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Conference Room, Suite 700
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Washington, DC 20002

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

NUCLEAR REGULATORY COMMISSION

2 CFR Chapter XX

[NRC–2010–0005]

RIN 3150–AI76

Nonprocurement Debarment and Suspension

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing new regulations governing nonprocurement debarment and suspension. These regulations cover grants, cooperative agreements and other nonprocurement transactions and adopt and supplement, to a limited extent, Office of Management and Budget (OMB) guidance on nonprocurement debarment and suspension found in OMB's regulations.

DATES: Effective June 18, 2010.

ADDRESSES: You can access publicly available documents related to this document using the following methods: *NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Federal Rulemaking Web site: Supporting materials related to this final rule can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2010–0005.

FOR FURTHER INFORMATION CONTACT: Ruth Kowarski Cooke, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–415–3412, e-mail *ruth.kowarskicooke@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 11, 2004 (69 FR 26275), OMB issued guidance governing Government-wide Grants and Agreements which it published in 2 CFR. This title has two subtitles. Subtitle A, "Government-wide Grants and Agreements," contains OMB policy guidance to Federal agencies on grants and agreements. Subtitle B, "Federal Agency Regulations for Grants and Agreements," contains the regulations promulgated by Federal agencies where the OMB guidance is implemented.

On August 31, 2005 (70 FR 51863), OMB published interim final guidance for government-wide nonprocurement debarment and suspension in the **Federal Register**. The interim final guidance updated previous OMB guidance that was issued under Executive Order (EO) 12549, "Debarment and Suspension" (February 18, 1986), which gave government-wide effect to each Executive agency's nonprocurement debarment and suspension actions.

Section 6 of the EO authorized OMB to issue guidance to Executive agencies on nonprocurement debarment and suspension, including provisions prescribing government-wide criteria and minimum due process procedures. Section 3 directed Executive agencies to issue regulations implementing the EO that are consistent with the OMB guidelines. OMB's interim final guidance was published in 2 CFR part 180 in a form suitable for agency adoption, thus eliminating the need for each agency to repeat the full text of the OMB government-wide guidance in its implementing regulations. This approach makes it easier for recipients of covered transactions or respondents in debarment or suspension actions to locate the applicable requirements, reduces the volume of regulations, and streamlines the process for updating the governmentwide requirements on nonprocurement debarment and suspension. On November 15, 2006 (71 FR 66431), OMB published a final rule adopting the interim final guidance with changes.

Although the NRC is not required to promulgate regulations on this subject, as NRC is not an "executive agency" for purposes of Executive Order 12549 or Executive Order 12689, it has chosen to do so. NRC is adopting the governmentwide debarment and suspension system requirements of Executive Order 12549, "Debarment and Suspension" (3 CFR 1986 Comp., p. 189), Executive Order 12689, "Debarment and Suspension" (3 CFR 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Section 2455, Pub. L. 103–355, 108 Stat. 3327).

This final rule places NRC's nonprocurement debarment and suspension regulations in subtitle B of 2 CFR, along with other agencies' nonprocurement debarment and suspension rules. This action is in conformance with OMB final guidance.

The NRC therefore is promulgating 2 CFR part 2000, which adopts the OMB guidance presented in 2 CFR part 180 as supplemented with a few agency-specific provisions.

II. Rulemaking Procedure

The Nuclear Regulatory Commission is promulgating this final rule without affording the opportunity for public comment. 5 U.S.C. 553(a)(2) provides that notice and comment is not necessary when the rulemaking action concerns a matter relating to grants, benefits or contracts or to a matter relating to agency management or personnel.

III. Section-by-Section Analysis

Section 2000.10 What does this part do?

This section explains that NRC, acting under its discretionary authority, is promulgating a regulation adopting OMB's guidance on nonprocurement debarment and suspension found in 2 CFR part 180 for programs and activities involving Federal financial and nonfinancial assistance and benefits. The NRC is giving regulatory effect to

OMB guidance set forth at subpart A of 2 CFR part 180.

Section 2000.20 Does this part apply to me?

This section identifies who is covered by the debarment and suspension regulations. It also identifies which NRC officials are responsible for implementing this regulation.

Section 2000.30 What policies and procedures must I follow?

This section adopts the policies and procedures set forth in 2 CFR part 180. This section also explains the numbering used in these regulations.

Section 2000.135 Who in the Nuclear Regulatory Commission may grant an exception to let an excluded person participate in a covered transaction?

This section supplements guidance contained in 2 CFR 180.135 by identifying the NRC Director of the Office of Administration as the NRC official who has the authority to grant exceptions to a suspension or debarment action, thereby allowing for participation of a person in a particular covered transaction.

Section 2000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

This section supplements covered transaction guidance contained in 2 CFR 180.220 by explaining that NRC has chosen not to extend the coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts that are covered by 2 CFR 180.220.

Section 2000.330 What method must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

This section requires NRC employees to include a term or condition in every nonprocurement agreement requiring compliance with the verification responsibilities set forth at subpart C of 2 CFR part 180. The section also requires that the verification requirement be passed through to all lower level agreements between the nonprocurement agreement holder and its subcontractors.

Section 2000.930 Debarring Official

This section provides that the NRC debarring official, who is authorized to debar an entity from entering into a covered transaction, is the Director of the Office of Administration.

Section 2000.1010 Suspending Official

This section provides that the NRC's suspending official, who is authorized to suspend entity from entering into a covered transaction, is the Director of the Office of Administration.

IV. Environmental Impact: Categorical Exclusion

The Commission has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.229(c)(1). This rule makes non-substantive changes to NRC's nonprocurement debarment and suspension procedures. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

V. Paperwork Reduction Act

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

VI. Backfit Analysis

The NRC has determined that this rulemaking does not contain provisions which constitute backfitting as defined in any of the NRC's backfitting provisions in 10 CFR Title I, nor are these provisions inconsistent with the issue resolution and finality provisions in 10 CFR part 52. The requirements in the rulemaking address the NRC's policies and procedures for nonprocurement debarment and suspension, and as such, do not constitute new requirements or changes to requirements governing the design, the organization of licensees, or procedures of licensees for operating facilities or conducting licensed activities as defined in the backfitting provisions in 10 CFR Chapter I.

VII. Congressional Review Act

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects for 2 CFR Part 2000

Administrative practice and procedure, Debarment and suspension, Grant programs, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is amending Title 2 Subtitle B by adding Chapter XX consisting of part 2000 to read as follows:

CHAPTER XX—UNITED STATES NUCLEAR REGULATORY COMMISSION

PART 2000—NONPROCUREMENT DEBARMENT AND SUSPENSION

Subpart A—General

Sec.
2000.10 What does this part do?
2000.20 Does this part apply to me?
2000.30 What policies and procedures must I follow?
2000.135 Who in the Nuclear Regulatory Commission may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

2000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

2000.330 What method must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D–H [Reserved]

Subpart I—Definitions

2000.930 Debarring official.
2000.1010 Suspending official.

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; 5 U.S.C. 301 and 10 U.S.C. 113.

Subpart A—General

§ 2000.10 What does this part do?

This part promulgates a regulation adopting the Office of Management and Budget (OMB) guidance in subparts A through I of 2 CFR part 180, establishing the United States Nuclear Regulatory Commission (NRC) policies and procedures for nonprocurement debarment and suspension. NRC thereby gives regulatory effect to the OMB guidance. It also supplements the OMB guidance by identifying NRC implementing officials and identifying how to pass these requirements through to other entities.

§ 2000.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB guidance in subparts A through I of 2 CFR part 180 (see table at 2 CFR 180.100(b)) apply to:

(a) Participant or principal in a "covered transaction";

(b) Respondent in an NRC nonprocurement suspension or debarment action;

(c) NRC debarment or suspension official; or

(d) NRC grants officer, agreements officer, or other official authorized to

enter into a covered nonprocurement transaction.

§ 2000.30 What policies and procedures must I follow?

(a) The NRC policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB guidance in Subparts A through I of 2 CFR part 180, and those in this part. The NRC has closely tracked OMB's numbering scheme. For example, the contracts under a nonprocurement transaction that are covered transactions that are in section 220 of the OMB guidance (*i.e.,* 2 CFR 180.220) are found in § 2000.220.

(b) For any section of OMB guidance in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, NRC requirements are those in the OMB guidance at 2 CFR part 180.

§ 2000.135 Who in the Nuclear Regulatory Commission may grant an exception to let an excluded person participate in a covered transaction?

The Director, Office of Administration or another official designated by the Director, has the authority to grant a written exception to let an excluded person participate in a covered transaction, as provided in guidance at 2 CFR 180.135. The Director or other official designated by the Director shall explain the reason(s) for deviating from the governmentwide policy.

Subpart B—Covered Transactions

§ 2000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

The NRC nonprocurement suspension and debarment requirements apply only to first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 2000.330 What method must be used to pass requirements down to participants at lower tiers?

A participant in a covered transaction must include a term or condition in any lower-tier covered transaction to require the participant of that transaction to—

(a) Comply with subpart C of the OMB guidance in 2 CFR part 180; and

(b) Include a similar term or condition in any covered transaction into which it enters at the next lower tier.

Subpart E–H [Reserved]

Subpart I—Definitions

§ 2000.930 Debarring official.

The Debarring Official for the United States Nuclear Regulatory Commission is the Director, Office of Administration.

§ 2000.1010 Suspending official.

The suspending official for the United States Nuclear Regulatory Commission is the Director, Office of Administration.

Dated at Rockville, Maryland, this 30th day of April 2010.

For the Nuclear Regulatory Commission.

R.W. Borchardt,

Executive Director for Operations.

[FR Doc. 2010–11844 Filed 5–18–10; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. FSIS–2007–0045]

Use of Turkey Shackle in Bar-Type Cut Operations; Correcting Amendment

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Correcting amendment.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal poultry products inspection regulations to correct an inadvertent error in the required shackle width for Bar-type cut turkey operations that use J-type cut maximum line speeds.

DATES: This amendment is effective May 19, 2010.

FOR FURTHER INFORMATION CONTACT: Patrick Burke, Risk and Innovations Management Division, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, Room 2–2118 George Washington Carver Center, 5601 Sunnyside Avenue, Beltsville, MD 20705, (301) 504–0843.

SUPPLEMENTARY INFORMATION: On September 8, 2008, FSIS published a final rule that provides that turkey slaughter establishments that open turkey carcasses with Bar-type cuts may operate at the maximum line speeds established for J-type cuts if they use a shackle with a 4-inch by 4-inch selector (or kickout), a 45 degree bend of the lower 2 inches, an extended central loop portion of the shackle that lowers the abdominal cavity opening of the carcasses to an angle of 30 degrees from the vertical in direct alignment with the inspector's view, and a width of 10.5 inches (73 FR 51899). The specified shackle width of 10.5 inches is a typographical error, and the correct width is 10 inches. This notice corrects the error and amends § 381.68 to specify the correct 10-inch shackle width for Bar-type cut turkey operations that use J-type cut maximum line speeds.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this proposed rule, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/Regulations_&_Policies/2010_Notices_Index/index.asp.* FSIS will also 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 constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and 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.

List of Subjects in 9 CFR Part 381

Poultry product inspection, Post-mortem.

■ For the reasons set forth in the preamble, 9 CFR part 381 is corrected by making the following correcting amendment:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

■ 1. The authority citation for part 381 continues to read as follows:

Authority: 21 U.S.C. 451 *et seq.*

§ 381.68 [Corrected]

■ 2. In § 381.68, the second sentence of paragraph (a) is amended by removing "10.5" and adding in its place "10".

Done at Washington, DC, on May 13, 2010.

Alfred V. Almanza,

Administrator.

[FR Doc. 2010–11996 Filed 5–18–10; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2010–BT–NOA–0016]

Notice of Availability of Interpretive Rule on the Applicability of Current Water Conservation Standards for Showerheads; Request for Comments

AGENCY: Department of Energy.

ACTION: Notice of availability and request for comments.

SUMMARY: The U.S. Department of Energy (DOE) or (the Department) is providing notice of an interpretive rule that sets out the Department's views on the definition of "showerhead" in the DOE's regulations related to the energy conservation program for consumer products. The draft interpretive rule represents the Department's interpretation of its existing regulations and is exempt from the notice and comment requirements of the Administrative Procedure Act. *See* 5 U.S.C. 553(b)(A). Nevertheless, given that the Department has not previously expressed its views on this definition, we are interested in receiving feedback from the public on the interpretation. At the end of the comment period, this draft interpretive rule may be adopted, revised or withdrawn.

DATES: Comments regarding this draft interpretive rule must be received on or before June 18, 2010.

ADDRESSES: Comments may be submitted to DOE using the following method:

• E-mail: *Showerhead_Guidance_Comments@hq.doe.gov.* Include the docket number in the subject line of the message. Comments and suggestions should be provided in WordPerfect, Microsoft Word, PDF, or text file format.

The full text of the interpretive rule is available at *http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/showerhead_guidance.pdf.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Ms. Laura Barhydt *laura.barhydt@hq.doe.gov* or by phone at 202–287–5772.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) or (the Department) is providing notice of an interpretive rule that sets out the Department's views on the definition of "showerhead" in 10 CFR 430.2. The draft interpretive rule represents the Department's interpretation of its existing regulations and is exempt from the notice and comment requirements of the Administrative Procedure Act. See 5 U.S.C. 553(b)(A). Nevertheless, given that the Department has not previously expressed its views on this definition, we are interested in receiving feedback from the public on the interpretation. At the end of the comment period, this draft interpretive rule may be adopted, revised or withdrawn. The full text of the interpretive rule is available at *http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/showerhead_guidance.pdf.*

Authority: 42 U.S.C. 6291 and 42 U.S.C. 6298.

Issued in Washington, DC, on May 10, 2010.

Scott Blake Harris,

General Counsel.

[FR Doc. 2010–11572 Filed 5–18–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM420; Special Conditions No. 25–406–SC]

Special Conditions: Dassault Aviation Falcon Model 2000EX; Autobraking System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Dassault Aviation Falcon Model 2000EX airplane. This airplane will have a novel or unusual design feature(s) associated with the autobraking system for use during landing. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* June 18, 2010.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe/Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington, 98057–3356; telephone (425) 227–1178; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2008, Dassault Aviation applied for a change to Type Certificate (TC) No. A50NM to install an automatic braking system on the Falcon Model 2000EX airplane. This is a pilot-selectable function that allows earlier maximum braking at landing without pilot pedal input. When the autobrake system is armed before landing, it automatically commands maximum braking at main wheels touchdown. Normal procedures remain unchanged and call for manual braking after nose wheel touchdown.

The current Federal Aviation Regulations do not contain adequate requirements to address the potentially higher structural loads that could result from this type of automatic braking system. Title 14, Code of Federal Regulations (14 CFR) 25.471 through 25.511 address ground handling loads, but do not contain a specific "pitchover" requirement addressing the loading on the nose gear, the nose gear surrounding structure, and the forward fuselage. The Dassault autobraking system, which applies maximum braking at the main wheels before the nose gear touches down, will cause a high nose gear sink rate, and potentially higher gear and airframe loads. Therefore, the FAA has determined that a special condition is needed. The special condition requires that the airplane be designed to withstand the loads resulting from maximum braking, taking into account the effects of the automatic braking system.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Dassault Aviation must show that the Falcon Model 2000EX, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in TC No. A50NM or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in TC No. A50NM are as follows: Part 25 of 14 CFR as amended by Amendments 25–1 through 25–69. In addition, Dassault Aviation has elected to comply with the following amendments:

• Amendment 25–71 for § 25.365(e).

• Amendment 25–72 for §§ 25.783(g) and 25.177.
• Amendment 25–75 for § 25.729(e).
• Amendment 25–79 for § 25.811(e)(2).
• Amendment 25–80 for § 25.1316.

