toward preparing participants to conduct projects at home that serve a community need.

I. Funding Opportunity Description

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Purpose: The Indonesia-U.S. Youth Leadership Program enables teenagers (ages 15–17) and adult educators to participate in intensive, thematic, three-week-long exchanges in the United States and in Indonesia. Exchange activities must focus broadly on civic rights and responsibilities, leadership, respect for diversity, and community activism. The specific theme of the environment will be used as a tool to illustrate those concepts. Participants will be engaged in a variety of activities such as workshops, community and/or school-based programs, cultural activities, seminars and other activities designed to achieve the project's stated goals and objectives. Ample opportunities for American and Indonesian participants to interact with each other will be included.

The goals of the program are:

(1) To promote mutual understanding between the United States and the people of Indonesia;

(2) To develop a sense of civic responsibility and commitment to community development among youth;

(3) To develop a cadre of community activists who will share their knowledge and skills with their peers through positive action; and

(4) To foster relationships among youth from different ethnic, religious, and national groups.

Program Objective: To introduce students and educators to the host country's principles of democracy, civil society, diversity, and youth leadership, with an additional focus on volunteerism/community activism and peer education on environmental issues.

Applicants should identify their own specific objectives and measurable outcomes based on these program goals and the project specifications provided in this solicitation.

Applicants must demonstrate their capacity for doing projects of this nature, focusing on three areas of competency: (1) Provision of programs that address the goals and themes outlined in this document; (2) age-appropriate programming for youth; and (3) previous experience working with Indonesia. In addition to their U.S. presence, applicants, or their partner organizations, need to have the necessary capacity in Indonesia to recruit and select Indonesian participants for the program and to provide follow-on activities for them, and to provide a content-rich exchange program for the American participants. The partner organization must have a functioning office in Indonesia and an established track record of working with youth or on issues in Indonesian education. The representative(s) in Indonesia should have an active role in the preparation of the proposal submitted in response to this RFGP.

Guidelines: The grant will begin on or about August 1, 2010. The grant period will be approximately 16 to 20 months in duration, according to the applicant's program plan. Applicants should propose the timing of the two three-week exchanges (one to each country), which will take place between March and August 2011. Dates may be shifted by the mutual agreement of the Department and the grant recipient.

In pursuit of the goals outlined above, the program will include the following:

- Recruitment and selection of a diverse group of youth and adult educators in Indonesia and in the United States.
- Pre-departure and arrival orientations.
- Design and planning of exchange activities in the United States and in Indonesia that provide a creative and substantive program on the specified themes and offer a thorough introduction to the host country's culture.
- Logistical arrangements, including homestay arrangements and other accommodations, provisions for religious observance, disbursement of stipends, local travel, and travel between sites.
- Monitoring of the participants' safety and well-being while on the exchange.
- Follow-on activities in the participants' home countries designed to reinforce the ideas and skills imparted during the exchange program.

Recruitment and Selection: Once a grant is awarded, the grant recipient must consult with the Public Affairs Section at the U.S. Embassy in Jakarta and with the ECA program officer to review a recruitment and participant selection plan. Organizers must strive for regional and ethnic diversity within both Indonesia and the United States. Small groups of participants should be from the same town or region so that they can support one another in their projects upon their return home. The Department of State and/or its overseas representatives reserve final approval of all selected delegations.

Participants: Within the range of 24 to 34, an applicant should present the number of participants it expects to be able to accommodate based on its program design and budget. The Bureau wants a greater number of Indonesians than Americans to travel, as presented in the ranges below. Additional American participants may be included if supported by other sources of funding, but they must complete the same screening process for suitability as an exchange participant as the grant-funded participants do. The ratio of students to educators should be approximately 6:1.

The Indonesian participants will be 18 to 24 students and educators selected from a variety of schools—public (secular) schools, pesantrens (Islamic boarding schools), and non-Islamic parochial schools. Fluency in English should not be a requirement for

selection, but some beginning English skills are desirable to enhance interaction with American peers. For educational activities, the grant recipient should be prepared to provide interpretation services appropriate to the project.

The American participants will be 6 to 10 high school students and educators that represent the diversity of the United States and who demonstrate an interest in Indonesia and the project themes.

Criteria for selection of all participants will be leadership skills, an interest in service to the community, strong academic and social skills, overall composure, and openness and flexibility. It is desirable that 2–4 participants attend or teach at the same school or live in the same community so that they can support each other upon return.

Exchange Activities: The exchanges may take place in one or two communities and should offer the participants exposure to the variety of lifestyles in the United States and Indonesia. The program should focus primarily on interactive activities, practical experiences, and other hands-on opportunities to learn about the fundamentals of a civil society, community service, tolerance and respect for diversity, and on building leadership skills. Suggestions include simulations and leadership training exercises plus other activities that reveal various aspects of the host country, such as group dialogues with peers, volunteer service projects, visits with community and government leaders, or a review of the role of the media. Visits to different types of educational institutions, such as pesantrans in Indonesia, should be a component of each exchange. In both the United States and Indonesia, homestays with local families must be arranged for a significant portion of the exchange period. All programming should include peers from the host country wherever possible. Cultural and recreational activities will balance the schedule. Please see the POGI for more details.

The American and Indonesian delegations should have an opportunity to meet and interact with each other for approximately one week. Applicants are urged to present creative plans for activities that will foster interaction between these participants.

Given the youth of the participants, the grant recipient will be required to provide proper staff supervision and facilitation to ensure that the Indonesian and American teenagers have safe and pedagogically robust programs while visiting the other country. Staff, along with the adult participants, will need to assist youth with cultural adjustments, to provide societal context to enhance learning, and to counsel students as needed. Applicants should describe their plans to meet these requirements in their proposals.

Follow-on Activities: The grant recipient is required to offer follow-on activities for the exchange alumni, particularly in facilitating continued engagement among the participants, advising and supporting them in the implementation of their community service projects, and offering opportunities to reinforce the lessons and themes of the exchange. Applicants should present creative and effective ways to address the project themes, for both program participants and their peers, as a means to amplify the program impact. Follow-up visits with alumni by project staff or trainers are recommended.

Proposals must demonstrate how the stated objectives will be met. The proposal narrative should provide detailed information on the major program activities, and applicants should explain and justify their programmatic choices. Programs must comply with J–1 visa regulations. Please be sure to refer to the complete Solicitation Package—this RFGP, the Project Objectives, Goals, and Implementation (POGI), and the Proposal Submission Instructions (PSI)—for further information.

II. Award Information

Type of Award: Grant Agreement.

Fiscal Year Funds: 2010.

Approximate Total Funding: $275,000.

Approximate Number of Awards: One.

Anticipated Award Date: August 1, 2010.

Anticipated Project Completion Date: 16–20 months after start date, to be specified by applicant based on project plan.

Additional Information: Pending successful implementation of the project and the availability of funds in subsequent fiscal years, ECA reserves the right to renew grants for up to two additional fiscal years before openly competing grants under this program again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3).

III.2. Cost Sharing or Matching Funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements: Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making one award, in an amount up to $275,000 to support the program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact the Youth Programs Division, ECA/PE/C/PY, SA–5, 3rd Floor, U.S. Department of State, Washington, DC 20522–0503, Tel (202) 632–6434, E-mail *HollySR@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/PE/C/PY–10–28 when making your request. Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation. It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Bureau Program Officer Carolyn Lantz and refer to the Funding Opportunity Number ECA/PE/C/PY–10–28 on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov.* Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing The J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR 62 et seq.

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR 62 *et. seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, ECA/EC/D, SA–5, Floor C2, Department of State, Washington, DC 20522–0582.

IV.3d.2 Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries."

Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.
2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.
3. *Participant behavior,* concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.
4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. Budget requests may not exceed $275,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission

Application Deadline Date: Wednesday, March 31, 2010.

Reference Number: ECA/PE/C/PY–10–28.

Methods of Submission:

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important Note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and six copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/PE/C/PY–10–28, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20522–0504.

With the submission of the proposal package, please also e-mail the Executive Summary, Proposal Narrative, and Budget sections of the proposal, as well as any attachments essential to understanding the program, in Microsoft Word, Excel, and/or PDF, to the program officer at *LantzCS@state.gov.* The Bureau will provide these files electronically to the Public Affairs Section at the U.S. Embassy in Jakarta for its review.

IV.3f.2 Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please Note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the "Get Started" portion of the site *http://www.grants.gov/GetStarted.*

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, *E-mail: support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. *There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.*

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below.

1. *Quality of the program idea:* The proposed program should be well developed, respond to design outlined in the solicitation, and demonstrate originality. It should be clearly and accurately written, substantive, and with sufficient detail. Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. *Program planning:* A detailed agenda and work plan should clearly demonstrate how project objectives would be achieved. The agenda and plan should adhere to the program overview and guidelines described above. The substance of workshops, seminars, presentations, school-based activities, and/or site visits should be described in detail. Objectives should be reasonable, feasible, and flexible. The proposal should clearly demonstrate how the organization will meet the program's objectives and plan.

3. *Support of diversity:* The proposal should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity in program content. Applicants should demonstrate readiness to accommodate participants with physical disabilities.

4. *Institutional capacity and track record:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program goals. The proposal should demonstrate an institutional record, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by the Bureau's Office of Contracts. The Bureau will consider the past performance.

5. *Cross-cultural sensitivity and area expertise:* Applicants must demonstrate their understanding of Indonesia/Southeast Asia and should demonstrate sensitivity to participants' values, customs, and life experiences in the programming.

6. *Follow-on activities:* Proposals should provide a plan for Bureau-supported follow-on activities to help the participants apply what they have learned. In addition, applicants should also provide on-going support, not necessarily with Bureau funding, that ensures that this program is not an isolated event.