In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to this proposed special condition.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* part 25) do not contain adequate or appropriate safety standards for the Falcon Model 2000EX because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Falcon Model 2000EX must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

Novel or Unusual Design Features

The Falcon Model 2000EX will incorporate the following novel or unusual design features:

The airplane will be equipped with an automatic braking system, which is a pilot-selectable function that allows earlier maximum braking at landing without pilot pedal input. When the autobrake system is armed before landing, it automatically commands maximum braking at main wheels touchdown. This will cause a high nose gear sink rate, and potentially higher gear and airframe loads than would occur with a traditional braking system. Therefore, the FAA has determined that a special condition is needed.

Discussion

The special condition defines a landing pitchover condition that takes into account the effects of the automatic braking system. The special condition defines the airplane configuration, speeds, and other parameters necessary to develop airframe and nose gear loads for this condition. The special condition requires that the airplane be designed to support the resulting limit and ultimate loads as defined in § 25.305.

Discussion of Comments

Notice of proposed special conditions No. 25–09–13–SC for the Dassault Aviation Falcon Model 2000EX airplanes was published in the **Federal Register** on December 10, 2009. No comments were received, and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Falcon Model 2000EX. Should Dassault Aviation apply at a later date for a change to the type certificate to include another model on the same type certificate incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Dassault Aviation Falcon Model 2000EX airplanes.

Landing Pitchover Condition

A landing pitchover condition must be addressed that takes into account the effect of the autobrake system. The airplane is assumed to be at the design maximum landing weight, or at the maximum weight allowed with the autobrake system on. The airplane is assumed to land in a tail-down attitude and at the speeds defined in § 25.481. Following main gear contact, the airplane is assumed to rotate about the main gear wheels at the highest pitch rate allowed by the autobrake system. This is considered a limit load condition from which ultimate loads must also be determined. Loads must be determined for critical fuel and payload distributions and centers of gravity. Nose gear loads, as well as airframe loads, must be determined. The airplane must support these loads as described in § 25.305.

Issued in Renton, Washington, on May 12, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–11932 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9484]

RIN 1545–BH04

Diversification Requirements for Certain Defined Contribution Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 401(a)(35) of the Internal Revenue Code (Code) relating to diversification requirements for certain defined contribution plans holding publicly traded employer securities. These regulations will affect administrators of, employers maintaining, participants in, and beneficiaries of defined contribution plans that are invested in employer securities.

DATES: *Effective date:* These regulations are effective on May 19, 2010.

Applicability date: These regulations apply for plan years beginning on or after January 1, 2011.

FOR FURTHER INFORMATION CONTACT: R. Lisa Mojiri-Azad or Jamie Dvoretzky at (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations under section 401(a)(35) of the Code, which was added by section 901 of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06).[1]

[1] Section 901 of PPA '06 also added a parallel provision to section 401(a)(35) at section 204(j) of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)) (ERISA). Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of

Continued

Section 401(a)(35)(A) provides that a trust which is part of an applicable defined contribution plan is not a qualified trust under section 401(a) unless the plan satisfies the diversification requirements of section 401(a)(35)(B), (C), and (D). Under section 401(a)(35)(B), each individual must have the right to direct the plan to divest employer securities allocated to the individual's account that are attributable to employee contributions or elective deferrals and to reinvest an equivalent amount in other investment options meeting the requirements of section 401(a)(35)(D).[2]

Under section 401(a)(35)(C), each individual who is a participant who has completed at least three years of service, a beneficiary of a participant who has completed at least three years of service, or a beneficiary of a deceased participant must be permitted to elect to direct the plan to divest employer securities allocated to the individual's account and to reinvest an equivalent amount in other investment options meeting the requirements of section 401(a)(35)(D).

Section 401(a)(35)(D)(i) requires an applicable defined contribution plan to offer individuals not less than three investment options, other than employer securities, to which the individuals may direct the proceeds from the divestment of employer securities, each of which is diversified and has materially different risk and return characteristics.

Under section 401(a)(35)(D)(ii)(I), a plan does not fail to meet the requirements of section 401(a)(35)(D) if it allows individuals to divest employer securities and reinvest the proceeds at periodic, reasonable opportunities occurring no less frequently than quarterly.

Under section 401(a)(35)(D)(ii)(II), a plan is not permitted to impose restrictions or conditions with respect to the investment of employer securities that are not imposed on the investment of other assets of the plan. However, this rule does not apply to restrictions or conditions imposed to comply with securities laws. The Secretary is authorized to issue regulations providing additional exceptions to the requirements of section 401(a)(35)(D)(ii)(II).

An applicable defined contribution plan under section 401(a)(35) is a defined contribution plan that holds any publicly traded employer securities. A publicly traded employer security is defined as an employer security under section 407(d)(1) of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)) (ERISA) which is readily tradable on an established securities market. Section 401(a)(35)(F)(i) provides that a plan that holds employer securities that are not publicly traded employer securities is nevertheless treated as holding publicly traded employer securities if any employer corporation or any member of a controlled group of corporations which includes the employer (determined by applying section 1563(a), except substituting 50 percent for 80 percent) has issued a class of stock that is a publicly traded employer security. However, section 401(a)(35)(F) does not apply to a plan if no employer corporation, or parent corporation (as defined in section 424(e)) of an employer corporation, has issued any publicly traded employer security and no employer or parent corporation has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in section 401(a)(35)(F)(i) which has issued any publicly traded employer security.

Section 401(a)(35)(E) provides that section 401(a)(35) does not apply to an employee stock ownership plan within the meaning of section 4975(e)(7) (ESOP) that holds no contributions (or earnings thereunder) that are subject to section 401(k) or (m) (generally relating to elective deferrals and matching and employee after-tax contributions) and the ESOP is a separate plan for purposes of section 414(l) with respect to any other defined benefit plan or defined contribution plan maintained by the same employer or employers. Section 401(a)(35)(E) further provides that section 401(a)(35) does not apply to one-participant retirement plans (within the meaning of section 401(a)(35)(E)(iv)).

Section 401(a)(35) is generally effective for plan years beginning after December 31, 2006. Section 401(a)(35)(H) generally provides a three year phase-in rule with respect to an individual's right to direct the divestment of employer securities attributable to employer contributions, except with respect to certain participants who have attained age 55. Section 901(c)(2) of PPA '06 includes a special rule for a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers that was ratified on or before August 17, 2006. Under this rule, section 401(a)(35) is not effective until plan years beginning after the earlier of (1) the later of (a) December 31, 2007 or (b) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after August 17, 2006) or (2) December 31, 2008.

Section 101(m) of ERISA as amended by section 507 of PPA '06 requires the plan administrator to furnish a notice to individuals not later than 30 days before the first date on which an individual is eligible to exercise his or her right to divest employer securities with respect to any type of contribution. The notice must set forth the diversification rights under section 204(j) of ERISA (which is the parallel provision in ERISA to section 401(a)(35)) and describe the importance of diversifying the investment of retirement account assets.

Notice 2006–107 (2006–2 CB 1114 (December 18, 2006)), (see § 601.601(d)(2)(ii)(*b*)) includes guidance and transitional rules with respect to the diversification requirements of section 401(a)(35). Notice 2006–107 also includes guidance regarding the related notice requirements of section 101(m) of ERISA, including a model notice. Notice 2008–7 (2008–3 IRB 276 (January 22, 2008)), (see § 601.601(d)(2)(ii)(*b*)) extends the transitional guidance and transitional relief that was included in Notice 2006–107 until the final regulations become effective.

Notice 2009–97 (2009–52 IRB 972 (December 28, 2009)), (see § 601.601(d)(2)(ii)(*b*)) extends the deadline for adopting an interim or discretionary plan amendment under certain provisions of PPA '06, including section 401(a)(35), to the last day of the first plan year that begins on or after January 1, 2010.

On January 3, 2008, proposed regulations (REG–136701–07) under section 401(a)(35) of the Code were published in the **Federal Register** (73 FR 421). No public hearing was requested. Written comments responding to the notice of proposed rulemaking were received. After consideration of all the comments, the proposed regulations are adopted, as amended by this Treasury decision. The most significant revisions are discussed in the Summary of Comments and Explanation of Revisions.

Treasury has interpretative jurisdiction over the subject matter addressed in these final regulations for purposes of section 204(j) of ERISA. Thus, the guidance provided in these final regulations with respect to section 401(a)(35) of the Code also applies for purposes of section 204(j) of ERISA.

[2] Section 401(a)(28)(B) provides certain diversification rights to participants in an employee stock ownership plan within the meaning of section 4975(e)(7) (ESOP). Section 401(a)(28)(B)(v), as added by section 901(a)(2)(A) of PPA '06, provides that section 401(a)(28)(B) does not to apply to a plan to which section 401(a)(35) applies.

Summary of Comments and Explanation of Revisions

Certain Defined Contribution Plans or Investment Funds Not Treated as Holding Employer Securities

The proposed regulations provided that certain investment funds that include employer securities as part of a broader fund were treated as not holding employer securities. This exception was limited to the extent the employer securities were held indirectly through an investment company registered under the Investment Company Act of 1940; a common or collective trust fund or pooled investment fund maintained by a bank or trust company supervised by a State or a Federal agency; a pooled investment fund of an insurance company that is qualified to do business in a State; or any other investment fund designated by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin. The proposed regulations also provided that this exception was limited to funds where the investment is independent of the employer and where the employer securities do not exceed 10 percent of the fund.

Commentators requested that this exception be broadened to include funds that are managed by an investment manager within the meaning of section 3(38) of ERISA. The final regulations do not provide for this expansion because such a fund would not necessarily be holding employer securities only as an indirect result of its investment policy. However, the final regulations provide that, in the case of a multiemployer plan, an investment option will not be treated as holding employer securities to the extent the employer securities are held indirectly through an investment fund managed by an investment manager if the investment is independent of the employer and the percentage limitation rule is satisfied.

The final regulations replace the reference to a fund that is an investment company registered under the Investment Company Act of 1940 with a regulated investment company as described in Code section 851(a). This change extends the types of investment companies to include exchange traded funds, which are unit investment trusts if they satisfy section 851(a). The final regulations also retain the rule from the proposed regulations that allows the Commissioner to designate additional types of funds as eligible for this exception.

Commentators requested that the percentage limitation rule be eliminated. They argued that it would be difficult and costly to monitor the investment fund to ensure that the aggregate value of the employer securities held in such fund was not in excess of 10 percent of the total assets of all the fund's investments. In response to these comments, the final regulations provide that the determination of whether the value of employer securities exceeds 10 percent of the total value of the fund's investments is made for the plan year as of the end of the preceding plan year. The determination can be based on the information in the latest disclosure of the fund's portfolio holdings (for example, Form N–CSR, "Certified Shareholder Report of Registered Management Investment Companies") that was filed with the Securities and Exchange Commission in that preceding plan year.

The final regulations also provide that in a case where a fund that indirectly holds employer securities fails to meet the requirement that the investment be independent of the employer (including the situation where the fund no longer meets the percentage limitation rule), the plan does not fail to satisfy the diversification requirements under section 401(a)(35) merely because it does not offer those rights for up to 90 days after the investment fund is treated as holding employer securities.

Prohibition on Restrictions or Conditions

Section 401(a)(35)(D)(ii)(II) provides that a plan is not permitted to impose restrictions or conditions with respect to the investment of employer securities that are not imposed on the investment of other assets of the plan. Like the proposed regulations, the final regulations provide that the prohibition on restrictions or conditions with respect to the investment of employer securities applies to any direct or indirect restriction on an individual's right to divest an investment in employer securities that is not imposed on an investment that is not employer securities, as well as a direct or indirect benefit that is conditioned on investment in employer securities.

The proposed regulations provided for a number of permitted restrictions and conditions. The proposed regulations would have permitted a plan to impose a restriction or condition either directly or indirectly because of applicable securities laws or because the plan becomes an applicable defined contribution plan, limits investments in employer securities, limits trading frequency, does not permit investment in a frozen fund, imposes a fee on other investment options that is not imposed on the investment in employer securities or imposes a reasonable fee on the divestment of employer securities, or allows investments to be made in a stable value or similar fund more frequently than other investment funds.

A commentator requested clarification with respect to the exception for frozen funds. The commentator requested that a frozen fund include a plan that reinvests employer security dividends in additional employer securities as long as the plan does not permit any further investment in employer securities. The final regulations clarify that the plan is permitted to allow reinvestment of dividends paid on employer securities. The final regulations also clarify that the frozen fund exception is only available for a plan that does not have another employer securities fund.

Commentators requested that the list for permitted indirect restrictions or conditions be expanded to include certain defined contribution plans that make matching contributions in employer securities and allow participants to divest employer securities attributable to such contributions, but do not permit participants to later elect to reinvest any portion of their account balances in employer stock. The final regulations do not adopt this suggestion. The IRS and the Treasury Department (Treasury) have concluded that the inability to reinvest in employer securities generally acts as a material deterrent to an individual who might otherwise have elected to diversify his or her account balance of employer securities. However, the final regulations provide a transitional rule for certain leveraged ESOPs. An employer stock fund does not fail to be a frozen fund merely because of the allocation of employer securities that are released as matching contributions from the plan's suspense account that holds employer securities acquired with an exempt loan under section 4975(d)(3). This transitional rule only applies to employer securities that were acquired in a plan year beginning before January 1, 2007, with the proceeds of an exempt loan within the meaning of section 4975(d)(3) which is not refinanced after the end of the last plan year beginning before January 1, 2007. This transitional rule was added because these leveraged ESOPs cannot cease allocations of employer securities acquired with an exempt loan that are held in a suspense account without significant effect on the company's debt arrangements.

Commentators suggested that the special rule for a stable value or similar fund be expanded to allow transfers out of a stable value fund or similar fund more frequently than other funds. In response to comments, the final regulations provide that a plan is generally permitted to allow transfers to be made into or out of a stable value fund more frequently than a fund invested in employer securities. Thus, a plan that includes a broad range of investment alternatives as described in section 401(a)(35)(D)(i), including a stable value or similar fund, does not impose an impermissible restriction merely because it permits transfers into and out of the stable value or similar fund more frequently than the other funds (taking into account any restrictions or conditions imposed with respect to the other investment options under the plan).

Commentators requested clarification as to the meaning of a stable value or similar fund. The final regulations provide that a stable value or similar fund means an investment product or fund designed to preserve or guarantee principal and provide a reasonable rate of return, while providing liquidity for benefit distributions or transfers to other investment alternatives (such as a product or fund described in Department of Labor Regulation section 2550.404c–5(e)(4)(iv)(A) or (v)(A)).

One commentator noted that the Department of Labor regulations for qualified default investment alternatives (QDIAs) require QDIAs to be restriction-free for 90 days. The commentator requested clarification that the restriction-free 90-day period does not cause a plan to violate the prohibition on imposing a restriction or condition with respect to employer securities that is not imposed on other investments. However, the commentator further stated that service providers will have difficulty administering restrictions only after 90 days and therefore requested that the final regulations permit restriction-free transfers for QDIAs permanently. The final regulations expand the list of permitted indirect restrictions to provide that a plan may provide for transfers out of a QDIA (within the meaning of Department of Labor Regulation section 2550.404c–5(e)) more frequently than a fund invested in employer securities.

A commentator requested clarification concerning plans being permitted to restrict reinvestments in only one employer stock fund when the plan allows investment in another employer stock fund, provided that the stock contained in each fund has the same characteristics except for differences in the tax cost basis of the trust. The final regulations provide that any applicable tax consequences are disregarded in determining whether a plan imposes an indirect restriction or condition on an individual's right to divest an investment in employer securities. Accordingly, a plan is permitted to provide that an individual may not reinvest divested amounts in the same employer securities account but is permitted to invest such divested amounts in another employer securities account where the only relevant difference between the separate accounts is the section 402(e)(4) cost (or other basis) of the trust in the shares held in each account.

Several commentators requested clarification regarding the 7-day rule in the proposed regulations. The preamble to the proposed regulations explained that the 7-day rule was an example and not the exclusive method to limit trading frequency. The permitted restriction for trading frequency provides that a plan is permitted to impose reasonable restrictions that are designed to limit short-term trading in employer securities. Thus, the 7-day rule, which was mentioned in the preamble to the proposed regulations, is an example and other short-term trading restrictions (such as a restriction based on multiple trades within a specified period) are allowable if they meet the reasonably designed standard.

Miscellaneous

Commentators requested clarification with respect to an ESOP that has been satisfying the diversification requirements under section 401(a)(28) by distributing the portion of the participant's account covered by an election within 90 days after the period during which the election may be made, but which is now subject to the diversification requirements under section 401(a)(35). Such a distribution option does not satisfy the diversification requirements under section 401(a)(35). These commentators were concerned that an amendment which eliminates this distribution option would be a violation of the anti-cutback rules under section 411(d)(6). Section 1107 of PPA '06 provides that any amendment which is made pursuant to a provision of PPA '06 will not fail to meet the requirements of section 411(d)(6) unless otherwise provided by the Secretary of the Treasury.[3] Thus, an amendment to an ESOP which is now subject to the diversification requirements under section 401(a)(35) that eliminates the distribution option available for ESOPs subject to the diversification requirements under section 401(a)(28), as permitted under section 1107 of PPA '06, would not violate the anti-cutback rules under section 411(d)(6).

In addition, it is expected that guidance will be issued in the near future exercising the authority under § 1.411(d)–4, A–2(d)(4), to permit elimination of such a distribution option with respect to an ESOP that is subject to section 401(a)(35) after the end of the limited period to which section 1107 of PPA '06 applies. The guidance will permit elimination of such a distribution option during the extended remedial amendment period permitted with respect to section 401(a)(35) under Notice 2009–97, that is, to the last day of the first plan year that begins on or after January 1, 2010.

Effective/Applicability Date

The final regulations are effective and applicable for plan years beginning on or after January 1, 2011.

For the period after the statutory effective date and before the regulatory effective date set forth in the preceding sentence, a plan must comply with section 401(a)(35). During this period, a plan is permitted to rely on Notice 2006–107, the proposed regulations, or these final regulations for purposes of satisfying the requirements of section 401(a)(35).

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because § 1.401(a)(35)–1 would not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small business.

Drafting Information

The principal authors of these regulations are Dana A. Barry, formerly of the Office of Division Counsel/ Associate Chief Counsel (Tax Exempt and Government Entities), and R. Lisa Mojiri-Azad, Office of Division Counsel/ Associate Chief Counsel (Tax Exempt and Government Entities). However,

[3] See also section 411(d)(6)(C)(ii).

other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.401(a)(35)–1 is also issued under 26 U.S.C. 401(a)(35). * * *

■ **Par. 2.** Section 1.401(a)(35)–1 is added to read as follows:

§ 1.401(a)(35)–1 Diversification requirements for certain defined contribution plans.

(a) *General rule*—(1) *Diversification requirements.* Section 401(a)(35) imposes diversification requirements on applicable defined contribution plans. A trust that is part of an applicable defined contribution plan is not a qualified trust under section 401(a) unless the plan—

(i) Satisfies the diversification election requirements for elective deferrals and employee contributions set forth in paragraph (b) of this section;

(ii) Satisfies the diversification election requirements for employer nonelective contributions set forth in paragraph (c) of this section;

(iii) Satisfies the investment option requirement set forth in paragraph (d) of this section; and

(iv) Does not apply any restrictions or conditions on investments in employer securities that violate the requirements of paragraph (e) of this section.

(2) *Definitions, effective dates, and transition rules.* The definitions of applicable defined contribution plan, employer security, parent corporation, and publicly traded are set forth in paragraph (f) of this section. Applicability dates and transition rules are set forth in paragraph (g) of this section.

(b) *Diversification requirements for elective deferrals and employee contributions invested in employer securities*—(1) *General rule.* With respect to any individual described in paragraph (b)(2) of this section, if any portion of the individual's account under an applicable defined contribution plan attributable to elective deferrals (as described in section 402(g)(3)(A)), employee contributions, or rollover contributions is invested in employer securities, then the plan satisfies the requirements of this paragraph (b) if the individual may elect to divest those employer securities and reinvest an equivalent amount in other investment options. The plan may limit the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

(2) *Applicable individual with respect to elective deferrals and employee contributions.* An individual is described in this paragraph (b)(2) if the individual is—

(i) A participant;

(ii) An alternate payee who has an account under the plan; or

(iii) A beneficiary of a deceased participant.

(c) *Diversification requirements for employer nonelective contributions invested in employer securities*—(1) *General rule.* With respect to any individual described in paragraph (c)(2) of this section, if a portion of the individual's account under an applicable defined contribution plan attributable to employer nonelective contributions is invested in employer securities, then the plan satisfies the requirements of this paragraph (c) if the individual may elect to divest those employer securities and reinvest an equivalent amount in other investment options. The plan may limit the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

(2) *Applicable individual with respect to employer nonelective contributions.* An individual is described in this paragraph (c)(2) if the individual is—

(i) A participant who has completed at least three years of service;

(ii) An alternate payee who has an account under the plan with respect to a participant who has completed at least three years of service; or

(iii) A beneficiary of a deceased participant.

(3) *Completion of three years of service.* For purposes of paragraph (c)(2) of this section, a participant completes three years of service on the last day of the vesting computation period provided for under the plan that constitutes the completion of the third year of service under section 411(a)(5). However, for a plan that uses the elapsed time method of crediting service for vesting purposes (or a plan that provides for immediate vesting without using a vesting computation period or the elapsed time method of determining vesting), a participant completes three years of service on the day immediately preceding the third anniversary of the participant's date of hire.

(d) *Investment options.* An applicable defined contribution plan must offer not less than three investment options, other than employer securities, to which an individual who has the right to divest under paragraph (b)(1) or (c)(1) of this section may direct the proceeds from the divestment of employer securities. Each of the three investment options must be diversified and have materially different risk and return characteristics. For this purpose, investment options that constitute a broad range of investment alternatives within the meaning of Department of Labor Regulation section 2550.404c–1(b)(3) are treated as being diversified and having materially different risk and return characteristics.

(e) *Restrictions or conditions on investments in employer securities*—(1) *Impermissible restrictions or conditions*—(i) *General rule.* Except as provided in paragraph (e)(2) of this section, an applicable defined contribution plan violates the requirements of this paragraph (e) if the plan imposes restrictions or conditions with respect to the investment of employer securities that are not imposed on the investment of other assets of the plan. A restriction or condition with respect to employer securities means—

(A) A restriction on an individual's right to divest an investment in employer securities that is not imposed on an investment that is not employer securities; or

(B) A benefit that is conditioned on investment in employer securities.

(ii) *Indirect restrictions or conditions*—(A) Except as provided in paragraph (e)(3) of this section, a plan violates the requirements of this paragraph (e) if the plan imposes a restriction or condition described in paragraph (e)(1)(i)(A) or (B) of this section either directly or indirectly.

(B) A plan imposes an indirect restriction on an individual's right to divest an investment in employer securities if, for example, the plan provides that a participant who divests his or her account balance with respect to the investment in employer securities is not permitted for a period of time thereafter to reinvest in employer securities.

(C) A plan does not impose an indirect restriction or condition merely because there are tax consequences that result from an individual's divestment of an investment in employer securities. Thus, the loss of the special treatment for net unrealized appreciation provided

under section 402(e)(4) with respect to employer securities is disregarded. Similarly, a plan does not impose an impermissible restriction or condition merely because it provides that an individual may not reinvest divested amounts in the same employer securities account but is permitted to invest such divested amounts in another employer securities account where the only relevant difference between the separate accounts is the section 402(e)(4) cost (or other basis) of the trust in the shares held in each account. (See § 1.402(a)–1(b) for rules regarding section 402(e)(4).)

(2) *Permitted restrictions or conditions*—(i) *In general.* An applicable defined contribution plan does not violate the requirements of this paragraph (e) merely because it imposes a restriction or a condition set forth in paragraph (e)(2)(ii) or (e)(2)(iii) of this section.

(ii) *Securities laws.* A plan is permitted to impose a restriction or condition on the divestiture of employer securities that is either required in order to ensure compliance with applicable securities laws or is reasonably designed to ensure compliance with applicable securities laws. For example, it is permissible for a plan to limit divestiture rights for participants who are subject to section 16(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f) to a reasonable period (such as 3 to 12 days) following publication of the employer's quarterly earnings statements because it is reasonably designed to ensure compliance with Rule 10b–5 of the Securities and Exchange Commission.

(iii) *Deferred application of the diversification requirements*—(A) *Becoming an applicable defined contribution plan.* An applicable defined contribution plan is permitted to restrict the application of the diversification requirements of section 401(a)(35) and this section for up to 90 days after the plan becomes an applicable defined contribution plan (for example, a plan becoming an applicable defined contribution plan because the employer securities held under the plan become publicly traded).

(B) *Loss of exception for indirect investments.* In the case where an investment fund described in paragraph (f)(3)(ii)(A) of this section no longer meets the requirement in paragraph (f)(3)(ii)(B) of this section that the investment must be independent of the employer (including the situation where the fund no longer meets the percentage limitation rule in paragraph (f)(3)(ii)(C) of this section), the plan does not fail to satisfy the diversification requirements of section 401(a)(35) and this section merely because it does not offer those rights with respect to that investment fund for up to 90 days after the investment fund ceases to meet those requirements.

(3) *Permitted indirect restrictions or conditions*—(i) *In general.* An applicable defined contribution plan does not violate the requirements of this paragraph (e) merely because it imposes an indirect restriction or condition set forth in this paragraph (e)(3).

(ii) *Limitation on investment in employer securities.* A plan is permitted to limit the extent to which an individual's account balance can be invested in employer securities, provided the limitation applies without regard to a prior exercise of rights to divest employer securities. For example, a plan does not impose a restriction that violates this paragraph (e) merely because the plan prohibits a participant from investing additional amounts in employer securities if more than 10 percent of that participant's account balance is invested in employer securities.

(iii) *Trading frequency.* A plan is permitted to impose reasonable restrictions on the timing and number of investment elections that an individual can make to invest in employer securities, provided that the restrictions are designed to limit short-term trading in the employer securities. For example, a plan could provide that a participant may not elect to invest in employer securities if the employee has elected to divest employer securities within a short period of time, such as seven days, prior to the election to invest in employer securities.

(iv) *Fees.* The plan has not provided an indirect benefit that is conditioned on investment in employer securities merely because the plan imposes fees on other investment options that are not imposed on the investment in employer securities. In addition, the plan has not provided a restriction on the right to divest an investment in employer securities merely because the plan imposes a reasonable fee for the divestment of employer securities.

(v) *Stable value or similar fund.* A plan is permitted to allow transfers to be made into or out of a stable value or similar fund more frequently than a fund invested in employer securities for purposes of paragraph (e)(1)(ii) of this section. Thus, a plan that includes a broad range of investment alternatives as described in paragraph (d) of this section, including a stable value or similar fund, does not impose an impermissible restriction under paragraph (e)(1)(ii) of this section merely because it permits transfers into or out of that fund more frequently than other funds under the plan, provided that the plan would otherwise satisfy this paragraph (e) (taking into account any restrictions or conditions imposed with respect to the other investment options under the plan). For purposes of this section, a stable value fund or similar fund means an investment product or fund designed to preserve or guarantee principal and provide a reasonable rate of return, while providing liquidity for benefit distributions or transfers to other investment alternatives (such as a product or fund described in Department of Labor Regulation § 2550.404c–5(e)(4)(iv)(A) or (v)(A)).

(vi) *Transfers out of a qualified default investment alternative (QDIA).* A plan is permitted to provide for transfers out of a QDIA within the meaning of Department of Labor Regulation section 2550.404c–5(e) more frequently than a fund invested in employer securities.

(vii) *Frozen funds*—(A) *General rule.* A plan is permitted to prohibit any further investment in employer securities. Thus, a plan is not treated as imposing an indirect restriction merely because it provides that an employee that divests an investment in employer securities is not permitted to reinvest in employer securities, but only if the plan does not permit additional contributions or other investments to be invested in employer securities. For this purpose, a plan does not provide for further investment in employer securities merely because dividends paid on employer securities under the plan are reinvested in employer securities.

(B) *Transitional relief for certain leveraged employee stock ownership plans (ESOPs).* An employer stock fund does not fail to be a frozen fund under this paragraph (e)(3)(vii) merely because of the allocation of employer securities that are released as matching contributions from the plan's suspense account that holds employer securities acquired with an exempt loan under section 4975(d)(3). This paragraph (e)(3)(vii)(B) only applies to employer securities that were acquired in a plan year beginning before January 1, 2007, with the proceeds of an exempt loan within the meaning of section 4975(d)(3) which is not refinanced after the end of the last plan year beginning before January 1, 2007.

(4) *Delegation of authority to Commissioner.* The Commissioner may provide for additional permitted restrictions or conditions or permitted indirect restrictions or conditions in revenue rulings, notices, or other

guidance published in the Internal Revenue Bulletin.

(f) *Definitions*—(1) *Application of definitions.* This paragraph (f) contains definitions that are applicable for purposes of this section.

(2) *Applicable defined contribution plan*—(i) *General rule.* Except as provided in this paragraph (f)(2), an applicable defined contribution plan means any defined contribution plan which holds employer securities that are publicly traded. See paragraph (f)(2)(iv) of this section for a special rule that treats certain plans that hold employer securities that are not publicly traded as applicable defined contribution plans and paragraph (f)(3)(ii) of this section for a special rule that treats certain plans as not holding publicly traded employer securities for purposes of this section.

(ii) *Exception for certain ESOPs.* An employee stock ownership plan (ESOP), as defined in section 4975(e)(7), is not an applicable defined contribution plan if the plan is a separate plan for purposes of section 414(l) with respect to any other defined benefit plan or defined contribution plan maintained by the same employer or employers and holds no contributions (or earnings thereunder) that are (or were ever) subject to section 401(k) or 401(m). Thus, an ESOP is an applicable defined contribution plan if the ESOP is a portion of a larger plan (whether or not that larger plan includes contributions that are subject to section 401(k) or 401(m)). For purposes of this paragraph (f)(2)(ii), a plan is not considered to hold amounts ever subject to section 401(k) or 401(m) merely because the plan holds amounts attributable to rollover amounts in a separate account that were previously subject to section 401(k) or 401(m).

(iii) *Exception for one-participant plans.* A one-participant plan, as defined in section 401(a)(35)(E)(iv), is not an applicable defined contribution plan.

(iv) *Certain defined contribution plans treated as holding publicly traded employer securities*—(A) *General rule.* A defined contribution plan holding employer securities that are not publicly traded is treated as an applicable defined contribution plan if any employer maintaining the plan or any member of a controlled group of corporations that includes such employer has issued a class of stock which is publicly traded. For purposes of this paragraph (f)(2)(iv), a controlled group of corporations has the meaning given such term by section 1563(a), except that "50 percent" is substituted for "80 percent" each place it appears.

(B) *Exception for certain plans.* Paragraph (f)(2)(iv)(A) of this section does not apply to a plan if—

(*1*) No employer maintaining the plan (or a parent corporation with respect to such employer) has issued stock that is publicly traded; and

(*2*) No employer maintaining the plan (or parent corporation with respect to such employer) has issued any special class of stock which grants to the holder or issuer particular rights, or bears particular risks for the holder or issuer, with respect to any employer maintaining the plan (or any member of a controlled group of corporations that includes such employer) which has issued any stock that is publicly traded.

(3) *Employer security*—(i) *General rule.* Employer security has the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974, as amended (ERISA).