7. *Program evaluation:* The proposal should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program.

The proposal should include a draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives. The grant recipient will be expected to submit intermediate reports after each project component is concluded.

8. *Cost-effectiveness and cost sharing:* The applicant should demonstrate efficient use of Bureau funds. The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. The proposal should maximize cost-sharing through other private sector support as well as institutional direct funding contributions, which demonstrates institutional and community commitment.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments."

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants. http://fa.statebuy.state.gov.*

VI.3. Reporting Requirements: You must provide ECA with a hard copy original plus one copy of the following reports:

(1) Interim program and financial reports, as required in the grant agreement;

(2) A final program and financial report no more than 90 days after the expiration of the award;

(3) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(4) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Program Data Requirements

Award recipients will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the agreement or who benefit from the award funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Draft schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three weeks prior to the beginning of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Carolyn Lantz, Youth Programs Division, ECA/PE/C/PY, U.S. Department of State, Washington, DC 20522–0503, Tel (202) 632–6421, Fax (202) 632–9355, *LantzCS@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the title and number ECA/PE/C/PY–10–28.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3. above.

Dated: January 27, 2010.

Maura M. Pally,

Acting Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2010–2420 Filed 2–3–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending January 23, 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–2010–0019.

Date Filed: January 20, 2010.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 618, TC3 Special Passenger Amending Resolution 010L, between Japan and Korea (Rep. of), (Memo 1353), Intended effective date: 15 February 2010/1 April 2010.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Alternate Federal Register Liaison.

[FR Doc. 2010–2397 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 16, 2009, vol. 74, no. 199, page 53317. 49 CFR part 44707 authorizes certification of civilian schools giving instruction in flying. Information collected is used for certification and to determine applicant compliance.

DATES: Please submit comments by March 8, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Pilot Schools—FAR 141.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0009.

Form(s): 8420–8.

Affected Public: An estimated 546 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 4.5 hours per response.

Estimated Annual Burden Hours: An estimated 29,770 hours annually.

Abstract: 49 CFR part 44707 authorizes certification of civilian schools giving instruction in flying. Information collected is used for certification and to determine applicant compliance.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 28, 2010.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–2423 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 16, 2009, vol. 74, no. 199, page 53314. The rule codified previous practices that permitted certificated air carriers to operate two-engine airplanes over long-range routes.

DATES: Please submit comments by March 8, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Extended Operations (ETOPS) of Multi-Engine Airplanes.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0718.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 18 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 3 hours per response.

Estimated Annual Burden Hours: An estimated 107,882 hours annually.

Abstract: The rule codified previous practices that permitted certificated air carriers to operate two-engine airplanes over long-range routes.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 27, 2010.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–2476 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 16, 2009, vol. 74, no. 199, page 53315. This rule set safety and oversight rules for a broad variety of sightseeing and commercial air tour flights.

DATES: Please submit comments by March 8, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: National Air Tour Safety Standards.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0717.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 3,480 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 3.5 minutes per response.

Estimated Annual Burden Hours: An estimated 30,320.6 hours annually.

Abstract: This rule set safety and oversight rules for a broad variety of sightseeing and commercial air tour flights.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 27, 2010.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–2475 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 16, 2009, vol. 74, no. 199, page 53314. The FAA has established requirements for human space flight crew and space flight participants as required by the Commercial Space Launch Amendments Act of 2004.

DATES: Please submit comments by March 8, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Human Space Flight Requirements for Crew and Space Flight Participants.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0720.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 5 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 4 hours per response.

Estimated Annual Burden Hours: An estimated 2,975 hours annually.

Abstract: The FAA has established requirements for human space flight crew and space flight participants as required by the Commercial Space Launch Amendments Act of 2004. This rulemaking established requirements for crew qualifications, training and notification, and training and informed consent requirements for space flight participants. The rulemaking also modified existing financial responsibility requirements to account for space flight participants, crew, and FAA's new authority to issue an experimental permit.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 27, 2010.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–2474 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 16, 2009, vol. 74, no. 199, page 53315. This collection is necessary for gathering data concerning potential new hires for the FAA.

DATES: Please submit comments by March 8, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Application for Employment with the Federal Aviation Administration.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0597.

Form(s): 3330–42, 3330–52, OF 304, 3330–43–1, AF–SRG–005, AF–SRG–002, 3330–43, AF–SRG–001, OPM 1635, 54972, AC–3300–70, 3330–473, AF–SRG–007, 3330–71, ASG–MFG–001, OF 612, SF 15, AF–SRG–004, OPM–1170, AF–SRG–003, AF–SRG–006, AF 3330.1A, 52569, FTP 001, 2105–0557.

Affected Public: An estimated 180,000 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.5 hours per response.

Estimated Annual Burden Hours: An estimated 207,000 hours annually.

Abstract: This collection is necessary for gathering data concerning potential new hires for the FAA. The information is used to evaluate the qualifications of applicants for a variety of positions. Without the information there would be no means to accurately evaluate applicants' skills, knowledge, and abilities to perform the duties of the positions.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 27, 2010.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–2473 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 16, 2009, vol. 74, no. 199, page 53315–53316. The FAA uses this information for determining program compliance or non-compliance of regulated aviation employers, oversight planning, determining who must provide annual MIS testing information, and communicating with entities subject to the program regulations.

DATES: Please submit comments by March 8, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Anti-Drug Program for Personnel Engaged in Specified Aviation Activities.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0535.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 7,000 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 4.3 minutes per response.

Estimated Annual Burden Hours: An estimated 22,902 hours annually.

Abstract: This information is used for determining program compliance of regulated aviation employers, oversight planning, determining who must provide annual MIS testing information, and communicating with entities subject to the program regulations. The information is also used to ensure that appropriate action is taken in regard to crew members and other safety-sensitive employees who have tested positive for drugs or alcohol, or have refused to submit to testing.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on January 27, 2010.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–2472 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Notification of Intent To Use the Airport Improvement Program (AIP) Primary, Cargo, and Nonprimary Entitlement Funds for Fiscal Year 2010

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice, correction.

SUMMARY: On January 25, 2010, the Federal Aviation Administration (FAA) published a notice in the **Federal Register**. (75 FR 3954). This action corrects an error in two dates in that document. The notice announced that February 22, 2010, is the deadline for each airport sponsor to notify the FAA whether or not it will use its fiscal year 2010 entitlement funds available under Public Law No. 111–117 to accomplish Airport Improvement Program (AIP)-eligible projects that the sponsor previously identified through the Airports Capital Improvement Plan (ACIP) process during the preceding year.

FOR FURTHER INFORMATION CONTACT: Mr. Frank J. San Martin, Manager, Airports Financial Assistance Division, APP–500, on (202) 267–3831.

Correction

In Notice document (**Federal Register** Doc. 2010–1291) published on January 25, 2010 (75 FR 3954) make the following correction:

On page 3955, the first Column, in paragraph one the date October 1, 2008, is corrected to read, October 1, 2009. On page 3955, the first Column, in paragraphs one and two, the date March 3, 2010, is corrected to read, March 17, 2010.

Frank J. San Martin,

Manager, Airports Financial Assistance Division, Office of Airport Planning and Programming.

[FR Doc. 2010–2463 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Supplemental Notice of Intent To Prepare an Environmental Assessment and Request for Public Scoping Comments for the Air Tour Management Plan Program at Death Valley National Park

AGENCY: Federal Aviation Administration (FAA).

ACTION: Supplemental notice of intent to prepare an Environmental Assessment and to request Public Scoping comments.

SUMMARY: The FAA, with National Park Service (NPS) as a cooperating agency, has initiated development of an Air Tour Management Plan (ATMP) for Death Valley National Park (DEVA), pursuant to the National Parks Air Tour Management Act of 2000 (Pub. L. 106–181) and its implementing regulations (14 CFR Part 136, Subpart B, National Parks Air Tour Management). The objective of the ATMP is to develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural resources, cultural resources, and visitor experiences of a national park unit and any tribal lands within or abutting the park. It should be noted that the ATMP has no authorization over other non-air-tour operations such as military and general aviation operations. In compliance with the National Environmental Policy Act of 1969 (NEPA) and FAA Order 1050.1E, an Environmental Assessment is being prepared. This supplemental notice of intent, revises the **Federal Register** notice published on January 19, 2010 (Vol. 75, No. 11, 2922–2923) which had an incorrect link to the FAA web site containing the meeting minutes for the kickoff meeting and the public scoping document mentioned below. This supplemental notice also extends the date by which scoping comments must be submitted (*see* **DATES**).

The ATMP will be prepared using an Aviation Rulemaking Committee (ARC) process, as authorized under 49 U.S.C. 106. The purpose of using the ARC process is to provide early advice, information, and recommendations from interested stakeholders to the FAA and NPS, regarding environmental and other issues to consider in the development of an ATMP. The DEVA ARC is composed of various representatives including air tour operators, federal, local and regional agencies, environmental organizations, local businesses, and the Timbisha Shoshone tribe. It is chaired by the Superintendent of Death Valley National Park.

In June 2009, the ARC held a two-day kickoff meeting at DEVA; minutes may be found at: *http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/park_specific_plans/Death_Valley.cfm*

The purpose of the kickoff meeting was for stakeholders to have the opportunity to provide advice, information, and recommendations to the FAA and NPS regarding environmental and other issues to consider in the development of an ATMP. Materials presented at the meeting included information on: park resources; the acoustical environment at DEVA; military operations over DEVA and the surrounding areas; current and historical air tour operations; and, a map of current air tour flight paths. Comments were received from members of the ARC regarding sensitive park resources, tribal concerns, changes in tourism patterns, and air tour operations. After a generalized map of current air tour flight paths was presented, ARC members made suggestions regarding options for an air tour flight track that would consolidate flight paths and modify elevations and flight locations. ARC members' recommendations attempted to address the concerns raised at the meeting. Refer to the Public Scoping Document (mentioned below) to see how these suggestions are incorporated into an air tour route.