(ii) *Certain defined contribution plans or investment funds not treated as holding employer securities*—(A) *Exception for certain indirect investments.* Subject to paragraphs (f)(3)(ii)(B) and (C) of this section, a plan (and an investment option described in paragraph (d) of this section) is not treated as holding employer securities for purposes of this section to the extent the employer securities are held indirectly as part of a broader fund that is—

(*1*) A regulated investment company described in section 851(a);

(*2*) A common or collective trust fund or pooled investment fund maintained by a bank or trust company supervised by a State or a Federal agency;

(*3*) A pooled investment fund of an insurance company that is qualified to do business in a State;

(*4*) An investment fund managed by an investment manager within the meaning of section 3(38) of ERISA for a multiemployer plan; or

(*5*) Any other investment fund designated by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

(B) *Investment must be independent.* The exception set forth in paragraph (f)(3)(ii)(A) of this section applies only if the investment in the employer securities is held in a fund under which—

(*1*) There are stated investment objectives of the fund; and

(*2*) The investment is independent of the employer (or employers) and any affiliate thereof.

(C) *Percentage limitation rule.* For purposes of paragraph (f)(3)(ii)(B)(*2*) of this section, an investment in employer securities in a fund is not considered to be independent of the employer (or employers) and any affiliate thereof if the aggregate value of the employer securities held in the fund is in excess of 10 percent of the total value of all of the fund's investments for the plan year. The determination of whether the value of employer securities exceeds 10 percent of the total value of the fund's investments for the plan year is made as of the end of the preceding plan year. The determination can be based on the information in the latest disclosure of the fund's portfolio holdings that was filed with the Securities and Exchange Commission (SEC) in that preceding plan year.

(4) *Parent corporation.* Parent corporation has the meaning given such term by section 424(e).

(5) *Publicly traded*—(i) *In general.* A security is publicly traded if it is readily tradable on an established securities market.

(ii) *Readily tradable on an established securities market.* For purposes of this paragraph (f)(5), except as provided by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin, a security is readily tradable on an established securities market if—

(A) The security is traded on a national securities exchange that is registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(B) The security is traded on a foreign national securities exchange that is officially recognized, sanctioned, or supervised by a governmental authority and the security is deemed by the SEC as having a "ready market" under SEC Rule 15c3–1 (17 CFR 240.15c3–1).

(g) *Applicability date and transition rules*—(1) *Statutory effective date*—(i) *General rule.* Except as otherwise provided in this paragraph (g) and section 901(c)(3)(A) and (B) of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06), section 401(a)(35) is effective for plan years beginning after December 31, 2006.

(ii) *Collectively bargained plans*—(A) *Delayed statutory effective date.* In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before August 17, 2006, section 401(a)(35) is effective for plan years beginning after the earlier of—

(*1*) The later of—

(*i*) December 31, 2007; or

(*ii*) The date on which the last such collective bargaining agreement

terminates (determined without regard to any extension thereof); or

(*2*) December 31, 2008.

(B) *Treatment of plans with both collectively bargained and non-collectively bargained employees.* If a collective bargaining agreement applies to some, but not all, of the plan participants, the definition of whether the plan is considered a collectively bargained plan for purposes of this paragraph (g)(1)(ii) is made in the same manner as the definition of whether a plan is collectively bargained under section 436(f)(3).

(2) *Regulatory effective/applicability date.* This section is effective and applicable for plan years beginning on or after January 1, 2011.

(3) *Statutory transition rules*—(i) *General rule.* Pursuant to section 401(a)(35)(H), in the case of the portion of an account to which paragraph (c) of this section applies and that consists of employer securities acquired in a plan year beginning before January 1, 2007, the requirements of paragraph (c) of this section only apply to the applicable percentage of such securities.

(ii) *Applicable percentage*—(A) *Phase-in percentage.* For purposes of this paragraph (g)(3), the applicable percentage is determined as follows—

Plan year to which paragraph (c) of this section applies:	The applicable percentage is:
1st	33
2nd	66
3rd and following	100

(B) *Special rule.* For a plan for which the special effective date under section 901(c)(3) of PPA '06 applies, the applicable percentage under this paragraph (g)(3)(ii) is determined without regard to the delayed effective date in section 901(c)(3)(A) and (B) of PPA '06.

(iii) *Nonapplication for participants age 55 with three years of service.* Paragraph (g)(3)(i) of this section does not apply to an individual who is a participant who attained age 55 and had completed at least three years of service (as defined in paragraph (c)(3) of this section) before the first day of the first plan year beginning after December 31, 2005.

(iv) *Separate application by class of securities.* This paragraph (g)(3) applies separately with respect to each class of securities.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: May 5, 2010.

Michael F. Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2010–11924 Filed 5–18–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9483]

RIN 1545–BH65

Qualified Nonpersonal Use Vehicles

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to qualified nonpersonal use vehicles as defined in section 274(i). Qualified nonpersonal use vehicles are excepted from the substantiation requirements of section 274(d)(4) that apply to listed property as defined in section 280F(d)(4). These final regulations add clearly marked public safety officer vehicles as a new type of qualified nonpersonal use vehicle. These final regulations affect employers that provide their employees with qualified nonpersonal use vehicles and the employees who use such vehicles.

DATES: *Effective Date:* These regulations are effective on *May 19, 2010.*

Applicability Date: These regulations apply to uses of clearly marked public safety officer vehicles occurring after May 19, 2010.

FOR FURTHER INFORMATION CONTACT: Don Parkinson at (202) 622–6040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final Income Tax Regulations under section 274(i) added by section 2(b) of Public Law 99–44 (May 24, 1985), which provides a definition of qualified nonpersonal use vehicle. Temporary Regulation § 1.274–5T(k), identifying categories of qualified nonpersonal use vehicles and Temporary Regulation § 1.274–5T(l), providing for definitions of the terms "automobile," "vehicle," "employer," "employee," and "personal use" were issued in 1985. (TD 8061 1982–5 CB 93 (1985)). A notice of proposed rulemaking was issued by cross-reference to Temporary Regulation § 1.274–5T(k). (LR–145–84, 50 FR 46088, 1985–2 CB 809 (1985)).

On June 9, 2008, proposed regulations (REG–106897–08) were published in the **Federal Register** (73 FR 32500). The proposed regulations incorporated the text of § 1.274–5T(k) and added clearly marked public safety officer vehicles as a new type of qualified nonpersonal use vehicle, listed along with clearly marked police and fire vehicles at § 1.274–5(k)(2)(ii)(A). A definition of clearly marked public safety officer vehicles was added to the provision defining clearly marked police and fire vehicles at § 1.274–5(k)(3), and an example illustrating application of the rules to a public safety officer vehicle was added at § 1.274–5(k)(8) *Example 3.* The proposed regulations incorporated the text of § 1.274–5T(l) with no changes. The corresponding provisions of the proposed regulations in LR–145–84 were withdrawn on June 8, 2008.

Written public comments on the proposed regulations at § 1.274–5(k) and (l) were received and no hearing was requested. After consideration of all the comments, these final regulations adopt the provisions of the proposed regulations with an amendment to *Example 3* and the provision of a new *Example 4* in § 1.274–5(k)(8) which are intended to assist taxpayers in determining whether individual employees meet the definition of public safety officer. The temporary regulations at § 1.274–5T(k) and (l) are withdrawn concurrently with the publication of these final regulations in the **Federal Register.** The remaining temporary regulations at § 1.274–5T are unaffected by this Treasury decision.

Summary of Comments and Explanation of Provisions

Section 274(d) provides that a taxpayer is not allowed a deduction or credit for certain expenses unless the expenses are substantiated. These substantiation requirements apply to expenses incurred in the of use of any listed property (defined in section 280F(d)(4)), which includes any passenger automobile and any other property used as a means of transportation. Section 274(d) does not apply to any qualified nonpersonal use vehicle as defined in section 274(i). Both business and personal use of a vehicle that meets the criteria to be a qualified nonpersonal use vehicle under section 274(i) will also qualify as a working condition fringe benefit that is excluded from the recipient's income

under section 132(d). Thus, if an employer provides an employee with a qualified nonpersonal use vehicle, the employee does not need to keep records of how the vehicle is used, and both the business and the personal use of the vehicle will be excluded from the employee's income as a working condition fringe benefit under section 132(d).

Section 274(i) provides that a qualified nonpersonal use vehicle is any vehicle which by reason of its nature is not likely to be used more than a de minimis amount for personal purposes. The legislative history to section 274(i) provided a list of qualified nonpersonal use vehicles and identified a number of examples of qualified nonpersonal use vehicles such as school buses, qualified specialized utility repair trucks, and qualified moving vans. The legislative history indicated that Congress wanted the Commissioner to expand the list to include other vehicles appropriate for listing because by their nature it is highly unlikely that they will be used more than a very minimal amount for personal purposes. H.R. Rep. No. 99–34, at 11 (1985).

Passenger automobiles such as sedans and sport utility vehicles are generally not exempt from taxation as qualified nonpersonal use vehicles because by design they can easily be used for personal purposes. However, unmarked law enforcement vehicles and clearly marked police and fire vehicles are included in the list of qualified nonpersonal use vehicles set forth in the legislative history to section 274(i) and incorporated into these final regulations.

Under prior rules, clearly marked vehicles provided to Federal, State and local government workers who respond to emergency situations did not satisfy the current regulations governing qualified nonpersonal use vehicles if the individual workers were not employed by either the fire department or police department. These final regulations, consistent with the proposed regulations, add clearly marked public safety officer vehicles to the list of qualified nonpersonal use vehicles so that emergency responders who are not employed by either the fire department or police department receive the same treatment as those who work for the police or fire department.

A clearly marked public safety officer vehicle is a vehicle owned or leased by a governmental unit or any agency or instrumentality thereof, that is required to be used for commuting by a public safety officer as defined in section 402(l)(4)(C) who, when not on a regular shift, is on call at all times, provided that any personal use (other than commuting) of the vehicle outside the limit of the public safety officer's obligation to respond to an emergency is prohibited by such governmental unit. A public safety officer vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a public safety officer vehicle.

Section 402(l)(4)(C) provides that the term "public safety officer" shall have the same meaning given such term by the Omnibus Crime Control and Safe Streets Act of 1968, as codified at 42 U.S.C. 3796b(9)(A). The definition of public safety officer is part of the Public Safety Officer's Benefits Act which was enacted as part L of Title I of the Omnibus Crime Control and Safe Streets Act of 1968. 42 U.S.C. 3796b(9)(A) defines public safety officer as "an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, a chaplain, or as a member of a rescue squad or ambulance crew."

Some commenters suggested eliminating some of the requirements pertaining to qualified nonpersonal use vehicles. In particular, commenters suggested elimination of the requirement that the vehicle be clearly marked, or the requirement that the individual be on call at all times, or the requirement that the vehicle be specially equipped.

Qualified nonpersonal use vehicles were exempted from the substantiation and recordkeeping requirements imposed under section 274(d) and minimal personal use of such vehicles was excluded from income because the nature of the vehicles prevents more than a de minimis amount of personal use. If an individual is not on call at all times, personal use may be more than de minimis. If the vehicle is not required to be specially equipped or clearly marked, the vehicle will function easily as a personal use vehicle and is not readily distinguishable from vehicles routinely used for personal purposes. Thus, these suggested changes were not adopted because they conflict with the underlying goal and purpose of the statute.

A number of comments were made urging that various specific types of workers be included within the definition "public safety officer." For example, commenters suggested the definition of public safety officer should be expanded to include employees who respond to local disasters such as flash floods, pipeline ruptures, hazardous material accidents, bridge collapses, and mining accidents. Additionally commenters suggested that child protective service workers, emergency management personnel, and members of Incident Management Teams which are part of the Department of Homeland Security's National Incident Management System should all be included in the definition of public safety officer.

The determination of the status of an individual as a public safety officer is made pursuant to a facts and circumstances analysis based on an evaluation of the relevant criteria in the Public Safety Officers' Benefits Act of 1978 and its regulations (PSOB Regulations, 28 CFR part 32). The PSOB regulations set forth criteria to be used in determining whether individual workers are public safety officers. For example, the PSOB Regulations at 28 CFR 32.3 define "rescue squad or ambulance crew" as follows: "a squad or crew whose members are rescue workers, ambulance drivers, paramedics, health-care responders, emergency medical technicians, or other similar workers who—

(1) Are trained in rescue activity or the provision of emergency medical services; and

(2) As such members, have the legal authority and responsibility to—

(i) Engage in rescue activity; or

(ii) Provide emergency medical services.

Rescue activity means search or rescue assistance in locating or extracting from danger persons lost, missing, or in imminent danger of serious bodily harm.

Emergency medical services means—

(1) Provision of first-response emergency medical care (other than in a permanent medical-care facility); or

(2) Transportation of persons in medical distress (or under emergency conditions) to medical-care facilities.

As a general rule, the determination of the status of an individual as a rescue squad or ambulance crew member is based on whether that individual is trained to engage in rescue activity or to provide emergency medical services and whether that individual has legal authority and legal responsibility to engage in rescue activity or provide emergency medical services.

Thus, an individual's job title is not determinative of his or her status as a public safety officer. Instead, the determination is made based on the facts and circumstances of the individual's employment, including their training, legal authority and legal responsibility. *Example 3* has been modified and an *Example 4* has been added to clarify this analysis using the criteria in the PSOB Regulations.

Moreover, these final regulations have not been amended to add additional job titles to the definition of public safety officer as suggested by commenters because an employee's job title is not determinative of their status as a public safety officer.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that these regulations do not require a collection of information and do not impose any new or different requirements on small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Council for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Don M. Parkinson, Office of the Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.132–5 paragraph (h) is revised to read as follows:

§ 1.132–5 Working condition fringes.

* * * * *

(h) *Qualified nonpersonal use vehicles*—(1) *In general.* Except as provided in paragraph (h)(2) of this section, 100 percent of the value of the use of a qualified nonpersonal use vehicle (as described in § 1.274–5(k)) is excluded from gross income as a working condition fringe, provided that, in the case of a vehicle described in § 1.274–5(k)(3) through (8), the use of the vehicle conforms to the requirements of paragraphs (k)(3) through (8).

(2) *Shared usage of qualified nonpersonal use vehicles.* In general, a working condition fringe under this paragraph (h) is available to the driver and all passengers of a qualified nonpersonal use vehicle. However, a working condition fringe under this paragraph (h) is available only with respect to the driver and not with respect to any passengers of a qualified nonpersonal use vehicle described in § 1.274–5(k)(2)(ii)(L) or (P).

* * * * *

■ **Par. 3.** Section 1.274–5 paragraphs (k) and (l) and the last sentence of paragraph (m) are revised to read as follows:

§ 1.274–5 Substantiation requirements.

* * * * *

(k) *Exceptions for qualified nonpersonal use vehicles*—(1) *In general.* The substantiation requirements of section 274(d) and this section do not apply to any qualified nonpersonal use vehicle (as defined in paragraph (k)(2) of this section).

(2) *Qualified nonpersonal use vehicle*—(i) *In general.* For purposes of section 274(d) and this section, the term *qualified nonpersonal use vehicle* means any vehicle which, by reason of its nature (that is, design), is not likely to be used more than a de minimis amount for personal purposes.

(ii) *List of vehicles.* Vehicles which are qualified nonpersonal use vehicles include the following:

(A) Clearly marked police, fire, and public safety officer vehicles (as defined and to the extent provided in paragraph (k)(3) of this section).

(B) Ambulances used as such or hearses used as such.

(C) Any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds.

(D) Bucket trucks (cherry pickers).

(E) Cement mixers.

(F) Combines.

(G) Cranes and derricks.

(H) Delivery trucks with seating only for the driver, or only for the driver plus a folding jump seat.

(I) Dump trucks (including garbage trucks).

(J) Flatbed trucks.

(K) Forklifts.

(L) Passenger buses used as such with a capacity of at least 20 passengers.

(M) Qualified moving vans (as defined in paragraph (k)(4) of this section).

(N) Qualified specialized utility repair trucks (as defined in paragraph (k)(5) of this section).