Based on input received at the meeting, the FAA and NPS have decided to proceed with ATMP development at DEVA via the ARC process. The FAA is now inviting the public, agencies, and other interested parties to provide comments, suggestions, and input on the scope of issues and the identification of significant issues regarding commercial air tours and their potential impacts on natural, cultural, and historical resources. Input is also welcome on other areas to be addressed in the environmental process, such as past, present, and future actions (which, when considered with ATMP alternatives, may result in potentially significant cumulative impacts), and potential ATMP alternatives.

DATES: By this notice, the FAA is requesting comments on the scope of the environmental assessment for the ATMP at Death Valley National Park. Comments must be submitted by March 8, 2010.

FOR FURTHER INFORMATION CONTACT: Keith Lusk—Mailing address: P.O. Box

92007, Los Angeles, California 90009–2007. *Telephone:* (310) 725–3808. *Street address:* 15000 Aviation Boulevard, Lawndale, California 90261. *E-mail: Keith.Lusk@faa.gov.*

Written comments on the scope of the Environmental Assessment should be submitted electronically via the electronic public comment form on the NPS Planning, Environment and Public Comment System at: *http://parkplanning.nps.gov/projectHome.cfm?parkId=297&projectId=27781,* or sent to the mailing address or e-mail address above.

SUPPLEMENTARY INFORMATION: A Public Scoping Document that describes the project in greater detail is available at:

- The NPS Planning, Environment and Public Comment System at: *http://parkplanning.nps.gov/projectHome.cfm?parkId=297&projectId=27781*
- *http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/air_tour_management_plan/park_specific_plans/Death_Valley.cfm*
- The following locations within Death Valley National Park: Furnace Creek Visitor Center & Museum, Stovepipe Wells Ranger Station, Scotty's Castle
- Shoshone Museum, Shoshone, CA.
- Eastern Sierra Interagency Center, Highway 395 and Highway 136, Lone Pine, CA.
- Beatty Library District, 400 North 4th Street, Beatty, NV.
- Inyo County Free Library: 168 North Edwards Street, Independence, CA; 210 Academy Street and 110 North Main Street in Bishop, CA.
- Pahrump Community Library: 701 East Street, Pahrump, NV.
- Amargosa Valley Library: 829 East Farm Road, Amargosa Valley, NV.

Notice Regarding FOIA: Individuals may request that their name and/or address be withheld from public disclosure. If you wish to do this, you must state this prominently at the beginning of your comment. Commentators using the Web site can make such a request by checking the box "keep my contact information private." Such requests will be honored to the extent allowable by law, but you should be aware that pursuant to the Freedom of Information Act, your name and address may be disclosed. We will make all submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

Issued in Hawthorne, CA, on January 27, 2010.

Keith Lusk,

Program Manager, Special Programs Staff, Western-Pacific Region.

[FR Doc. 2010–2466 Filed 2–3–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Section 5309 Bus and Bus Facilities Livability Initiative and Urban Circulator Program Grants

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice to Extend Application Deadline for the Bus and Bus Facilities and Urban Circulator Livability Initiative Programs.

SUMMARY: The Federal Transit Administration (FTA) announced on December 8, 2009, the availability of discretionary Section 5309 Bus and Bus Facilities grant and New Starts funds in support of the Department of Transportation's Livability Initiative ("Livability Bus Program"). The Livability Bus Program is funded using $150 million in unallocated Discretionary Bus and Bus Facilities Program funds, authorized by 49 U.S.C. 5309(b) of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, August 10, 2005. The Urban Circulator Program is funded using $130 million in unallocated New Starts/Small Starts Program Funds authorized by 49 U.S.C. 5309(b) of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, August 10, 2005.

DATES: This Notice will extend the submittal date for proposals of the discretionary Bus Livability and Urban Circulator Programs to February 10, 2010.

ADDRESSES: Proposals may be submitted to FTA electronically at *buslivability@dot.gov* or *urbancirculator@dot.gov* through the GRANTS.GOV APPLY function.

FOR FURTHER INFORMATION CONTACT: Contact the appropriate FTA Regional Administrator (Appendix A) for proposal specific information and issues. For general program information on the Bus Livability Program, contact Kimberly Sledge, Office of Transit Programs, 202–366–2053, e-mail: *kimberly.sledge@dot.gov* or Henrika Buchanan-Smith, 202–366–4020, e-mail: *henrika.buchanan-smith@dot.gov*. For general information on the Urban Circulator Program contact Elizabeth Day, Office of Planning and Environment, (202) 366–5159, e-mail: *Elizabeth.Day@dot.gov*. A TDD is available at 1–800–877–8339 (TDD/FIRS).

Issued in Washington, DC, this 29th day of January 2010.

Peter Rogoff,

Administrator.

Appendix A

FTA Regional Offices

Richard H. Doyle, Regional Administrator, Region 1—Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617–494–2055.

States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Brigid Hynes-Cherin, Regional Administrator, Region 2—New York, One Bowling Green, Room 429, New York, NY 10004–1415, Tel. 212–668–2170.

States served: New Jersey, New York.

New York Metropolitan Office, Region 2—New York, One Bowling Green, Room 428, New York, NY 10004–1415, Tel. 212–668–2202.

Letitia Thompson, Regional Administrator, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7100.

States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia.

Robert C. Patrick, Regional Administrator, Region 6—Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817–978–0550.

States served: Arkansas, Louisiana, Oklahoma, New Mexico and Texas.

Mokhtee Ahmad, Regional Administrator, Region 7—Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816–329–3920.

States served: Iowa, Kansas, Missouri, and Nebraska.

Terry Rosapep, Regional Administrator, Region 8—Denver, 12300 West Dakota Ave., Suite 310, Lakewood, CO 80228–2583, Tel. 720–963–3300.

States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

FTA REGIONAL OFFICES—Continued

Philadelphia Metropolitan Office, Region 3—Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7070.	
Washington, DC Metropolitan Office, 1990 K Street, NW., Room 510, Washington, DC 20006, Tel. 202–219–3562.	
Yvette Taylor, Regional Administrator, Region 4—Atlanta, 230 Peachtree Street, NW., Suite 800, Atlanta, GA 30303, Tel. 404–865–5600.	Leslie T. Rogers, Regional Administrator, Region 9—San Francisco, 201 Mission Street, Room 1650, San Francisco, CA 94105–1926, Tel. 415–744–3133.
States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.	*States served:* American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands.
	Los Angeles Metropolitan Office, Region 9—Los Angeles, 888 S. Figueroa Street, Suite 1850, Los Angeles, CA 90017–1850, Tel. 213–202–3952.
Marisol Simon, Regional Administrator, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.	Rick Krochalis, Regional Administrator, Region 10—Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Tel. 206–220–7954.
States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.	*States served:* Alaska, Idaho, Oregon, and Washington.
Chicago Metropolitan Office, Region 5—Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.	

[FR Doc. 2010–2310 Filed 2–3–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other public agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the Community Development Financial Institutions (CDFI) Fund, Department of the Treasury, is soliciting comments concerning the Evaluation of the New Markets Tax Credit (NMTC) Program. This notice announces the CDFI Fund's intent to request approval from the Office of Management and Budget (OMB) for new information collection activities associated with an independent, multi-year evaluation of the NMTC Program. It includes a one-time information collection effort involving participants and stakeholders in the program, which is intended to describe and assess program activities as well as identify project-specific and community level outputs and outcomes. The data collection will provide critical information for the evaluation. Clearance is requested for the following new data collection activities: (1) Case-style data collection related to approximately 80 randomly sampled NMTC projects that will consist of semi-structured telephone interviews with persons associated with those projects—i.e., approximately 80 representatives of Community Development Entities (CDEs), 80 representatives of Qualified Active Low Income Businesses (QALICBs), 80 investors, and 80 other key project stakeholders; (2) a web-based, predominantly closed-ended survey of representatives of approximately 380 QALICBs; and (3) a web-based, predominantly closed-ended survey of approximately 380 local community/economic development officials.

DATES: Written comments must be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all comments to Greg Bischak, Program Manager for Financial Strategies and Research, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, by e-mail to *cdfihelp@cdfi.treas.gov,* or by facsimile to (202) 622–7754. Please note this is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Greg Bischak at (202) 622–8669.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of the New Markets Tax Credit (NMTC) Program.

OMB Number: Not yet assigned.

Type of Request: New collection of information.

Abstract: The NMTC Program was established by the Community Renewal Tax Relief Act of 2000 to encourage private capital investment in low-income communities that are, or are perceived to be, high investment risks. It permits individual and corporate taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDEs). Substantially all of the qualified equity investment must in turn be used by CDEs to provide investments in Qualified Active Low-Income Community Businesses (QALICBs), which include both operating businesses and real estate developments. The federal tax credits are allocated competitively by the CDFI Fund to CDEs. CDEs, in turn, select the projects in which to invest.

There is considerable flexibility and, consequently, variability with respect to the types of projects that can be supported by NMTC-stimulated investments. They can include for-profit and non-profit businesses involving a range of commercial, industrial, retail, manufacturing, mixed-uses, and facilities such as for childcare, health or charter schools.

The evaluation involves multiple research methods to produce valid evidence for describing and assessing program activities and outcomes. The focus is on the program's primary objective of attracting capital to low-income, economically distressed communities so as to further their economic and community development. The evaluation is intended to inform an array of important policy questions, including: How and in what manner the program is affecting the flow of new private capital to low-income communities; where, in what timeframe, and how that capital is invested to achieve community and economic

development objectives; and the quantity, nature, and quality of the benefits to low-income communities and persons that can potentially be attributed to the NMTC Program.

The evaluation includes: (a) A review of the relevant economic development, performance measurement, and tax credit literature; (b) interviews with key NMTC stakeholders; (c) an analysis of NMTC administrative data; (d) the development of a typology of NMTC projects; and (e) an examination of secondary public and private data. To address the key evaluation issues noted above, new data must be gathered about NMTC projects beyond what is already being collected by the CDFI Fund. Clearance is requested for the following new data collection efforts: (1) Case-style data collection related to approximately 80 randomly sampled NMTC projects that will consist of semi-structured telephone interviews with approximately 80 CDEs, 80 QALICBs, 80 investors, and 80 other key project stakeholders; (2) a web-based, predominantly closed-ended survey of representatives of approximately 380 QALICBs; and (3) a web-based, predominantly closed-ended survey of approximately 380 local community/economic development officials.

Toward this end, clearance is requested for four topical discussion guides, a data sheet for CDEs, a data sheet for QALICBs, and two survey instruments.

Respondents are CDEs that received NMTC allocation authority and used these credits to finance qualified investments, QALICBs that received equity or debt investments using NMTCs, investors in projects that include NMTCs, local community and economic development officials or other stakeholders in NMTC projects, such as accountants, attorneys, or local organizations involved in the projects.

Estimated Number of Respondents: 890.

Number of Responses per Respondent: In general, it is expected that each CDE will respond only once. Some CDE representatives may be requested to respond more than once because they may have provided allocations for more than one project in the sample selected.

Estimated Time per Response: All burden estimates include respondents' time to prepare for and complete surveys, information sheets (where applicable) and interviews. Estimated times are as follows: QALICB survey: 30 minutes; Local Community/Economic Development Officials' Survey: 20 minutes; CDE and QALICB Telephone Interviews: 60 minutes; Investor and Local Stakeholder Interviews: 45 minutes; and CDE and QALICB Data Sheet: 30 minutes.

Estimated Total Annual Burden on Respondents: 494 hours.

Requests for Comments: All written comments will be open for public inspection and may be obtained from the CDFI Fund's Web site at *http://www.cdfifund.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will be a matter of public record. Comments are invited on the following:

(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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Authority: 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D–1.

Dated: January 29, 2010.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2010–2425 Filed 2–3–10; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Claim Against the United States for the Proceeds of a Government Check

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and Request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the Form FMS–1133 "Claim Against the United States for the Proceeds of a Government Check."

DATES: Written comments should be received on or before April 5, 2010.

ADDRESSES: Direct all written comments to Financial Management Service, Records and Information Management Branch, Room 135, 3700 East West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dawn Johns, Manager, Check Claims Branch, Room 831D, 3700 East West Highway, Hyattsville, MD 20782, (202) 874–8445

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below:

Title: Claim Against the United States for the Proceeds of a Government Check.

OMB Number: 1510–0019.

Form Number: FMS–1133.

Abstract: This form is used to collect information needed to process an individual's claim for non-receipt of proceeds from a government check. Once the information is analyzed, a determination is made and a recommendation is submitted to the program agency to either settle or deny the claim.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 68,000.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 10,482.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: January 26, 2010.

Sheryl R. Morrow,

Assistant Commissioner, Payment Management.

[FR Doc. 2010–2077 Filed 2–3–10; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for REG–166012–02

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning REG–166012–02, Notional Principal Contracts; Contingent Nonperiodic Payments.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notional Principal Contracts; Contingent Nonperiodic Payments.

OMB Number: 1545–1876.

Form Number: REG–166012–02.

Abstract: The collection of information in the proposed regulations is in § 1.446–3(g)(6)(vii) of the Income Tax Regulations, requiring Taxpayers to maintain in their books and records a description of the method used to determine the projected amount of a contingent payment, the projected payment schedules, and the adjustments taken into account under the proposed regulations. The information is required by the IRS to verify compliance with section 446 of the Internal Revenue Code and the method of accounting described in § 1.446–3(g)(6). This information will be used to determine whether the amount of tax has been calculated correctly. The collection of information is required to properly determine the amount of income or deduction to be taken into account. The respondents are sophisticated investors that enter into notional principal contracts with contingent nonperiodic payments.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and households, businesses and other for-profit organizations.

Estimated Number of Respondents: 4,250.

Estimated Time per Respondent: 6 hours.

Estimated Total Annual Burden Hours: 25,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 7, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2321 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2006–97

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–97, Taxation and Reporting of REIT Excess Inclusion Income. 2006–97, Taxation and Reporting of REIT Excess Inclusion Income.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joe Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Elaine Christophe at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at *(Elaine.H.Christophe@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Notice 2006–97 Taxation and Reporting of REIT Excess Inclusion Income.

OMB Number: 1545–2036.

Abstract: This notice requires certain REITs, partnerships and other entities that have excess inclusion income to disclose the amount and character of such income allocable to their record interest owners. The record interest owners need the information to properly report and pay taxes on such income.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time per Respondent: 2 minutes.

Estimated Total Annual Reporting Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joe Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2323 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Notice 2006–83

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2006–83, Chapter 11 Bankruptcy Cases.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Chapter 11 Bankruptcy Cases.

OMB Number: 1545–2033.

Notice Number: Notice 2006–83.

Abstract: The IRS needs bankruptcy estates and individual chapter 11 debtors to allocate post-petition income and tax withholding between estate and debtor. The IRS will use the information in administering the internal revenue laws. Respondents will be individual debtors and their bankruptcy estates for chapter 11 cases filed after October 16, 2005.

Current Actions: There are no changes being made to the notice.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 3,000.

Estimated Time per Respondent/Recordkeeper: 30 minutes.

Estimated Total Annual Burden Hours: 1,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2328 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2010–13

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2010–13, Section 469 Grouping activities.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6242, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6129,

1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Section 469 Grouping activities.

OMB Number: 1545–2156.

Notice Number: Revenue Procedure 2010–13.

Abstract: This revenue procedure requires taxpayers to report to the Internal Revenue Service their groupings and regroupings of activities and the addition of specific activities within their existing groupings of activities for purposes of section 469 of the Internal Revenue Code and § 1.469–4 of the Income Tax Regulations.

Current Actions: Extension of currently approved collection. There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business and for-profit.

Estimated Number of Respondents: 144,000.

Estimated Average Time per Respondent: 16 mins.

Estimated Total Annual Burden Hours: 39,000 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 27, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2353 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–120200–97]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–120200–97 (TD 8775), Election Not to Apply Look-Back Method in De Minimis Cases (§ 1.460–6).

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joe Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Elaine Christophe, (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington DC 20224, or through the Internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Election Not to Apply Look-Back Method in De Minimis Cases.

OMB Number: 1545–1572.

Regulation Project Number: REG–120200–97.

Abstract: Under Internal Revenue Code section 460(b)(6), a taxpayer may elect not to apply the look-back method to long-term contracts in de minimis cases. The taxpayer is required under the regulation to notify the IRS of its election.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 12 min.

Estimated Total Annual Burden Hours: 4,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joe Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2352 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1024

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort

to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1024, Application for Recognition of Exemption Under Section 501(a).

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Application for Recognition of Exemption Under Section 501(a).

OMB Number: 1545–0057.

Form Number: 1024.

Abstract: Organizations seeking exemption from Federal income tax under Internal Revenue Code section 501(a) as an organization described in most paragraphs of section 501(c) must use Form 1024 to apply for exemption. The information collected is used to determine whether the organization qualifies for tax-exempt status.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 4,718.

Estimated Time per Respondent: 61 hours, 47 minutes.

Estimated Total Annual Burden Hours: 291,542.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 12, 2010.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2010–2351 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13803

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13803, Income Verification Express Service Application and Employee Delegation Form.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, (202) 622–3933, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Income Verification Express Service Application and Employee Delegation Form.

OMB Number: 1545–2032.

Form Number: Form 13803.

Abstract: Form 13803, Income Verification Express Service Application and Employee Delegation Form, is used to submit the required information necessary to complete the e-services enrollment process for IVES users and to identify delegates receiving transcripts on behalf of the principle account user.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d)

ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2350 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for NOT–141440–08

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments NOT–141440–08, Production Tax Credit for Refined Coal.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Production Tax Credit for Refined Coal.

OMB Number: 1545–2158.

Notice Number: NOT–141440–08.

Abstract: This notice sets forth interim guidance pending the issuance of regulations relating to the tax credit under § 45 of the Internal Revenue Code (Code) for refined coal.

Current Actions: Extension of currently approved collection. There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business and for-profit.

Estimated Number of Respondents: 100.

Estimated Average Time per Respondent: 15 hours.

Estimated Total Annual Burden Hours: 1,500 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2349 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for e-Services Registration TIN Matching—Application and Screens for TIN Matching Interactive

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning e-Services Registration TIN Matching—Application and Screens for TIN Matching Interactive.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: e-Services Registration TIN Matching—Application and Screens for TIN Matching Interactive.

OMB Number: 1545–1823.

Abstract: E-services is a system which will permit the Internal Revenue Services to electronically communicate with third party users to support electronic filing and resolve tax administration issues for practitioners, payers, States and Department of Education Contractors. Registration is required to authenticate users that plan to access e-services products. This system is a necessary outgrowth of advanced information and communication technologies. TIN Matching is one of the products available through e-Services offered via the Internet and accessible through the irs.gov Web site. TIN Matching allows a payer, or their authorized agent, who is required to file information returns for income subject to backup withholding to match TIN/Name combinations through interactive and bulk sessions. It is necessary for payers to apply online to use TIN Matching, and the information requested in the application process is used to validate them systemically as payers of the correct types of income.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations and not-for-profit institutions.