(O) Refrigerated trucks.

(P) School buses (as defined in section 4221(d)(7)(c)).

(Q) Tractors and other special purpose farm vehicles.

(R) Unmarked vehicles used by law enforcement officers (as defined in paragraph (k)(6) of this section) if the use is officially authorized.

(S) Such other vehicles as the Commissioner may designate.

(3) *Clearly marked police, fire, or public safety officer vehicles.* A police, fire, or public safety officer vehicle is a vehicle, owned or leased by a governmental unit, or any agency or instrumentality thereof, that is required to be used for commuting by a police officer, fire fighter, or public safety officer (as defined in section 402(l)(4)(C) of this chapter) who, when not on a regular shift, is on call at all times, provided that any personal use (other than commuting) of the vehicle outside the limit of the police officer's arrest powers or the fire fighter's or public safety officer's obligation to respond to an emergency is prohibited by such governmental unit. A police, fire, or public safety officer vehicle is clearly marked if, through painted insignia or words, it is readily apparent that the vehicle is a police, fire, or public safety officer vehicle. A marking on a license plate is not a clear marking for purposes of this paragraph (k).

(4) *Qualified moving van.* The term *qualified moving van* means any truck or van used by a professional moving company in the trade or business of moving household or business goods if—

(i) No personal use of the van is allowed other than for travel to and from a move site (or for de minimis personal use, such as a stop for lunch on the way between two move sites);

(ii) Personal use for travel to and from a move site is an irregular practice (that is, not more than five times a month on average); and

(iii) Personal use is limited to situations in which it is more convenient to the employer, because of the location of the employee's residence in relation to the location of the move site, for the van not to be returned to the employer's business location.

(5) *Qualified specialized utility repair truck.* The term *qualified specialized utility repair truck* means any truck (not including a van or pickup truck)

specifically designed and used to carry heavy tools, testing equipment, or parts if—

(i) The shelves, racks, or other permanent interior construction which has been installed to carry and store such heavy items is such that it is unlikely that the truck will be used more than a de minimis amount for personal purposes; and

(ii) The employer requires the employee to drive the truck home in order to be able to respond in emergency situations for purposes of restoring or maintaining electricity, gas, telephone, water, sewer, or steam utility services.

(6) *Unmarked law enforcement vehicles*—(i) *In general.* The substantiation requirements of section 274(d) and this section do not apply to officially authorized uses of an unmarked vehicle by a "law enforcement officer". To qualify for this exception, any personal use must be authorized by the Federal, State, county, or local governmental agency or department that owns or leases the vehicle and employs the officer, and must be incident to law-enforcement functions, such as being able to report directly from home to a stakeout or surveillance site, or to an emergency situation. Use of an unmarked vehicle for vacation or recreation trips cannot qualify as an authorized use.

(ii) *Law enforcement officer.* The term *law enforcement officer* means an individual who is employed on a full-time basis by a governmental unit that is responsible for the prevention or investigation of crime involving injury to persons or property (including apprehension or detention of persons for such crimes), who is authorized by law to carry firearms, execute search warrants, and to make arrests (other than merely a citizen's arrest), and who regularly carries firearms (except when it is not possible to do so because of the requirements of undercover work). The term "law enforcement officer" may include an arson investigator if the investigator otherwise meets the requirements of this paragraph (k)(6)(ii), but does not include Internal Revenue Service special agents.

(7) *Trucks and vans.* The substantiation requirements of section 274(d) and this section apply generally to any pickup truck or van, unless the truck or van has been specially modified with the result that it is not likely to be used more than a de minimis amount for personal purposes. For example, a van that has only a front bench for seating, in which permanent shelving that fills most of the cargo area has been installed, that constantly carries merchandise or equipment, and that has been specially painted with advertising or the company's name, is a vehicle not likely to be used more than a de minimis amount for personal purposes.

(8) *Examples.* The following examples illustrate the provisions of paragraph (k)(3) and (6) of this section:

Example 1. Detective C, who is a "law enforcement officer" employed by a state police department, headquartered in City M, is provided with an unmarked vehicle (equipped with radio communication) for use during off-duty hours because C must be able to communicate with headquarters and be available for duty at any time (for example, to report to a surveillance or crime site). The police department generally has officially authorized personal use of the vehicle by C but has prohibited use of the vehicle for recreational purposes or for personal purposes outside the state. Thus, C's use of the vehicle for commuting between headquarters or a surveillance site and home and for personal errands is authorized personal use as described in paragraph (k)(6)(i) of this section. With respect to these authorized uses the vehicle is not subject to the substantiation requirements of section 274(d) and the value of these uses is not included in C's gross income.

Example 2. Detective T is a "law enforcement officer" employed by City M. T is authorized to make arrests only within M's city limits. T, along with all other officers of the force, is ordinarily on duty for eight hours each work day and on call during the other sixteen hours. T is provided with the use of a clearly marked police vehicle in which T is required to commute to his home in City M. The police department's official policy regarding marked police vehicles prohibits its personal use (other than commuting) of the vehicles outside the city limits. When not using the vehicle on the job, T uses the vehicle only for commuting, personal errands on the way between work and home, and personal errands within City M. All use of the vehicle by T conforms to the requirements of paragraph (k)(3) of this section. Therefore, the value of that use is excluded from T's gross income as a working condition fringe and the vehicle is not subject to the substantiation requirements of section 274(d).

Example 3. Director C is employed by City M as the director of the City's rescue squad and is provided with a vehicle for use in responding to emergencies. Director C is trained in rescue activity and has the legal authority and legal responsibility to engage in rescue activity. The city's rescue squad is not a part of City M's police or fire departments. The director's vehicle is a sedan which is painted with insignia and words identifying the vehicle as being owned by the City's rescue squad. C, when not on a regular shift, is on call at all times. The City's official policy regarding clearly marked public safety officer vehicles prohibits personal use (other than for commuting) of the vehicle outside of the limits of the public safety officer's obligation to respond to an emergency. When not using the vehicle to respond to emergencies, City M authorizes C to use the vehicle only for commuting, personal errands on the way between work and home, and personal errands within the limits of C's obligation to respond to emergencies. With respect to these authorized uses, the vehicle is not subject to the substantiation requirements of section 274(d) and the value of these uses is not includable in C's gross income.

Example 4. Coroner D is employed by County N to investigate and determine the cause, time, and manner of certain deaths occurring in the County. Coroner D also safeguards the property of the deceased, notifies the next of kin, conducts inquests, and arranges for the burial of indigent persons. D is provided with a vehicle for use by County N. The vehicle is to be used in County N business and for commuting. Personal use other than for commuting purposes is forbidden. D is trained in rescue activity but has no legal authority or legal responsibility to engage in rescue activity. D's vehicle is a sedan which is painted with insignia and words identifying it as a County N vehicle. D, when not on a regular shift, is on call at all times. D does not satisfy the criteria of a public safety officer under 28 CFR 32.3 (2008). Thus, D's vehicle cannot qualify as a clearly marked public safety officer vehicle. Accordingly, business use of the vehicle is subject to the substantiation requirements of section 274(d), and the value of any personal use of the vehicle, such as commuting, is includable in D's gross income.

(l) *Definitions.* For purposes of section 274(d) and this section, the terms *automobile* and *vehicle* have the same meanings as prescribed in § 1.61–21(d)(1)(ii) and (e)(2), respectively. Also, for purposes of section 274(d) and this section, the terms *employer, employee* and *personal use* have the same meanings as prescribed in § 1.274–6T(e).

(m) * * * However, paragraph (j)(3) of this section applies to expenses paid or incurred after September 30, 2002, and paragraph (k) applies to clearly marked public safety officer vehicles, as defined in § 1.274–5(k)(3), only with respect to uses occurring after May 19, 2010.

■ **Par. 4.** Section 1.274–5T is amended by revising paragraphs (k) and (l) to read as follows:

§ 1.274–5T Substantiation requirements (temporary).

* * * * *

(k) and (l) [Reserved]. For further guidance, see § 1.274–5(k) and (l).

* * * * *

■ **Par. 5.** Section 1.280F–6 is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 1.280F–6 Special rules and definitions.

* * * * *

(b) * * *

(2) * * *

(ii) *Exception.* The term "listed property" does not include any vehicle

that is a qualified nonpersonal use vehicle as defined in section 274(i) and § 1.274–5(k).

* * * * *

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: May 5, 2010.

Michael Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2010–11767 Filed 5–18–10; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2009–0269; FRL–9152–6]

Approval and Promulgation of Implementation Plans; State of California; Legal Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to clarify the contents of the applicable implementation plan for the State of California under the Clean Air Act. Specifically, EPA is taking final action to clarify that the statutory provisions submitted by California and approved by EPA in 1972 supporting the State's legal authority chapter of the original implementation plan were superseded by a subsequent approval by EPA in 1980 of California's revision to the legal authority chapter of the plan. EPA is taking this action to clarify the status in the California plan of the statutory provisions submitted and approved in 1972.

DATES: *Effective Date:* This rule is effective on June 18, 2010.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2009–0269 for this action. The index to the docket is available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, Chief, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 972–3974: *rios.gerardo@epa.gov.*

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

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I. Proposed Action

On January 29, 2010 (75 FR 4742), under the Clean Air Act (CAA or "Act"), we proposed to clarify that the statutory provisions submitted by California in 1972 supporting the State's legal authority chapter of the original implementation plan were superseded by a subsequent approval by EPA in 1980 of a revision to California's legal authority chapter of the plan.

In support of our proposed action, we provided a detailed account of the regulatory context in which the original California State implementation plan (SIP) was submitted and approved by EPA. We also described in detail the contents of the original California SIP, which consisted of 13 parts, the first part ("State General Plan") of which included a chapter 7 ("Legal Considerations"), referred to herein as the "legal authority" chapter. The original SIP also included an appendix (entitled "Appendix II: State Statutes and other Legal Documents Pertinent to Air Pollution Control in California") to the legal authority chapter. The legal authority chapter included many citations to individual sections within the California Health & Safety Code (CH&SC) and other California codes, as well as citations to (then) recently approved legislation, and attorney general opinions as support for the assurance that adequate legal authority exists in the State to meet CAA and EPA SIP requirements.

As described in the proposal, the appendix to the legal authority chapter in the plan (herein, "appendix II") included the specific sections of California code and other legal documents cited in chapter 7, but also included many sections of California code that were not cited specifically in chapter 7. Our proposed rule describes in detail the contents of appendix II and its 14 categories of statutory and other legal documents.

In May 1972, we approved in part and disapproved in part the original California SIP. *See* 37 FR 10842 (May 31, 1972) and 40 CFR 52.220(b). EPA's approval included both chapter 7 and the statutory and other documents contained in appendix II as described above.

As explained in our proposed rule, in response to EPA's request and in response to the Clean Air Act Amendments of 1977, California undertook a comprehensive update to the California SIP. On March 16, 1979, the California Air Resources Board (ARB) submitted a revision to the legal authority chapter of the SIP, entitled "Chapter 3—Legal Authority, Revision to State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards (December 1978)," (also referred to herein as "Chapter 3—Legal Authority" or the "revised legal authority" chapter). Much like the original legal authority chapter, the revised legal authority chapter provides an overview of air pollution control in California. While the general topics covered in the revised legal authority chapter were similar to those covered in the original legal authority chapter, the discussion is completely re-organized and updated to reflect, among other things, recodifications of statutory provisions. Also, like the legal authority chapter in the original SIP, the revised legal authority chapter includes numerous citations to individual sections of the CH&SC (which had been re-numbered and re-codified since the time of the original SIP), certain citations to other California codes and other legal documents. However, unlike the legal authority chapter in the original SIP, the revised legal authority chapter, as submitted in 1979, did not include physical copies of the actual statutory provisions nor the other documents cited in the chapter. Instead, the 1979 SIP revision simply incorporates by reference the 1978 edition of *California Air Pollution Control Laws* as "appendix 3–A" to the chapter. Later in 1979, we proposed approval of the revised SIP "Chapter 3—Legal Authority" as an update and clarification of the 1972 SIP. *See* 44 FR 38912 (July 3, 1979). The following year, we took final action, effective September 10, 1980, to approve the revised legal authority chapter. *See* 45 FR 53136 (August 11, 1980) and 40 CFR 52.220(c)(48). Since that time, EPA has not approved any other revision to the chapter that addresses legal authority in the California SIP.

Based upon our review of the relevant provisions of the original California SIP and the related 1979 SIP revision, and the corresponding EPA approval actions, we proposed to clarify the contents of the SIP to reflect our determination that the statutory provisions and other legal documents

submitted in support of the legal authority chapter in the original SIP were superseded by our 1980 approval of the revised legal authority chapter of the California SIP (codified at 40 CFR 52.220(c)(48)) and are no longer part of the California SIP. Our determination that the 1979 submittal of the revised legal authority chapter represented a wholesale replacement of the original chapter was based on the nature and scope of the revised chapter and the mismatch between the statutory citations in the revised chapter and those contained in the original chapter.[1] We also noted that the actual statutory provisions and other legal documents relied upon to support a State's assurance of adequate legal authority need not be approved into the SIP under CAA section 110 or EPA's SIP regulations in 40 CFR part 51 (although such provisions are required to be submitted with the plan). Thus, EPA could approve, consistent with CAA and EPA requirements, and did so in this instance, a wholesale revision to the original legal authority chapter without also approving the actual statutory provisions and other legal documents cited therein.[2]

To memorialize our interpretation of the effect of our 1980 approval of the revised legal authority chapter of the California SIP, we proposed under CAA section 301(a)(1)[3] to revise 40 CFR 52.220(b)(12)(i) to clarify that none of the statutory provisions (and other legal documents) submitted in connection with chapter 7 ("Legal Considerations") of the original California SIP remain in the SIP, not just the few provisions currently listed as being deleted.[4]

Additional background information for today's action can be found in our January 29, 2010 proposed rule (75 FR 4742).

II. Public Comments and EPA Responses

Our January 29, 2010 proposed rule (75 FR 4742) provided for a 30-day comment period. During that period, we received comments from four groups: Earthjustice, on behalf of the Sierra Club, by letter dated March 1, 2010; Center on Race, Poverty & the Environment (referred to herein as "AIR"), on behalf of the Association of Irritated Residents and many other community and environmental groups, by letter dated March 1, 2010; San Joaquin Valley Air Pollution Control District ("District"), by letter dated February 24, 2010; and Greenberg-Glusker law firm (referred to herein as "Dairy Cares"), on behalf of Dairy Cares, a coalition of California's dairy producer and processor associations, by letter dated March 1, 2010.

Earthjustice expresses support for EPA's proposed rule. The three other commenters object to our proposed action. Dairy Cares joins in the District's comments and adds comments of its own. In the following paragraphs, we provide a summary of all significant adverse comments and we provide our corresponding responses. For the purposes of this section of the document, "District" refers herein to both the District and Dairy Cares, whereas "Dairy Cares" is used in reference to the additional comments submitted by this commenter.

Comment #1: AIR contends that there has never been an exemption for agricultural sources in the SIP as it relates to San Joaquin Valley. Under the *Safe Air* case, AIR contends that there can be no exemptions in the SIP by virtue of the original 1972 SIP and 1978 SIP Revision because the SIP's plain language as adopted and submitted contains no exemption and the vague references to California statutory authority are not in the SIP as incorporated by reference in the Code of Federal Regulations (CFR). AIR also asserts that EPA could not have lawfully approved the original 1972 SIP and 1978 SIP Revision with exemptions for agricultural sources without violating the Clean Air Act.

Response #1: We recognize that our approval of the original California SIP in 40 CFR 52.220(a) ("Title of plan: 'The State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards' ") and (b) ("The plan was officially submitted on February 21, 1972") on May 31, 1972 (37 FR 10842, at 10851) says nothing about the contents of the original SIP. To uncover its contents, we reviewed a copy of the original SIP maintained in the collection of materials at the National Archives and Record Center in San Bruno, California. From that copy, we determined that the original SIP contained an appendix to the legal authority chapter that contained various statutory provisions, and other legal documents.

Among the statutes in the appendix was CH&SC section 24265, which excludes certain categories of emission sources, including equipment used in agricultural operations in the growing of crops or raising of fowls or animals, from the general grant of authority to local air districts to require permits for new and existing emissions sources (herein, "agricultural permitting exemption"). We found no evidence in the original SIP itself that the materials in the appendix to the legal authority chapter were not intended by the State to be included in the plan itself. Nor did we find any evidence in our approval action that we did not intend to approve the entire contents of the appendix to the legal authority chapter of the original California SIP. In our May 31, 1972 final approval of the original California SIP, we added 40 CFR 52.233, which states: "With the exceptions set forth in this subpart, the Administrator approves California's plan for the attainment and maintenance of the national standards." *See* 37 FR 10842, at 10852. In the case of our May 1972 action on the original SIP, none of the "exceptions set forth in this subpart," such as our findings in 40 CFR 52.225 ("Legal Authority") that the California SIP failed to provide sufficient legal

[1] ARB described the nature and purpose of that agency's comprehensive update of the California SIP during the late 1970's as follows: "The [EPA] has formally requested that the [ARB] update the *State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards,* usually referred to simply as the 'SIP.' The original SIP document, submitted to EPA in 1972, has become obsolete largely because of the many modifications to Federal, state, and local air pollution rules and regulations and substantial advancements in technical aspects of air pollution prediction and control. A new *SIP 1978 Working Document* has been prepared as an initial response to the EPA request and contains an updated summary and description of the California SIP. * * * The SIP 1978 Working Document is a step towards replacing the obsolete 1972 SIP." *See* page 1 of Chapter 1 ("Introduction") (April 1978) of the SIP—78 Working Document. Therefore, the revised legal authority chapter was intended by ARB, and approved by EPA, as a wholesale replacement of the original legal authority chapter, including the related statutory provisions and other materials submitted in support of the original chapter.

[2] We view the revised legal authority chapter's incorporation (as appendix 3–A) of the 1978 edition of *California Air Pollution Control Laws* as simply providing a general reference to where the statutory citations in the chapter could be located rather than as having the effect of a literal reading of the provisions into the chapter.

[3] CAA section 301(a)(1) states: "The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this chapter. * * *." We believe that our rule proposed herein today is necessary to clarify the contents of the California SIP and thereby carry out the functions of EPA in connection with the state's plan.

[4] As noted in the proposed rule, the status of the statutory provisions from the original SIP has recently come into question in the context of third party litigation, an EPA rulemaking action on a revision to new source review rules in the San Joaquin Valley, and a lawsuit filed against EPA challenging certain EPA actions on the premise that such actions were arbitrary and capricious if a certain statutory provision submitted and approved by EPA in connection with the original SIP remains in effect as part of the current applicable California SIP. Thus, we believe that clarification of the status of the statutory provisions (and other legal documents) submitted in connection with the original SIP is necessary and appropriate at this time.

authority to meet the requirements related to air pollution emergencies and to make emissions data publicly available, provide evidence that we disapproved any of contents of the appendix to the legal authority chapter of the original SIP. Therefore, we concluded that the statutory provisions and other legal documents contained in the appendix to the legal authority chapter of the original California SIP were approved along with the rest of the plan in May 1972, and the agricultural permitting exemption found in CH&SC section 24265 was swept into the SIP by virtue of being included among the appendix materials so approved.

AIR points to the *Safe Air* case in support for its contention that no exemptions are in the SIP by virtue of the original 1972 SIP (submitted and approved in 1972) and the "1978 SIP Revision" (*i.e.,* the revision to the legal authority chapter, which was adopted in December 1978, submitted in March 1979, and approved in September 1980). In so doing, AIR states that the SIP's plain language contains no exemption and asserts that the vague references to California statutory authority are not in the SIP as incorporated by reference in the CFR. In the *Safe Air* case, the court held that "SIPs are interpreted based on their plain meaning when such a meaning is apparent, not absurd, and not contradicted by the manifest intent of EPA, as expressed in the promulgating documents available to the public." *See Safe Air for Everyone v. EPA,* 488 F.3d 1088, 1100 (9th Cir. 2007). Under the circumstances of the *Safe Air* case, the court found that the plain language of the Idaho SIP did not include the State's statutory restrictions on regulation of field burning, nor were the statutory restrictions on regulation of field burning made manifest in EPA's approval of the State's open burning rule, and thus, were not relevant in interpreting the existing SIP.

With respect to the agricultural permitting exemption and the California SIP, the existence of the exemption as part of the original California SIP as approved by EPA is apparent from a review of the submitted plan itself. We also do not believe our approval of the exemption in 1972 to be absurd or contradicted by the manifest intent of the State of California or EPA. As such, our interpretation is consistent with the holding of the *Safe Air* case. As clarified in today's action, our approval of California's 1979 update to the legal authority chapter of the California SIP superseded the original legal authority chapter and the related supporting appendix materials in the California SIP, including the agricultural permitting exemption.

Lastly, AIR asserts that EPA should interpret the Agency's California SIP approvals under the presumption that, absent a demonstration to the contrary, we acted consistent with the CAA and related Agency policies, and because in AIR's view, we could not have lawfully approved the original 1972 SIP and the "1978 SIP Revision" with exemptions for agricultural sources without violating the Clean Air Act, then the presumption should be that the exemptions were not approved into the SIP. First, we did not approve the agricultural permitting exemption when we took action in 1980 to approve California's 1979 update to the legal authority chapter of the SIP. As discussed in our January 29, 2010 proposed rule, we have concluded, however, that we did approve the agricultural permitting exemption in 1972 when we approved the original California SIP.

We disagree that our 1972 approval did not comport with the requirements for SIPs under the Clean Air Act and EPA's regulations in effect at that time. Given the state of air pollution knowledge at the time, a SIP exemption from permitting for agricultural sources is not surprising. In 1972, stationary sources had yet to be divided under the Clean Air Act into "major" and "minor" categories (the requirement for permitting of "major" sources came later), and given the state of knowledge concerning air pollution sources and control methods at the time, it is certainly plausible that neither the State of California nor EPA foresaw that regulation of new and modified agricultural sources, as opposed to new and modified factories and smelters, and the regulation of motor vehicles, would be necessary to attain and maintain the national ambient air quality standards (NAAQS).

As noted above, we have concluded that the agricultural permitting exemption, along with the other statutes and legal documents, submitted in the appendix to the legal authority chapter in the original 1972 SIP were approved by EPA and made part of the applicable SIP. To the extent, however, that uncertainty remains on this point, it does not matter from the standpoint of the California SIP over the past 30 years, because, as we are clarifying in this final rule, our 1980 approval of the legal authority chapter superseded the 1972 approval of the corresponding chapter (and its related appendix) such that the agricultural exemption was no longer in the SIP beginning with the effective date of our final rule approving the revised chapter (*i.e.,* September 10, 1980).

Comment #2: The District contends that California's agricultural permitting exemption was approved into the SIP in 1972.

Response #2: We agree. As explained in detail in the January 29, 2010 proposed rule (75 FR at 4743), we have concluded that the statutory provisions contained in appendix II to chapter 7 of the original California SIP, including the agricultural permitting exemption in CH&SC section 24265, were indeed approved into the California SIP. Our interpretation of SIP requirements is that, while the SIP must provide "necessary assurances" of "adequate authority" and must identify the provisions of law that provide for "adequate authority," the statutes themselves need not be approved as part of the SIP. That does not mean that the statutes supporting the legal authority portion of a SIP cannot be approved into the SIP, only that they need not be. In 1972, California submitted the statutes supporting the legal authority chapter of the original California SIP to EPA, and EPA approved the original SIP, with exceptions not relevant here. Thus, while the statutory provisions need not have been approved into the California SIP, we agree that they in fact were so approved in 1972.

Comment #3: The District disagrees with EPA's finding that the statutes supporting California's revised legal authority chapter, as submitted in 1979, were not physically submitted as part of the SIP revision containing the revised chapter. In support of its position, the District cites "appendix 3–A" to "chapter 3—Legal Authority," which was submitted in 1979 and approved by EPA in 1980, and which, in the District's view, contains the 1978 edition of the *California Air Pollution Control Laws,* including the agricultural permitting exemption [by then re-codified to CH&SC section 42310(e)].

Response #3: The legal authority chapter and appendix, as revised in 1979 by California and submitted to EPA, includes several references to the 1978 edition of *California Air Pollution Control Laws.* On page 1, the revised legal authority chapter states:

> "All section references hereafter in this chapter are to the Health and Safety Code unless otherwise indicated. The 1978 edition of *California Air Pollution Control Laws* include all applicable sections of the Health and Safety Code, the Business and Professional Code, and the Vehicle Code. This edition is incorporated as appendix 3–A to this chapter available separately from the ARB Public Information Office, P.O. Box 2815, Sacramento, CA 95812."

As noted in footnote 3 of our January 29, 2010 proposed rule (at 75 at 4744), we view the phrase "this edition is incorporated as appendix 3–A" as simply providing a general reference to where the statutory citations in the chapter could be located, rather than as having the effect of a literal reading of the provisions into the chapter. Our view is supported by the fact that the revised legal authority chapter does not "incorporate by reference" the 1978 edition of *California Air Pollution Control Laws* nor does the chapter identify any State law or rule that provides for a literal reading of large volumes of text into another State document, similar in purpose to the Office of the Federal Register's rules concerning "incorporation by reference" in connection with Federal rules (*See* 1 CFR part 51). In contrast, the statutory provisions and other legal documents supporting the legal authority chapter were physically submitted in "appendix II" to the original California SIP, as discussed above. "Appendix 3–A" itself is only found in the table of contents to the 1979 revised legal authority chapter. Next to the listing of "Appendix 3–A" in the table of contents is the following statement: "*California Air Pollution Control Laws,* 1978 Edition, California Air Resources Board, Sacramento, CA 95812 (available from ARB's Public Information Office)."

Given the facts discussed above, we believe that the District is incorrect in claiming that appendix 3–A to the 1979 revised legal authority chapter "contains" the 1978 edition of *California Air Pollution Control Laws.* At most, it refers to the 1978 edition of *California Air Pollution Control Laws.* Not only did the revised legal authority chapter not contain the statutes, we believe that ARB's approach to keeping the statutes themselves physically separate from the revised legal authority chapter evinces an intent on the part of ARB not to include the statutes themselves in the SIP.

Comment #4: Regardless of whether the statutes were resubmitted, the District claims that EPA provides no support for its finding that the statutory provisions and other legal documents contained in the 1972 SIP were superseded by its approval of California's 1979 revised legal authority chapter.

Response #4: In our proposed rule (75 FR at 4744), we provide the following support for our conclusion that our approval of the 1979 legal authority chapter superseded our earlier approval of the legal authority chapter as well as the statutes and other legal documents submitted in support of the legal authority chapter from the original California SIP:

- Contemporaneous statements by ARB as to the wholesale nature of the SIP update undertaken in 1978 and 1979;
- The mismatch between the statutory citations in the revised legal authority chapter and the statutes submitted in support of the legal authority chapter of the original SIP; and
- Our conclusion that statutes providing support for a State's "necessary assurances" of adequate legal authority for the purposes of CAA section 110(a)(2)(E) need not be approved in the SIP.

As to the third bulleted item, above, the District objects to EPA's conclusion that the statutes providing support for a State's "necessary assurances" of adequate legal authority need not be approved in the SIP to meet CAA and EPA SIP requirements. The District contends that EPA's reading of the SIP requirements in this regard is illogical and unsupported because there is no reason to conclude that statutes that must be submitted with the plan need not be approved into the plan. However, as explained below, the language of both the statute itself and our SIP regulations support our finding that the statutes supporting a State's "necessary assurances" of adequate legal authority need not be approved into the SIP. In other words, the statutes may be approved into the SIP, but are not required to be approved into the SIP.

First, under CAA section 110(a)(2), each SIP shall "(E) provide (i) necessary assurances that the State * * * will have adequate * * * authority under State * * * law to carry out such implementation plan * * *." The statute thus requires that SIPs provide "necessary assurances," of adequate legal authority, not that SIPs must include statutes that establish legal authority. A State's demonstration of "necessary assurances" must be contained in the SIP, but the form in which the demonstration is made can take various forms, including but not limited to a narrative discussion (*e.g.,* legal authority chapter), an Attorney General's letter, the statutes themselves, or some combination of the above. In contrast, for other SIP elements, the CAA requires the underlying regulations to be included in the SIP, not just "necessary assurances" of such regulations. For instance, under section 110(a)(2)(A), each SIP must "include enforceable emission limitations and other control measures * * *." A State's "necessary assurances" of such enforceable emission limitations is not enough to satisfy this CAA requirement. The State must submit the enforceable emission limitations themselves, which generally take the form of air pollution control rules and regulations, to comply with the relevant CAA requirement.

Second, the relevant EPA SIP regulations require that "Each *plan must show* that the State has legal authority to carry out the plan, * * *" (emphasis added) (*See* 40 CFR 51.230), but, as to the statutes themselves, EPA's regulations state: "The provisions of law or regulation which the State determines provide the authorities required * * * must be specifically identified, and copies of such laws or regulations be submitted *with the plan.*" (emphasis added). *See* 40 CFR 51.231(a). The phrase, "each plan must show," refers to elements that must be included as part of the plan, whereas the latter phrase, "submitted with the plan," is, at most, ambiguous as to whether the items that must be submitted must also be included in the plan itself. But, when considered with the statutory language in CAA section 110(a)(2)(E) that requires the SIP to include "necessary assurances" of adequate legal authority, not the statutes themselves, it is reasonable to interpret 40 CFR 51.231(a) as requiring the submittal of the statutory provisions (providing support for the necessary showing of adequate legal authority) for the purpose of allowing EPA to conduct an informed review of a State's demonstration of "necessary assurances" of adequate legal authority, and as not requiring approval of the statutory provisions themselves as part of the SIP.

Lastly, the District points to EPA's own description of the Agency's approval of the revised legal authority chapter as "nonsignificant" and "administrative in nature" as inconsistent with EPA's contention that the approval of the revised legal authority chapter superseded the earlier chapter and related statutory provisions given the significance that the District attaches to the supersession of those provisions. However, EPA's description of its action approving the revised legal authority chapter as "administrative" mirrors ARB's foreword to the revised legal authority chapter: "Chapter 3 is an Air Resources Board (ARB) revision to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards (SIP). It is an administrative chapter which outlines the State's legal authority to implement the measures contained in the State Implementation Plan required by the Clean Air Act * * *." Our approval action was thus

consistent with ARB's description of the revised legal authority action.

Retention of the statutory provisions that had been submitted as part of the original SIP would imply that they have significance outside of their purpose in providing support for the State's "necessary assurances" of adequate legal authority, which ARB submitted in the form of a narrative chapter. But, ARB's description of the chapter itself as "administrative" shows that the underlying statutory provisions have no place in the applicable SIP other than with the demonstration of "necessary assurances." Our conclusion that the statutes submitted in support of the original chapter were superseded upon our approval of the revised chapter is consistent with this understanding of the inherent connection between the "necessary assurances" demonstration in the SIP and the supporting statutory provisions.

As described above, the statutes submitted by a State in support of the "necessary assurances" demonstration of adequate legal authority may be approved as part of the SIP (*e.g.,* original California SIP) but are not required to be part of the SIP. Where EPA has approved the supporting statutes into the SIP, EPA views the statutes as "nonregulatory" provisions of the SIP. *See, e.g.,* 62 FR 27968, at 27971 (May 22, 1997) ("Examples of nonregulatory SIP provisions include, but are not limited to, the following subject matter: SIP narratives * * * State Statutes * * *."); and again in 72 FR 64158, at 64160 (November 15, 2007) ("EPA-approved non-regulatory control measures include * * * State statutes * * * which have been submitted for inclusion in the SIP by the State. * * * Examples of EPA-approved documents and materials associated with the SIP include, * * * State Statutes submitted for the purposes of demonstrating legal authority; * * *."). ARB's and EPA's description of the revised legal authority chapter of the California SIP as "administrative" is consistent with the idea that even if the supporting statutes had been approved into the SIP in 1980 (which they were not), EPA would have categorized the statutes as "nonregulatory."