Registration

Estimated Number of Responses: 1,320,000.

Estimated Average Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 440,000.

TIN Matching Application

Estimated Number of Responses: 18,825,000.

Estimated Average Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 3,150,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 7, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2348 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6197

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6197, Gas Guzzler Tax.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, room 6129 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933 or through the Internet at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Gas Guzzler Tax.

OMB Number: 1545–0242.

Form Number: 6197.

Abstract: Internal Revenue Code section 4064 imposes a gas guzzler tax on the sale, use, or first lease by a manufacturer or first lease by a manufacturer or importer of automobiles whose fuel economy does not meet certain standards for fuel economy. The tax is computed on Form 6197. The IRS uses the information to verify computation of tax and compliance with the law.

Current Actions: There are no changes being made to the form at this time. However, the burden was recalculated to reflect a more accurate estimate of the time associated with filing this collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 605.

Estimated Time per Respondent: 3 hours, 19 minutes.

Estimated Total Annual Burden Hours: 2,009.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2347 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8038–TC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8038–TC, Information Return for Tax Credit Bonds.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Information Return for Tax Credit Bonds.

OMB Number: 1545–2160.

Notice Number: Form 8038–TC.

Abstract: Form 8038–TC will be used by issuers of qualified tax-exempt credit bonds, including tax credit bonds enacted under American Recovery and Reinvestment Act of 2009, to capture information required by IRC section 149(e) using a schedule approach. For applicable types of bond issues, filers will this form instead of Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

Current Actions: Two new schedules were added to this form and the current schedules were edited. This created twenty-eight new lines and ten new code references, resulting in a total burden of 20,294 hours.

Type of Review: Revision of currently approved collection.

Affected Public: Not for profit institutions.

Estimated Number of Respondents: 540.

Estimated Average Time per Respondent: 37 hrs., 35 min.

Estimated Total Annual Burden Hours: 20,294 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2346 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1098–T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1098–T, Tuition Payment Statement.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tuition Payments Statement.

OMB Number: 1545–1574.

Form Number: Form 1098–T.

Abstract: Section 6050S of the Internal Revenue Code requires eligible education institutions to report certain information to the IRS and to students. Form 1098–T has been developed to meet this requirement.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institutions.

Estimated Number of Responses: 21,078,651.

Estimated Time per Response: 13 minutes.

Estimated Total Annual Burden Hours: 4,848,090.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use

of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 20, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2345 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–251985–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking and temporary regulation, REG–251985–96 (TD 8786), Source of Income From Sales of Inventory Partly From Sources Within a Possession of the United States; Also, Source of Income Derived From Certain Purchases From a Corporation Electing Section 936 (§ 1.863–3).

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Dawn Bidne at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Source of Income From Sales of Inventory Partly From Sources Within a Possession of the United States; Also, Source of Income Derived From Certain Purchases From a Corporation Electing Section 936.

OMB Number: 1545–1556.

Regulation Project Number: REG–251985–96.

Abstract: Section 1.863–3(f)(6) of this regulation requires taxpayers to attach a statement to their tax return furnishing certain information regarding the methodology used to determine the source of their income from cross-border sales of inventory, and the amount of income allocated or apportioned to U.S. or foreign sources in these sales. The information is used by the IRS to establish whether the taxpayer determined the source of its income in accordance with Code section 863.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated No. of Respondents: 200.

Estimated Time per Respondent: 2 hours, 30 minutes.

Estimated Total Annual Burden Hours: 500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2375 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–29

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–29, Leveraged Leases.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedure should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Leveraged Leases.

OMB Number: 1545–1738.

Revenue Procedure Number: Revenue Procedure 2001–29.

Abstract: Revenue Procedure 2001–29 sets forth the information and representations required to be furnished by taxpayers in requests for an advance ruling that a leveraged lease transaction is, in fact, a valid lease for Federal income tax purposes.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Time per Respondent: 80 hours.

Estimated Total Annual Burden Hours: 800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2374 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2007–52

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2007–52.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Revenue Procedure 2007–52.

OMB Number: 1545–2080.

Revenue Procedure Number: 2007–52.

Abstract: The respondents are nonprofit organizations seeking recognition of exemption under certain parts of Sec. 501(c) of the Internal Revenue Code. These organizations must submit a letter of application. We need this information to determine whether the organization meets the legal requirements for tax-exempt status. In addition, the information will be used to help the Service delete certain information from the text of an adverse determination letter or ruling before it is made available for public inspection, as required under Sec. 6110.

Current Actions: There are no changes being made to this revenue procedure.

Type of Review: Extension of a previously approved collection.

Affected Public: Not-For-Profit Institutions.

Estimated Number of Respondents: 20.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 200.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2373 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 97–64

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 97–64, Temporary Regulations To Be Issued Under Section 1(h) of the Internal Revenue Code (Applying Section 1(h) to Capital Gain Dividends of RICs and REITs).

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue

Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Temporary Regulations To Be Issued Under Section 1(h) of the Internal Revenue Code (Applying Section 1(h) to Capital Gain Dividends of RICs and REITs).

OMB Number: 1545–1565.

Notice Number: Notice 97–64.

Abstract: Notice 97–64 describes temporary regulations that will permit Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs) to distribute multiple classes of capital gain dividends.

Current Actions: There are no changes being made to the notice at this time. This submission is being made for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

The burden for the collection of information in sections 9 and 10 of Notice 97–64 is reflected in the burden for Form 1099–DIV and Form 2439.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 4, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2372 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–251698–96]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–251698–96 (TD 8869), Subchapter S Subsidiaries (§§ 1.1361–3, 1.1361–5, and 1.1362–8).

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, at (202) 622–6665, or at the Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Subchapter S Subsidiaries.

OMB Number: 1545–1590.

Regulation Project Number: REG–251698–96.

Abstract: This regulation relates to the treatment of corporate subsidiaries of S corporations and interprets the rules added to the Internal Revenue Code by section 1308 of the Small Business Job Protection Act of 1996. The collection of information required in the regulation is necessary for a taxpayer to obtain, retain, or terminate S corporation treatment.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 10,660.

Estimated Time per Respondent: 57 minutes.

Estimated Total Annual Reporting Burden Hours: 10,110.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 4, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2371 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8038–B

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8038–B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

OMB Number: 1545–2161.

Notice Number: Form 8038–B.

Abstract: Form 8038–B has been developed to assist issuers of the new types of Build America and Recovery Zone Economic Development Bonds enacted under the American Recovery and Reinvestment Act of 2009 to capture information required by IRC section 149(e).

Current Actions: Extension of currently approved collection. There are no changes being made to this collection at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Not for profit institutions.

Estimated Number of Respondents: 5,880.

Estimated Average Time per Respondent: 19 hrs., 19 mins.

Estimated Total Annual Burden Hours: 113,661 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2370 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–120882–97 (TD 8898), Continuity of Interest (§§ 1.368–1(e)(1)(ii) and 1.368–1(e)(2)(ii)).

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Continuity of Interest.

OMB Number: 1545–1691.

Regulation Project Number: REG–120882–97.

Abstract: Taxpayers who entered into a binding agreement on or after January 28, 1998 (the effective date of § 1.368–1T), and before the effective date of the final regulations under § 1.368–1(e) may request a private letter ruling permitting them to apply § 1.368–1(e) to their transaction. A private letter ruling will not be issued unless the taxpayer establishes to the satisfaction of the IRS, that there is not a significant risk of different parties to the transaction taking inconsistent positions, for U.S. tax purposes with respect to the applicability of § 1.368–1(e) to the transaction.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This regulation is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time per Respondent: 150 hours.

Estimated Total Annual Burden Hours: 1,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long

as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 4, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2369 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–122379–02]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–122379–02, Regulations Governing Practice Before the Internal Revenue Service.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Practice Before the Internal Revenue Service.

OMB Number: 1545–1871. *Regulation Project Number:* REG–122379–02.

Abstract: These regulations will ensure that taxpayers are provided adequate information regarding the limits of tax shelter advice that they receive, and also ensure that practitioners properly advise taxpayers of relevant information with respect to tax shelter options.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 8 minutes.

Estimated Total Annual Burden Hours: 13,333.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2355 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2003–75

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2003–95, Registered Retirement Savings Plans (RRSP) and Registered Retirement Income Funds (RRIF) Information Reporting. 2006–97, Taxation and Reporting of REIT Excess Inclusion Income.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Registered Retirement Savings Plans (RRSP) and Registered Retirement Income Funds (RRIF).

OMB Number: 1545–1865.

Notice Number: Notice 2003–75.

Abstract: Notice 2003–75 announces an alternative, simplified reporting regime for the owners of certain Canadian Individual retirement plans that have been subject to reporting on Forms 3520 and 3520–A, and it describes the interim reporting rules that taxpayers must follow until a new form is available.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

Estimated Number of Respondents: 750,000.

Estimated Time per Respondent: 2 hours.

Estimated Total Annual Reporting Burden Hours: 1,500,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2354 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 9783T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9783T, EFTPS Individual Enrollment with Third Party Authorization Form.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: EFTPS Individual Enrollment with Third Party Authorization Form.

OMB Number: 1545–2077.

Form Number: 9783T.

Abstract: The information derived from the Form 9783T will allow individual taxpayers to authorize a Third Party to pay their federal taxes on their behalf using the Electronic Federal Tax Payment System (EFTPS).