The statutes are considered "nonregulatory" because statutes that provide State or local administrative agencies with the authority to establish regulatory requirements do not in themselves establish the requirements. Rather, the rules promulgated under the relevant authorities establish the requirements. In this instance, such rules have included permitting rules that were adopted by the individual county-based air districts in San Joaquin Valley (and later by the San Joaquin Valley Unified Air Pollution Control District) exempting agricultural sources, that were approved by EPA as part of the San Joaquin Valley portion of the California SIP, and that continued in effect in the SIP until 2004, notwithstanding the supersession of the underlying statutory provision back in 1980. Hence, EPA's description of the Agency's approval of the revised legal authority chapter as being "nonsignificant," because no new requirements would be imposed nor would any requirements be withdrawn, is correct. Such requirements are not established in the statutes providing the legal authorities, but are found in the approved State and local district rules.[5]

Comment #5: The District states that the agricultural permitting exemption was removed from State law in 2003 as it relates to major sources, but states that the change in State law was never submitted to EPA as a SIP revision and thus the agricultural permitting exemption remains in the SIP.

Response #5: We agree that the State law replacing the full agricultural permitting exemption with a limited permitting exemption for certain minor agricultural sources (Senate Bill 700) has never been submitted to EPA as a SIP revision. However, as we clarify through this final rule, California did not need to submit SB 700 to EPA as a SIP revision to remove the agricultural permitting exemption from the SIP because it was removed from the California SIP upon the effective date of our 1980 final rule approving the State's revision to the legal authority chapter of the California SIP.

Comment #6: The District contends that Clean Air Act section 301(a)(1) does not authorize EPA to unilaterally amend the agricultural exemption out of the California SIP.

Response #6: We agree that CAA section 301(a)(1) does not authorize EPA to unilaterally amend the SIP. To amend the SIP, EPA is authorized to take action under CAA section 110. For instance, our action in 1980 to approve California's revised legal authority chapter of the California SIP was an action taken by EPA under section 110. We do not view our action today as amending the California SIP. Our view as expressed in the proposed rule and in responses to comments above is that we are simply clarifying the effect of a previous rulemaking. We are taking this action to avoid further confusion as to the current status of the statutory provisions (such as the agricultural permitting exemption) submitted as part of the original 1972 California SIP.

CAA section 301(a) authorizes EPA to prescribe such regulations as are necessary to carry out the Agency's functions under the CAA. One of the basic functions of the Agency under the CAA is to take actions on SIPs and SIP revisions (*See* section 110(k)), and in doing so, we are responsible for ensuring that the regulatory effect of our action is clearly set forth through rules published in the **Federal Register** and that our codification of SIP approvals in 40 CFR part 52 reasonably identifies the approved provisions.

In this instance, we have discovered that our 1979 proposed rule and 1980 final rule approving a revision to the California SIP did not clearly identify the materials being superseded, and we appropriately rely upon our rulemaking authority under CAA section 301(a) to clarify the superseding effect of our 1980 action. In so doing, we are not amending the California SIP, but merely clarifying what the current SIP includes, or to be more specific, what the current SIP does not include.

Comment #7: Dairy Cares notes that, in 2004, EPA undertook a rulemaking to remove from the SIP several specific statutes that were included in the 1972 original California SIP, and claims that such action would have been unnecessary if the statutory provision submitted with the original California SIP had been superseded by EPA's approval action on the revised legal authority chapter of the California SIP in 1980. Dairy Cares asserts that EPA's action in 2004 reveals the Agency's understanding then that the statutory provisions from the original California SIP remain in the SIP, and concludes that there is simply no way to reconcile EPA's actions in 2004 with the action it now proposes as they are entirely inconsistent.

Response #7: In our January 29, 2010 proposed rule, we recognize that our 2004 rulemaking (69 FR 67062, November 16, 2004) removed certain variance-related statutory provisions from the California SIP. *See* 75 FR at 4742, at 4744. We agree that our conclusion in the current rulemaking that all of the statutory provisions submitted in connection with the legal

[5] The District refers to 40 CFR 52.220(b)(12)(i) as an instance where California removed certain sections of the CH&SC approved in 1972 from the California SIP. California did not remove these CH&SC sections; EPA did so under the error correction authority of CAA section 110(k)(6). *See* 69 FR 67062 (November 16, 2004). We now recognize that we did not need to do so, since all of the statutory provisions submitted in support of the original legal authority chapter of the SIP had been superseded by our approval of the revised legal authority chapter in 1980. *See* response to comment #7.

authority chapter of the original California SIP were superseded in 1980 is not consistent with our 2004 rulemaking. We also agree that, if all of the statutory provisions in question had been superseded in 1980, then removal of the specific variance-related provisions in 2004 would not have been necessary.

Upon review of the 2004 rulemaking, however, we find no evidence of the type of detailed research into the contents of the California SIP that was conducted for this rulemaking. Furthermore, we believe that the Agency's own mistaken understanding in 2004 of the status of the variance-related statutory provisions simply highlights the need for the Agency to take some action, such as the one taken today, to clarify the status of the statutory provisions and other legal documents submitted in support of the legal authority chapter of the original California SIP. As described above, we have the authority under CAA section 301(a) to identify the superseding effect of a prior rulemaking (in this case, a rulemaking in 1980) and to thereby clarify the contents of the current California SIP.

III. Final Action

None of the comments have caused us to modify our proposed rule, and thus, under CAA section 301(a)(1) and for the reasons discussed in the proposed rule and in this final rule, EPA is taking final action to clarify that the statutory provisions and other legal documents approved in connection with the legal authority chapter of the original 1972 California SIP were superseded in the California SIP by EPA's approval of a revised legal authority chapter in 1980 (and codified at 40 CFR 52.220(c)(48)). We are memorializing our interpretation of the effect of the 1980 final rule by revising the relevant provision in 40 CFR 52.220 accordingly.

IV. 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 clarifies the effect of a previous approval by EPA of a State submittal as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

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

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

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

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 July 19, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 5, 2010.

Jared Blumenfeld,

Regional Administrator, Region IX.

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by revising paragraph (b)(12)(i) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(b) * * *

(12) * * *

(i) Previously approved on May 31, 1972 in paragraph (b) and deleted without replacement, effective September 10, 1980, chapter 7 ("Legal Considerations") of part I ("State General Plan") of the plan submitted on February 21, 1972, and all of the statutory provisions and other legal documents contained in appendix II ("State Statutes and other Legal Documents Pertinent to Air Pollution Control in California") to chapter 7.

* * * * *

[FR Doc. 2010–11867 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2010–0172; FRL–9153–3]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM–10; Determination of Attainment for the Coso Junction Nonattainment Area; Determination Regarding Applicability of Certain Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing its determination that the Coso Junction nonattainment area (CJNA) has attained the 24-hour National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). This determination is based upon quality-assured and certified air quality monitoring data for the PM–10 NAAQS from 2006–2008. In addition, reported data in EPA's Air Quality System (AQS) show that the CJNA continued to attain the PM–10 NAAQS through 2009 and preliminary data available to date for 2010 show that the CJNA continues to attain. Also, EPA is finalizing its determination that, because the CJNA has attained the PM–10 NAAQS, the State's obligation to make submissions to meet certain Clean Air Act (CAA or the Act) requirements is not applicable for as long as the CJNA continues to attain the PM–10 NAAQS.

DATES: *Effective Date:* This rule is effective on June 18, 2010.

ADDRESSES: You may inspect the supporting information for this action, identified by docket number EPA–R09–OAR–2010–0172, by one of the following methods:

- Federal eRulemaking portal, *http://www.regulations.gov,* please follow the on-line instructions; or,
- Visit our regional office at, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Jerry Wamsley, EPA Region IX, (415) 947–4111, *Wamsley.Jerry@epa.gov.*

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

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I. Summary of Proposed Actions

On March 23, 2010, EPA proposed to determine that the CJNA has attained the 24-hour NAAQS for PM–10 (75 FR 13710). Our proposed determination was based on complete, quality-assured and certified data gathered at established state and local air monitoring stations (SLAMS) in the nonattainment area and entered into the EPA AQS database for the period 2006–2008. In addition, EPA found that quality-assured AQS data showed that the CJNA continued to attain through 2009 and that preliminary data then available for 2010 showed no exceedances of the 24-hour PM–10 NAAQS. *Id.*

EPA also proposed, under its Clean Data Policy, to determine that the obligation to submit certain CAA requirements was not applicable for as long as the CJNA continued to attain the PM–10 NAAQS. Specifically, we proposed that the State's obligation to submit the following CAA requirements would be suspended if EPA finalized its rulemaking: The part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the reasonably available control measure (RACM) provisions of 189(a)(1)(C), the reasonable further progress (RFP) provisions established by section 189(c)(1), and the attainment demonstration, RACM, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act.

For a more detailed discussion of our proposed action, including background topics, such as development of the PM–10 NAAQS, the designation, classification and air quality planning history for the CJNA; our Clean Data Policy; and our general requirements for making attainment determinations, please refer to our proposed rule.

II. Public Comments and EPA Responses

EPA provided for a 30-day public comment period on our proposed action. This period ended on April 22, 2010. We received no comments.

III. Additional Preliminary Air Quality Data Since Proposed Rule

Subsequent to our proposal, and after the close of the comment period, the Great Basin Unified Air Pollution Control District (GBUAPCD) informed EPA that preliminary data showed two exceedances of the 24-hour PM–10 standard were recorded at the CJNA monitor in March 2010, one on March 9, 2010 (222 micrograms per cubic meter (μg/m^3)) and another on March 18, 2010 (157 μg/m^3). *See* May 4, 2010 e-mail from Duane Ono, Deputy Air Pollution Control Officer, GBUAPCD, to Doris Lo, Environmental Protection Specialist, EPA, with CosoJunction2010_MetAndTEOM.xlsx attachment. The preliminary air quality data for the first quarter of 2010 (January through March), which contain these exceedances, have not been verified through the GBUAPCD's data validation process, nor have they been entered into EPA's AQS database. The GBUAPCD is still in the process of reviewing the first quarter data which does not have to be submitted into the AQS database until June 30, 2010. *See* 52 FR 24634 and 40 CFR 58.16(b).

The preliminary 24-hour concentrations for March 9 and 18, if confirmed after quality assurance and control procedures are completed, would exceed the 24-hour PM–10 standard of 154 μg/m^3. 40 CFR 50.6.[1] The District has also indicated that it may flag the March 9, 2010 exceedance for possible exclusion from consideration in a determination of attainment.

The determination of whether an area has attained the PM–10 standard is based on the most recent three consecutive calendar years of quality-assured data. As discussed above and in our proposed rule, the CJNA has attained the PM–10 standard based on complete, quality-assured and certified data for the three-year period 2006–2008

[1] An exceedance is defined as a daily value that is above the level of the 24-hour standard (150 μg/m^3) after rounding to the nearest 10 μg/m^3 (i.e., values ending in 5 or greater are to be rounded up). Thus, a recorded value of 154 μg/m^3 would not be an exceedance since it would be rounded down to 150 μg/m^3 whereas a recorded value of 155 μg/m^3 would be an exceedance since it would be rounded up to 160 μg/m^3. See 40 CFR part 50, appendix K, section 1.0.

and data in AQS for the period 2007–2009. 75 FR 13710, 13712. These quality-assured data show that the CJNA monitor has an expected number of exceedances of less than or equal to one per year, averaged over the three-year period.

Because 2010 has not ended, EPA cannot determine whether the area has attained the standard based on the three-year period from 2008 through 2010. We can, however, determine with less than three years of data whether the CJNA has failed to attain in the period from 2008 to date. *See* 40 CFR part 50, appendix K, section 2.3(c).[2]

In 2008 there were no exceedances of the PM–10 NAAQS and in 2009 there was one exceedance on December 22, 2009. 75 FR 13710. If we include the preliminary data showing two additional exceedances in March 2010, the expected number of exceedances at the CJNA monitor during the period from 2008 through 2010 would be three. Thus, even with two additional exceedances in March 2010, the CJNA continues to attain the PM–10 NAAQS to date because the CJNA monitor has an expected number of exceedances of less than or equal to one per year, averaged over the three-year period from 2008 through 2010.[3]

While to date the CJNA continues to attain, EPA will continue to assess the attainment status of the CJNA as additional data are received, reviewed, and entered into the AQS database.

IV. EPA's Final Action

Based on a three-year period (2006–2008) of complete, quality-assured and certified data meeting the requirements of 40 CFR part 50, appendix K, EPA is finalizing its determination that the CJNA has attained the 24-hour PM–10 NAAQS. In addition, EPA's determination is based on reported data in EPA's AQS database for 2009 showing that the CJNA continued to attain the PM–10 NAAQS for the period 2007–2009, and available preliminary data to date for 2010 that are consistent with continued attainment.

This determination of attainment of the PM–10 NAAQS for the CJNA does not constitute a redesignation to attainment under CAA section 107(d)(3) because we have neither approved a maintenance plan as required under section 175(A) of the CAA, nor determined that the area has met the other CAA requirements for redesignation. The classification and designation status in 40 CFR part 81 remains moderate nonattainment for the CJNA until such time as California meets the CAA requirements for redesignation of the CJNA to attainment.

EPA is also finalizing its determination that, because the CJNA is attaining the NAAQS, the obligation to submit the following CAA requirements is not applicable for so long as the area continues to attain the PM–10 standard: The part D, subpart 4 obligations to provide an attainment demonstration pursuant to section 189(a)(1)(B), the RACM provisions of 189(a)(1)(C), the RFP provisions established by section 189(c)(1), and the attainment demonstration, RACM, RFP and contingency measure provisions of part D, subpart 1 contained in section 172 of the Act. Subsequently, if we determine after notice and comment rulemaking in the **Federal Register** that the CJNA has violated the standard (prior to a redesignation to attainment), these requirements would once again become applicable.

V. Statutory and Executive Order Reviews

This final action makes a determination of attainment based on air quality and results in the suspension of certain Federal requirements, and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 19, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

[2] While it is necessary to have three years of representative monitoring data to demonstrate that a monitor is attaining the standard, 40 CFR part 50, appendix K, section 2.3(c) states that there are less stringent data requirements for showing that a monitor has failed to attain. Since the 24-hour PM–10 standard is violated once a monitor averages more than one expected exceedance per year (averaged over three years), a monitor with four or more observed or expected exceedances has violated the 24-hour NAAQS even if there are fewer than three years of data (four exceedances divided by three years is greater than one per year).

[3] The status of the preliminary exceedances may change after the data validation process is concluded and after any flagging issues are addressed.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 13, 2010.

Jared Blumenfeld,

Regional Administrator, Region 9.

[FR Doc. 2010–12093 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 222, and 252

RIN 0750–AG70

Defense Federal Acquisition Regulation Supplement; Restrictions on the Use of Mandatory Arbitration Agreements (DFARS Case 2010–D004)

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

ACTION: Interim rule with request for comments.

SUMMARY: DoD is issuing an interim rule to implement section 8116 of the DoD Appropriations Act for Fiscal Year 2010. Section 8116 restricts the use of mandatory arbitration agreements when using funds appropriated or otherwise made available by this DoD Appropriations Act to award contracts that exceed $1 million. It allows the Secretary of Defense to waive applicability to a particular contractor or subcontractor, if determined necessary to avoid harm to national security.

DATES: *Effective date:* May 19, 2010.