Current Actions: Extension of currently approved collection. There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Average Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 167 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2398 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6497

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6497, Information Return of Nontaxable

Energy Grants or Subsidized Energy Financing.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Return of Nontaxable Energy Grants or Subsidized Energy Financing.

OMB Number: 1545–0232.

Form Number: Form 6497.

Abstract: Section 605D of the Internal Code requires an information return to be made by any person who administers a Federal, state, or local program providing nontaxable grants or subsidized energy financing. Form 6497 is used for making the information return. The IRS uses the information from the form to ensure that recipients have not claimed tax credits or other benefits with respect to the grants or subsidized financing.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and federal, state, local or tribal governments.

Estimated Number of Respondents: 250.

Estimated Time per Respondent: 3 hours, 14 minutes.

Estimated Total Annual Burden Hours: 810.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2010–2396 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8453–C and 8453–I

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–C, U.S. Corporation Income Tax Declaration for an IRS e-file Return and Form 8453–I, Foreign Corporation Income Tax Declaration for an IRS e-file Return.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622–6665, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Corporation Income Tax Declaration for an IRS e-file Return.

OMB Number: 1545–1866.

Form Number: 8453–C.

Abstract: Form 8453–C is necessary to enable the electronic filing of Form 1120, U.S. Corporation Income Tax Return. The form is created to meet the stated Congressional policy that paperless filing is the preferred and most convenient means of filing Federal tax and information returns. Form 8453–I is used to enable the electronic filing of Form 1120–F.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 4,000.

Estimated Time per Respondent: 7 hours, 13 minutes.

Estimated Total Annual Burden Hours: 28,880.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2391 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8911

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8911, Alternative Fuel Vehicle Refueling Property Credit.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Railroad Track Maintenance Credit.

OMB Number: 1545–1981.

Form Number: Form 8911.

Abstract: IRC section 30C allows a credit for alternative fuel vehicle refueling property. Form 8911, Alternative Fuel Vehicle Refueling Property Credit, will be used by taxpayers to claim the credit.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 330.

Estimated Time per Respondent: 6 hours 24 minutes.

Estimated Total Annual Burden Hours: 2,112.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2388 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106030–98]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG–106030–98, Source of Income from Certain Space and Ocean Activities; Also, Source of Communications Income (§§ 1.863–8(g) and 1.863–9(g).

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Source of Income from Certain Space and Ocean Activities; Also, Source of Communications Income.

OMB Number: 1545–1718.

Regulation Project Number: REG–106030–98.

Abstract: The information requested in proposed sections 1.863–8(g) and 1.863–9(g) is necessary for the Service to audit taxpayers' returns to ensure that taxpayers are applying the regulation properly.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 250.

Estimated Average Time per Respondent/Recordkeeper: 5 hours.

Estimated Total Annual Reporting/Recordkeeping Hours: 1,250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information

displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2366 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2010–6

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2010–6, Relief and Guidance on Corrections of Certain Failures of a Nonqualified Deferred Compensation Plan to Comply with Section 409A(a), 2006–97, Taxation and Reporting of REIT Excess Inclusion Income.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202)622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Relief and Guidance on Corrections of Certain Failures of a Nonqualified Deferred Compensation Plan to Comply with Section 409A(a).

OMB Number: 1545–2164.

Notice Number: Notice 2010–6.

Abstract: Notice 2010–6 requires a corporation to attach to its Federal income tax return an information statement related to the correction of a failure of a nonqualified deferred compensation plan to comply with the written plan document requirements of Section 409A(a). The information statement must be attached to the corporation's income tax return for the corporation's taxable year in which the correction is made, and the subsequent taxable year to the extent an affected employee must include an amount in income in such subsequent year as a result of the correction. The corporation must also provide an information statement to each affected employee, and such employee must attach an information statement to the employee's Federal tax return for the employee's taxable year during which the correction is made, and the subsequent taxable year but only if an amount is includible in income by the employee in such subsequent year as a result of the correction.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a previously approved collection.

Affected Public: Business or other-for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Reporting Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2010–2344 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Publication 1075

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the publication should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tax Information Security Guidelines for Federal, State, and Local Agencies.

OMB Number: 1545–0962.

Form Number: Publication 1075.

Abstract: Section 6103(p) of the Internal Revenue Code requires the Internal Revenue Service to provide periodic reports to Congress describing safeguard procedures utilized by agencies which receive information from the IRS to protect the confidentially of the information. This Code section also requires that these agencies furnish reports to the IRS describing their safeguards.

Current Actions: There are no changes being made to Publication 1075 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 5,100.

Estimated Time per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 204,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2010–2342 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4768

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

OMB Number: 1545–0181.

Form Number: 4768.

Abstract: Form 4768 is used to request an extension of time to file an estate (and generation-skipping) tax return and/or to pay the estate (and generation-skipping) taxes and to explain why the extension should be granted. IRS uses the information to decide whether the extension should be granted.

Current Actions: A new section was added to this form for the IRS to inform the taxpayer if the request for the extension of time to pay had been denied. This addition added three new lines, 146 new words, and half a page to the form, resulting in an increase in burden.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 18,500.

Estimated Time per Respondent: 1 hour, 52 minutes.

Estimated Total Annual Burden Hours: 34,410.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of

information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2010–2341 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8879–C and Form 8879–I

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8879–C, IRS e-file Signature Authorization for Form 1120, and Form 8879–I, IRS e-file Signature Authorization for Form 1120–F.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: IRS e-file Signature Authorization for Form 1120; IRS e-file Signature Authorization for Form 1120–F.

OMB Number: 1545–1864.

Form Number: 8879–C; 8879–I.

Abstract: The Form 8879–C, IRS e-file Signature Authorization for Form 1120, and Form 8879–I, IRS e-file Signature Authorization for Form 1120–F, will be used in the Modernized e-File program. Form 8879–C authorizes an officer of a corporation and an electronic return originator (ERO) to use a personal identification number (PIN) to electronically sign a corporation's electronic income tax return and, if applicable, Electronic Funds Withdrawal Consent. Form 8879–I authorizes a corporate officer and an electronic return originator (ERO) to use a personal identification number (PIN) to electronically sign a corporation's electronic income tax return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

	Number of responses	Time per response	Total hours
Form 8879–C	7,760	6.29	48,811
Form 8879–I	7,500	6.29	47,175
Total	15,260		95,986

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2340 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–S

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–S, S Corporation Declaration and Signature for Electronic Filing.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at

Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: S Corporation Declaration and Signature for Electronic Filing.

OMB Number: 1545–1867.

Form Number: 8453–S.

Abstract: Form 8453–S is necessary to enable the electronic filing of Form 1120S U.S. Income Tax Return for an S Corporation. The form is created to meet the stated Congressional policy that paperless filing is the preferred and most convenient means of filing Federal tax and information returns.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 1,500.

Estimated Time per Respondent: 7 hours, 1 minute.

Estimated Total Annual Burden Hours: 10,530.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 13, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2339 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 966

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 966, Corporate Dissolution or Liquidation.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Corporate Dissolution or Liquidation.

OMB Number: 1545–0041.

Form Number: 966.

Abstract: Form 966 is filed by a corporation whose shareholders have agreed to liquidate the corporation. As a result of the liquidation, the shareholders receive the property of the corporation in exchange for their stock. The IRS uses Form 966 to determine if the liquidation election was properly made and if any taxes are due on the transfer of property.

Current Actions: There are no changes being made to the form at this time. However, the burden was updated to more accurately account for the time required to file this form.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 26,000.

Estimated Time per Respondent: 8 hours, 4 minutes.

Estimated Total Annual Burden Hours: 209,820.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2358 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–PE

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–PE, U.S. Partnership Declaration for an IRS e-file Return.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne, (202) 622–3933, at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Dawn.E.Bidne@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: U.S. Partnership Declaration for an IRS e-file Return.

OMB Number: 1545–2034.

Form Number: Form 8453–PE.

Abstract: Form 8453–PE, U.S. Partnership Declaration for an IRS e-file Return, was developed for Modernized e-file for partnerships. Internal Revenue Code sections 6109 and 6103 necessitate this collection.

Current Actions: The form and instructions have not changed. However, the burden is being updated to correct previous miscalculations.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 3 hours 19 minutes.

Estimated Total Annual Burden Hours: 1,660.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2010–2356 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 56–F

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 56–F, Notice Concerning Fiduciary Relationship of Financial Institution.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice Concerning Fiduciary Relationship of Financial Institution.

OMB Number: 1545–2159.

Notice Number: Form 56–F.

Abstract: The filing of Form 56–F by a fiduciary (FDIC or other federal agency acting as a receiver or conservator of a failed financial institution (bank or thrift)) gives the IRS the necessary information to submit send letters, notices, and notices of tax liability to the federal fiduciary now in charge of the financial institution rather than sending the notice, etc. to the institution's last known address.

Current Actions: Extension of currently approved collection. There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 106.

Estimated Average Time per Respondent: 9 hrs., 23 mins.

Estimated Total Annual Burden Hours: 997 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2338 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the HCTC Medicare Family Member Registration Form

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments the HCTC Medicare Family Member Registration Form.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Dawn Bidne, at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: HCTC Medicare Family Member Registration Form.

OMB Number: 1545–2162.

Form Number: 14117.

Abstract: This form will be used by the family members of HCTC eligible individuals under circumstances where the original candidate has died or become divorced from the family member. This form allows family member to begin the HCTC registration process by verifying the family member's eligibility.

Current Actions: Extension of currently approved collection. There are no changes being made to the form at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business and for-profit.

Estimated Number of Respondents: 2,400.

Estimated Average Time per Respondent: 30 mins.

Estimated Total Annual Burden Hours: 1,200 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. *Comments are invited on:* (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2324 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 13362

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 13362, Consent to Disclosure of Return Information.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Dawn Bidne at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3933, or through the Internet at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Consent to Disclosure of Return Information.

OMB Number: 1545–1856.

Form Number: 13362.

Abstract: The Consent Form is provided to external applicant that will allow the Service the ability to conduct tax checks to determine if an applicant is suitable for employment once they are determined qualified and within reach to receive an employment offer.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Federal Government.

Estimated Number of Respondents: 46,000.

Estimated Number of Respondents: 10 minutes.

Estimated Total Annual Burden Hours: 7,664.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be Collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2322 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–111835–99]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–111835–99, Regulations Governing Practice Before the Internal Revenue Service (§§ 31.10.6, 31.10.29 and 31.10.30.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6665, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Practice Before the Internal Revenue Service.

OMB Number: 1545–1726.

Regulation Project Number: REG–11183–00.

Abstract: These regulations affect individuals who are eligible to practice before the Internal Revenue Service. These regulations also authorize the Director of Practice to act upon applications for enrollment to practice before the Internal Revenue Service. The Director of Practice will use certain information to ensure that: (1) Enrolled agents properly complete continuing education requirements to obtain renewal; (2) practitioners properly obtain consent of taxpayers before representing conflicting interests; (3) practitioners do not use e-commerce to make misleading solicitations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 56,000.

Estimated Time per Respondent: 53 minutes.

Estimated Total Annual Burden Hours: 50,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

Supervisory Program Analyst.

[FR Doc. 2010–2320 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project (TD 9286)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning temporary regulations (TD 9286), Railroad Track Maintenance Credit.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Railroad Track Maintenance Credit.

OMB Number: 1545–2031.

Regulation Project Number: TD 9286.

Abstract: This temporary regulation provides rules for claiming the railroad track maintenance credit under section 45G of the Internal Revenue Code for qualified track maintenance expenditures paid or incurred by a Class II or Class III railroad and other eligible taxpayers. The temporary regulation provides the time and manner for a taxpayer to submit certain information to claim this credit.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 550.

Estimated Time per Respondent: 2.5 hours.

Estimated Total Annual Burden Hours: 1,375.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 7, 2010.

R. Joseph Durbala,

Supervisory Tax Analyst.

[FR Doc. 2010–2325 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–125638–01]

Proposed Collection; Comment Request for Deduction Guidance and Capitalization Expenditures

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing regulation, REG–125638–01 (Final), (TD 9107) Guidance Regarding Deduction and Capitalization of Expenditures.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joe Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Elaine Christophe, (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Guidance Regarding Deduction and Capitalization of Expenditures.

OMB Number: 1545–1870.

Regulation Project Number: REG–125638–01.

Abstract: The information required to be retained by taxpayers will constitute sufficient documentation for purposes of substantiating a deduction. The information will be used by the agency on audit to determine the taxpayer's entitlement to a deduction. The respondents include taxpayers who engage in certain transactions involving the acquisition of a trade or business or an ownership interest in a legal entity.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 3,000.

Estimated Total Burden Hours: 3,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 15, 2010.

R. Joe Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2326 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the HCTC Family Member Eligibility Form

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 14116, HCTC Family Member Eligibility Form.

DATES: Written comments should be received on or before April 5, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of notice should be directed to Dawn Bidne at (202) 622–3933, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Dawn.E.Bidne@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: HCTC Family Member Eligibility Form.

OMB Number: 1545–2163.

Form Number: 14116.

Abstract: This form will be used by the family members of HCTC eligible individuals under circumstances where the original candidate has died or become divorced from the family member. This form allows family member to begin the HCTC registration process by verifying the family member's eligibility.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Business and for-profit.

Estimated Number of Respondents: 180.

Estimated Average Time per Respondent: 10 mins.

Estimated Total Annual Burden Hours: 30 hrs.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 14, 2010.

R. Joseph Durbala,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–2327 Filed 2–3–10; 8:45 am]

BILLING CODE 4830–01–P

TENNESSEE VALLEY AUTHORITY

Environmental Assessment or Environmental Impact Statement for Purchase of Renewable Energy From CPV Ashley Wind Power Project in North Dakota

AGENCY: Tennessee Valley Authority.

ACTION: Notice of intent.

SUMMARY: This notice of intent is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500–1508) and Tennessee Valley Authority's (TVA) procedures for implementing the National Environmental Policy Act (NEPA). TVA will prepare either an environmental assessment (EA) or an environmental impact statement (EIS) in order to address the potential environmental impacts associated with its proposal to execute a 20-year power purchase agreement (PPA) for the purchase of up to 200 megawatts (MW) of renewable energy from CPV Ashley Renewable Energy Company LLC (CPV), a direct subsidiary of CPV Renewable Energy Company LLC (CPV REC). In order to supply this renewable energy, CPV is proposing to construct and operate a wind-powered generating facility in McIntosh County, North Dakota, known as the Ashley Wind Energy Project (the proposed Project). The proposed Project would interconnect to the Midwest Independent Transmission System Operator (MISO) electric grid via a 230-kilovolt (kV) Montana Dakota Utility Company transmission line.

TVA's Strategic Plan includes the objective to reduce its environmental footprint through demand reduction and by increasing clean energy resources in its generation mix. The TVA Board of Directors (TVA Board) recently authorized the purchase of as much as 2,000 MW of renewable and clean energy by 2011 as part of TVA's plan to have half of its power supply from clean and renewable energy sources by 2020. Accomplishing this goal will require increasing the availability of clean generation such as wind power to TVA. Achieving these goals would also assist TVA in meeting potential renewable portfolio standards (RPS), broadening its generation mix, sustaining grid reliability, and meeting future consumer demand for electricity through low or no carbon-emitting facilities.

DATES: Public comments on the scope of the review are invited. In order to ensure their consideration, scoping comments must be received on or before March 8, 2010. It is anticipated that a draft EA or EIS will be available in late spring or early summer 2010. If TVA decides that preparation of an EIS is warranted, a notice of availability of the draft EIS will be published in the **Federal Register**, as well as announced in local news media.

ADDRESSES: Information about the environmental review may be obtained by contacting Bruce Yeager, NEPA Program Manager, Tennessee Valley Authority, 400 West Summit Hill Drive, Mail Stop WT 11D, Knoxville, Tennessee 37902; by e-mailing to *blyeager@tva.gov;* or by visiting the TVA Web site *http://www.tva.gov.*

FOR FURTHER INFORMATION CONTACT: For information about the wind power proposal, contact Wayne Hilson, Power Supply and Fuels Organization, Tennessee Valley Authority, 1101

Market Street, Mail Stop SP 6A, Chattanooga, Tennessee 37402 (e-mail: *dwhilson@tva.gov*).

SUPPLEMENTARY INFORMATION:

TVA Power System

TVA is an agency and instrumentality of the United States, established by an act of Congress in 1933, to foster the social and economic welfare of the people of the Tennessee Valley region and to promote the proper use and conservation of the region's natural resources. One component of this mission is the generation, transmission, and sale of reliable and affordable electric energy. TVA operates the nation's largest public power system, producing 4 percent of all electricity in the nation. TVA provides electricity to most of Tennessee and parts of Virginia, North Carolina, Georgia, Alabama, Mississippi, and Kentucky. It serves about 9 million people in this seven-state region through 157 power distributors and 58 directly served large industries and federal facilities. The TVA Act requires the TVA power system to be self-supporting and operated on a nonprofit basis, and the TVA Act directs TVA to sell power at rates as low as are feasible.

Dependable capacity on the TVA power system is about 37,000 MW. TVA generates most of this power with three nuclear plants, 11 coal-fired plants, nine combustion-turbine plants, a combined-cycle plant, 29 hydroelectric dams, a pumped-storage facility, a wind farm, a methane-gas cofiring facility, and several small renewable generating facilities. A portion of delivered power is obtained through long-term PPAs. About 60 percent of TVA's annual generation is from fossil fuels, predominantly coal; 30 percent is from nuclear; and the remainder is from hydro and other renewable energy resources. TVA transmits electricity from these facilities over almost 16,000 miles of transmission lines. Like other utility systems, TVA has power interchange agreements with utilities surrounding the Tennessee Valley region and purchases and sells power on an economic basis almost daily.

In the mid-1990s, TVA developed an Integrated Resource Plan (IRP) with extensive public involvement. This process was completed with publication of the Energy Vision 2020 Integrated Resource Plan and Final Environmental Impact Statement (IRP/FEIS) in 1995 and the associated record of decision in 1996. Based on the extensive evaluation, TVA decided to adopt a flexible portfolio of supply- and demand-side energy resource options to meet the growing demand for electricity in the region and achieve the goals of the TVA Act and other congressional directives. The portfolio of alternatives analyzed in the IRP/FEIS encompassed the current proposal to purchase power from renewable energy resources such as wind power. On June 15, 2009, TVA announced its intent to conduct a new comprehensive study and EIS entitled the Integrated Resource Plan. As appropriate, TVA expects to continue to implement the existing portfolio of resource options during this EIS process.

CPV Ashley Wind Power Project

TVA is proposing to execute a 20-year PPA for the purchase of up to 200 MW of renewable energy from CPV, a direct subsidiary of CPV REC. In order to supply this renewable energy, CPV is proposing to construct and operate a wind-powered generating facility in McIntosh County, North Dakota.

CPV has not identified the specific turbine model to be utilized at the site, but it is expected that the selected turbine will range between 1.5–3.0 MW in generating capacity, 80–90 meters in hub height, and 80–103 meters in rotor diameter. In addition to the wind turbines, the proposed Project will involve improvements to existing roads (possibly including widening); construction of new gravel access roads; installation of underground electrical collection lines; construction of an operation and maintenance building; construction of an electrical switchgear facility; and construction of an interconnection substation facility. A temporary construction staging area is also planned for the construction phase of the proposed Project. Three 60-meter-tall temporary meteorological towers and one temporary 2-meter-tall Triton Wind Profiler have already been installed within the proposed Project area, and two additional 60-meter meteorological towers were installed in November 2009.

Two existing high-voltage transmission lines, a Montana Dakota Utility Company 230-kV line, and a Basin Electric Power Cooperative 345-kV line pass through the proposed Project area. The proposed Project would interconnect to the MISO electric grid via the 230-kV Montana Dakota Utility Company transmission line. TVA has requested a transmission capacity study be conducted by the MISO to more fully evaluate the transmission capacity in the region for carrying the power from the site substation to a TVA transmission grid interconnect. Any utility line upgrades or future transmission lines in the proposed Project area would be subject to appropriate review under NEPA.

The proposed Project is located in south-central North Dakota, approximately 6 miles north of the city of Ashley. This location was selected due to the energetic wind resource of the area and its proximity to two existing high-voltage transmission lines, which give the proposed Project access to the regional electric grid. The proposed Project area is defined as approximately 17,400 acres of private land under easement with CPV where the proposed Project facilities will be located, primarily consisting of pasture and cultivated cropland (wheat, soybeans, sunflowers, and corn) with a few rural residences and farmsteads. Some conservation easements, including Conservation Reserve Program land, U.S. Fish and Wildlife Service (USFWS) grassland easements, and USFWS wetland easements, are known to be present within the proposed Project area,which is characterized by rolling hills, interspersed with many isolated glacial pothole wetlands.

Construction of the proposed Project would commence in mid-2011, with a commercial operation date anticipated in late 2012. CPV has a total of over 37,000 acres under easement agreements in McIntosh County. Subject to the market for renewables and the success of CPV in that market, future phases could be developed; however, there is currently no indication that any expansion will occur, and predicting whether or not the land would ever be further developed involves substantial speculation beyond that need to support the TVA power purchase.

Proposed Action and Alternatives

TVA's long-term Strategic Plan includes the objective to reduce its environmental footprint through demand reduction and by increasing clean energy resources in its generation mix. To address the need for additional low or zero carbon-emitting generation beginning in the 2011 to 2012 time frame and for up to 20 years thereafter, the TVA Board recently authorized the purchase of as much as 2,000 MW of renewable and clean energy. TVA plans to have half of its power supply from clean and renewable energy sources by 2020. Accomplishing this goal will require increasing clean generation such as wind power at TVA. Achieving these goals would also assist TVA in meeting potential RPS, broadening its generation mix, sustaining grid reliability, and meeting future consumer demand for electricity through low or no carbon-emitting facilities. The present

environmental review would evaluate at least the No Action and the Proposed Action Alternative of executing a 20-year PPA for the purchase of up to 200 MW of renewable energy from CPV, a direct subsidiary of CPV REC. No determination on the environmental acceptability of proceeding with a decision to implement the proposed action has been made at this time. In making its final decision, TVA will consider the assessment in the environmental review, including input provided by reviewing agencies and the public.

Preliminary Identification of Environmental Issues

The impact analyses of the environmental review will include, but not necessarily be limited to, evaluating the potential for impacts to such resources and issues as geology, topography, and soils; water resources including surface water and groundwater, wetlands, and floodplains; biological resources such as wildlife (including avian species) and vegetation (such as native prairie); threatened and endangered species; cultural resources; land use; recreational resources; visual resources; noise; air quality; socioeconomics; transportation; communication resources; and public safety and services. The scope of analysis for the proposed Action Alternative would include construction and operation as described above for the proposed Project.

Public and Agency Participation

The EA or EIS is being prepared to inform decision makers and the public about the potential environmental impacts of the proposed power purchase and resulting construction and operation of the proposed Project. The process also will provide the public an opportunity to comment on TVA's analyses. Other federal, state, and local agencies and governmental entities will be asked to provide scoping comments. These agencies will include, but not limited to, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the North Dakota Game and Fish Department, and the North Dakota State Historic Preservation Office.

TVA invites the review agencies and the public to submit written or e-mail comments on the scope of the environmental review and alternatives. It is anticipated that a draft environmental review will be available in the late spring or early summer of 2010. If an EA is prepared, notice of availability of the draft environmental document will be publicized in local news media, and if an EIS is prepared, notice will be published in the **Federal Register** and announced in local news media. TVA expects to release a final environmental document in the late summer to fall of 2010.

Dated: January 22, 2010.

Anda A. Ray,

Senior Vice President and Environmental Executive, Environment and Technology, Tennessee Valley Authority.

[FR Doc. 2010–2377 Filed 2–3–10; 8:45 am]

BILLING CODE 8120–01–P

Reader Aids

Federal Register

Vol. 75, No. 23

Thursday, February 4, 2010

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Federal Register/Code of Federal Regulations	
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Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

4973–5224 1
5225–5480 2
5481–5674 3
5675–5876 4

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
13530 5481
Administrative Orders:
Notices:
Notice of February 2, 2010 5675
Memorandums:
Memo. of January 29, 2010 5485

5 CFR

Proposed Rules:
2423 5003

6 CFR

5 .....5487, 5491

8 CFR

1 5225
292 5225

10 CFR

50 5495
Proposed Rules:
431 5544

14 CFR

39 .....5677, 5681, 5684, 5685, 5689 5690, 5692, 5695
43 5204
61 5204
91 5204
97 .....5230, 5232
141 5204
314 5697
331 5234
Proposed Rules:
71 .....5007, 5702, 5703, 5704

15 CFR

902 5498

18 CFR

284 5178

20 CFR

10 5499

21 CFR

1309 4973

24 CFR

201 5706
203 5706

26 CFR

54 5452
Proposed Rules:
1 5253
54 5410

28 CFR

0 4982

29 CFR

2590 5410
Proposed Rules:
403 5456
1910 .....5545, 5707
2509 5253
2520 5253
2550 5253

30 CFR

Proposed Rules:
57 5009
75 5009

31 CFR

548 5502

32 CFR

706 5235

33 CFR

165 5511

37 CFR

382 5513
Proposed Rules:
41 5012

39 CFR

3020 5236

40 CFR

9 4983
52 .....5514, 5698
180 .....5515, 5518, 5522, 5526
721 4983
Proposed Rules:
52 5707
228 5708
320 5715
721 5546

45 CFR

146 5410

47 CFR

80 5241
Proposed Rules:
52 5013
73 5015

48 CFR

512 5241
552 5241
Proposed Rules:
1 5716
2 5716
3 5716

5 5716
6 5716
7 5716
8 5716
12 5716
13 5716
15 5716
16 5716
17 5716
19 5716
22 5716
23 5716
28 5716
32 5716
36 5716
42 5716
43 5716
50 5716
52 5716

49 CFR

7 5243
10 5243
26 5535
40 5243
171 5376
172 5376
173 5376
174 5376
178 5376
192 ....5224, 5536
195 5536
390 4996
578 5224
599 5248

Proposed Rules:

23 5551
40 5722
107 5258
571 5553
1244 5261

50 CFR

648 ....5498, 5537
679 ....5251, 5541

Proposed Rules:

17 ....5263, 5732
226 5015
300 5745
648 5016

LIST OF PUBLIC LAWS

This is the final list of public bills from the 1st 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*.

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H.R. 1817/P.L. 111–128

To designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the "John S. Wilder Post Office Building". (Jan. 29, 2010; 123 Stat. 3487)

H.R. 2877/P.L. 111–129

To designate the facility of the United States Postal Service located at 76 Brookside Avenue in Chester, New York, as the "1st Lieutenant Louis Allen Post Office". (Jan. 29, 2010; 123 Stat. 3488)

H.R. 3072/P.L. 111–130

To designate the facility of the United States Postal Service located at 9810 Halls Ferry Road in St. Louis, Missouri, as the "Coach Jodie Bailey Post Office Building". (Jan. 29, 2010; 123 Stat. 3489)

H.R. 3319/P.L. 111–131

To designate the facility of the United States Postal Service located at 440 South Gulling Street in Portola, California, as the "Army Specialist Jeremiah Paul McCleery Post Office Building". (Jan. 29, 2010; 123 Stat. 3490)

H.R. 3539/P.L. 111–132

To designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the "Patricia D. McGinty-Juhl Post Office Building". (Jan. 29, 2010; 123 Stat. 3491)

H.R. 3667/P.L. 111–133

To designate the facility of the United States Postal Service located at 16555 Springs Street in White Springs, Florida, as the "Clyde L. Hillhouse Post Office Building". (Jan. 29, 2010; 123 Stat. 3492)

H.R. 3767/P.L. 111–134

To designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the "W. Hazen Hillyard Post Office Building". (Jan. 29, 2010; 123 Stat. 3493)

H.R. 3788/P.L. 111–135

To designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the "Corporal Joseph A. Tomci Post Office Building". (Jan. 29, 2010; 123 Stat. 3494)

H.R. 1377/P.L. 111–137

To amend title 38, United States Code, to expand veteran eligibility for reimbursement by the Secretary of Veterans Affairs for emergency treatment furnished in a non-Department facility, and for other purposes. (Feb. 1, 2010; 123 Stat. 3495)

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*.

H.R. 4508/P.L. 111–136

To provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes. (Jan. 29, 2010; 124 Stat. 6; 1 page)

S. 692/P.L. 111–138

To provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances. (Feb. 1, 2010; 124 Stat. 7; 1 page)

Last List February 1, 2010

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