Comment date: Comments on this interim rule should be submitted in writing to the address shown below on or before July 19, 2010, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2010–D004, using any of the following methods:

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

E-mail: dfars@osd.mil. Include DFARS Case 2010–D004 in the subject line of the message.

Fax: 703–602–0350.

Mail: Defense Acquisition Regulations System, Attn: Mr. Julian E. Thrash, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

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

FOR FURTHER INFORMATION CONTACT: Mr. Julian E. Thrash, 703–602–0310.

SUPPLEMENTARY INFORMATION:

A. Background

Section 8116 of the DoD Appropriations Act for Fiscal Year 2010 (FY 10) (Pub. L. 111–118) prohibits the use of funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act for any contract (including task or delivery orders and bilateral modifications adding new work) in excess of $1 million, if the contractor restricts its employees to arbitration for claims under title VII of the Civil Rights Act of 1964, or tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention, hereinafter the "covered areas."

This rule does not apply to the acquisition of commercial items, including commercially available off-the-shelf items. After June 17, 2010, section 8116(b) requires the contractor to certify compliance by subcontractors.

Additionally, enforcement of this rule does not affect the enforcement of other aspects of an agreement that is not related to the covered areas.

This rule allows the Secretary of Defense to waive applicability to a particular contract or subcontract, if determined necessary to avoid harm to national security.

The following examples are provided to help determine applicability:

- A new order that exceeds $1 million using funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act, placed against an indefinite-delivery/indefinite-quantity contract for an applicable item or service, is covered by this restriction, regardless of whether the basic indefinite-delivery/indefinite-quantity contract was covered.
- A funding modification adding more than $1 million of funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act to a contract that does not contain the clause at 252.222–7006 or 252.222–7999 (Deviation), is not covered.
- A bilateral modification adding new work that uses funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act in excess of $1 million is covered.
- The award of a new order using funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act with a value of $700,000 is not covered, since the value is under $1 million.
- A contract valued at $1.5 million awarded today, and only $10,000 in funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act will be obligated, with the remaining balance being FY 11 funding, is not covered, because the total value of funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act is less than $1 million.
- An entity or firm that does not have a contract in excess of $1 million appropriated or otherwise made available by the FY 10 DoD Appropriations Act is not affected by the clause. The term "contractor" is narrowly applied only to the entity that has the contract. Unless a parent or subsidiary corporation is a party to the contract, it is not affected.

Contracting officers will modify existing contracts, on a bilateral basis, if using funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act, when such funds will be used for bilateral modifications adding new work or orders that exceed $1 million and are issued after the effective date of this interim rule. In the event that a contractor refuses to accept such a modification, the contractor will not be eligible for receipt of funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act on such modifications or orders.

This 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 is not a major rule.

B. Regulatory Flexibility Act

DoD has prepared an initial regulatory flexibility analysis consistent with 5 U.S.C. 603. A copy of the analysis may be obtained from the point of contact specified herein. The analysis is summarized as follows:

The objective of this rule is to implement section 8116 of the DoD Appropriations Act for Fiscal Year 2010 (Pub. L. 111–118). The clause at 252.222–7006, Restrictions on the Use of Mandatory Arbitration Agreements, prohibits the use of funds appropriated

or otherwise made available by the FY 10 DoD Appropriations Act for any contract (including task or delivery orders and bilateral modifications adding new work) in excess of $1 million, if the contractor restricts its employees to arbitration for claims under title VII of the Civil Rights Act of 1964, or tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention. Most contractors should not be impacted unless they have a covered claim. A significant number of small businesses provide only commercial items to the Government, and this rule does not apply to that portion of the business community. We anticipate that there will be limited, if any, additional costs imposed on small businesses unless there is, in fact, a covered claim filed against a particular contractor.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2010–D004) in correspondence.

C. Paperwork Reduction Act

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

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comments. This action is necessary because section 8116 of the DoD Appropriations Act for Fiscal Year 2010 (Pub. L. 111–118) prohibits the use of funds appropriated or otherwise made available by the FY 10 DoD Appropriations Act for any contract (including task or delivery orders and bilateral modifications) in excess of $1 million. This action is necessary to provide implementing language quickly to preclude a contracting officer from inadvertently awarding a contract that is not in compliance with the DoD Appropriations Act for Fiscal Year 2010. Pursuant to 41 U.S.C. 418b, DoD will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 212, 222, and 252

Government procurement.

Ynette R. Shelkin,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR parts 212, 222, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 222, and 252 continues to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Section 212.503 is amended by revising the heading and adding paragraph (a)(xi) to read as follows:

212.503 Applicability of certain laws to executive agency contracts for the acquisition of commercial items.

(a) * * *

(xi) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111–118).

* * * * *

■ 3. In section 212.504, add paragraph (a)(xix) to read as follows:

212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

(a) * * *

(xix) Section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111–118).

* * * * *

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 4. Subpart 222.74 is added to read as follows:

Subpart 222.74—Restrictions on the Use of Mandatory Arbitration Agreements

Sec.

222.7400 Scope of subpart.
222.7401 Policy.
222.7402 Applicability.
222.7403 Waiver.
222.7404 Contract clause.

Subpart 222.74—Restrictions on the Use of Mandatory Arbitration Agreements

222.7400 Scope of subpart.

This subpart implements section 8116 of the Defense Appropriations Act for Fiscal Year 2010 (Pub. L. 111–118).

222.7401 Policy.

(a) Departments and agencies are prohibited from using funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111–118) for any contract (including task or delivery orders and bilateral modifications adding new work) in excess of $1 million, unless the contractor agrees not to—

(1) Enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration—

(i) Any claim under title VII of the Civil Rights Act of 1964; or

(ii) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or

(2) Take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration—

(i) Any claim under title VII of the Civil Rights Act of 1964; or

(ii) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention.

(b) After June 17, 2010, no funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111–118) may be expended unless the contractor certifies that it requires each covered subcontractor to agree not to enter into, and not to take any action to enforce, any provision of any agreement, as described in paragraph (a) of this section, with respect to any employee or independent contractor performing work related to such subcontract.

222.7402 Applicability.

This requirement does not apply to the acquisition of commercial items.

222.7403 Waiver.

The Secretary of Defense may waive the applicability of paragraphs (a) or (b) of 222.7401, in accordance with PGI 222.7403, to a particular contract or subcontract, if the Secretary or the Deputy Secretary personally determines that the waiver is necessary to avoid harm to national security interests of the United States, and that the term of the

contract or subcontract is not longer than necessary to avoid such harm. The Secretary of Defense shall transmit the determination to Congress and simultaneously publish it in the **Federal Register**, not less than 15 business days before the contract or subcontract addressed in the determination may be awarded.

222.7404 Contract clause.

Use the clause at 252.222–7006 Restrictions on the Use of Mandatory Arbitration Agreements, in all solicitations and contracts valued in excess of $1 million utilizing funds appropriated or otherwise made available by the Fiscal Year 2010 Defense Appropriations Act (Pub. L. 111–118), except in contracts for the acquisition of commercial items, including commercially available off-the-shelf items.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Section 252.222–7006 is added to read as follows:

252.222–7006 Restrictions on the Use of Mandatory Arbitration Agreements.

As prescribed in 222.7404, use the following clause:

Restrictions on the Use of Mandatory Arbitration Agreements (Date)

(a) *Definitions.* As used in this clause—

Covered subcontractor means any entity that has a subcontract valued in excess of $1 million, except a subcontract for the acquisition of commercial items, including commercially available off-the-shelf items.

Subcontract means any contract, as defined in Federal Acquisition Regulation subpart 2.1, to furnish supplies or services for performance of this contract or a higher-tier subcontract thereunder.

(b) The Contractor—

(1) Agrees not to—

(i) Enter into any agreement with any of its employees or independent contractors that requires, as a condition of employment, that the employee or independent contractor agree to resolve through arbitration—

(A) Any claim under title VII of the Civil Rights Act of 1964; or

(B) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; or

(ii) Take any action to enforce any provision of an existing agreement with an employee or independent contractor that mandates that the employee or independent contractor resolve through arbitration—

(A) Any claim under title VII of the Civil Rights Act of 1964; or

(B) Any tort related to or arising out of sexual assault or harassment, including assault and battery, intentional infliction of emotional distress, false imprisonment, or negligent hiring, supervision, or retention; and

(2) Certifies, by signature of the contract, for contracts awarded after June 17, 2010, that it requires each covered subcontractor to agree not to enter into, and not to take any action to enforce, any provision of any agreements, as described in paragraph (b)(1) of this clause, with respect to any employee or independent contractor performing work related to such subcontract.

(c) The prohibitions of this clause do not apply with respect to a contractor's or subcontractor's agreements with employees or independent contractors that may not be enforced in a court of the United States.

(d) The Secretary of Defense may waive the applicability of the restrictions of paragraph (b) of this clause in accordance with Defense Federal Acquisition Regulation Supplement 222.7403.

(End of clause)

[FR Doc. 2010–11966 Filed 5–18–10; 8:45 am]

BILLING CODE 5001–08–P

Proposed Rules

Federal Register
Vol. 75, No. 96
Wednesday, May 19, 2010

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 1980

RIN 0575–AC83

Single Family Housing Guaranteed Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing Service proposes two changes to its Single Family Housing Guaranteed Loan Program (SFHGLP) regulation. This action is taken to achieve savings for the taxpayer, simplify regulations, and promote efficiency in managing the SFHGLP. The proposed changes are in accordance with the recommendations of the Inspector General in its Audit (Number 04601–0017–CH) of April 2009.

Under the SFHGLP regulation as it stands today, lenders may set an interest rate for a loan under the SFHGLP that either does not exceed the Lender's published rate for VA first mortgage loans with no discount points or does not exceed the current Federal National Mortgage Association (Fannie Mae) posted yield for 90-day delivery (Actual/Actual), plus six-tenths of 1 percent for 30-year fixed rate conventional loans, rounded up to the nearest one-quarter of 1 percent. The first proposed rule change would eliminate the lender's published VA rate for first mortgage loans with no discount points as an option for a maximum interest rate on loans. The effect of this action would be to create a more uniform, simpler standard for interest rates under the SFHGLP, whereby lenders would always use the current Fannie Mae rate as the rate ceiling. The Fannie Mae rate is the most widely utilized interest rate guidance by approved lenders. It is also the most accessible to lenders and the Agency when documenting loan files to ensure affordable interest rates are extended to Guaranteed Loan Program borrowers.

The second proposed change relates to the rights of the Secretary when the Secretary has to pay a claim under the guarantee for the loan, but the original lender did not originate the loan in accordance with the program requirements. The proposed rule change would allow the Secretary in certain circumstances to seek indemnification from the originator of the loan for the Secretary's loss. This change promises to save taxpayer money and incentivize due care on the part of lenders by allowing the Government to recoup the funds it pays out in the event of a claim under the guarantee where the original lender did not comply with SFHGLP requirements.

DATES: Written or e-mail comments on the proposed rule must be received on or before July 19, 2010.

ADDRESSES: You may submit comments on this proposed rule by any one of the following methods:

- *E-Mail: comments@wdc.usda.gov.* Include "RIN No. 0575–AC83" in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments electronically.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express mail, or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street, SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at the 300 7th Street, SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Joaquin Tremols, Acting Director, Single Family Housing Guaranteed Loan Division, USDA Rural Development, Room 2241, STOP 0784, 1400 Independence Ave., SW., Washington, DC 20250, Telephone: (202) 720–1465, E-mail: *joaquin.tremols@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been determined to be non-significant by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Except where specified, all State and local laws and regulations that are in direct conflict with this rule will be preempted. Federal funds carry Federal requirements. No person is required to apply for funding under this program, but if they do apply and are selected for funding, they must comply with the requirements applicable to the Federal program funds. This rule is not retroactive. It will not affect agreements entered into prior to the effective date of the rule. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 must be exhausted.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effect of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million, or more, in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940,

subpart G, "Environmental Program." It is the determination of the Agency that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, neither an Environmental Assessment nor an Environmental Impact Statement is required.

Federalism—Executive Order 13132

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

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the undersigned has determined and certified by signature of this document that this rule change will not have a significant impact on a substantial number of small entities. This rule does not impose any significant new requirements on Agency applicants and borrowers, and the regulatory changes affect only Agency determination of program benefits for guarantees of loans made to individuals.

Intergovernmental Consultation

This program/activity is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. (See the Notice related to 7 CFR part 3015, subpart V, at 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.410, Very Low to Moderate Income Housing Loans (Section 502 Rural Housing Loans).

Paperwork Reduction Act

The information collection and record keeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The assigned OMB control number is 0575–AC83.

E–Government Act Compliance

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

Background

In the spring of 2009, the Inspector General completed an audit of the controls over lending activities in the SFHGLP. The audit was initiated because of an investigation by the Inspector General into a lender who submitted false documents to the Agency to obtain loan guarantees. Additionally, the Inspector General was concerned that some lenders were setting interest rates on guaranteed loans that were excessive and not in compliance with Agency guidelines. The audit evaluated the systems and processes to ensure that lenders (1) submit accurate and legitimate borrower eligibility data and (2) set interest rates on loans within Agency guidelines. The audit report made a number of recommendations for what the SFHGLP can do to streamline operations, prevent fraud, and improve efficiency in its mission. In response to the audit, the two rules presented here are being proposed.

OMB Control Number

The report and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–AC83.

List of Subjects in 7 CFR Part 1980

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

For the reason stated in the preamble, Chapter XVIII, Title 7 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1980—RURAL HOUSING LOANS

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

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989. Subpart E also issued under 7 U.S.C. 1932(a).

Subpart D—Rural Housing Loans

2. Section 1980.308 is revised to read as follows:

§ 1980.308 Full faith and credit.

(a) *Loan note guarantee.* The loan note guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it becomes such Lender or which the Lender participates in or condones. Misrepresentation includes negligent misrepresentation. A note which provides for the payment of interest on interest shall not be guaranteed. Any guarantee or assignment of a guarantee attached to or relating to a note which provides for the payment of interest on interest is void. Notwithstanding the prohibition of interest on interest, interest may be capitalized in connection with reamortization over the remaining term with written concurrence of RHS. The loan note guarantee will be unenforceable to the extent any loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which RHS acquires knowledge of the foregoing. Negligent servicing is defined as servicing that is inconsistent with this subpart and includes the failure to perform those services which a reasonably prudent lender would perform in servicing its own loan portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act, but also not acting in a timely manner or acting contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those authorized in this subpart. When the lender conducts liquidation in an expeditious manner, in accordance with the provisions of § 1980.374 of this subpart, the loan note guarantee shall cover interest until the claim is paid within the limit of the guarantee.

(b) *Indemnification.* If RHS determines that a Lender did not originate a loan in accordance with the requirements in this subpart, and RHS pays a claim under the loan guarantee, RHS may revoke the Lender's eligibility status in accordance with § 1980.309 (h) of this subpart and may also require the Lender:

(1) To indemnify RHS for the loss, if the payment under the guarantee was made within 24 months of loan closing; or

(2) To indemnify RHS for the loss regardless of how long ago the loan closed, if RHS determines that fraud or misrepresentation was involved in connection with the origination of the loan.

3. Section 1980.320 is revised to read as follows:

§ 1980.320 Interest rate.

The interest rate must not exceed the established, applicable usury rate. Loans guaranteed under this subpart must bear a fixed interest rate over the life of the loan. The rate shall be agreed upon by the borrower and the Lender and must not be more than the current Fannie Mae rate as defined in § 1980.302(a) of this subpart. The Lender must document the rate and the date it was determined.

4. Section 1980.353 (c)(4) is revised to read as follows:

§ 1980.353 Filing and processing applications.

(c) * * *

(4) Anticipated loan rates and terms, the date and amount of the Fannie Mae rate used to determine the interest rate, and the Lender's certification that the proposed rate is in compliance with § 1980.320 of this subpart.

* * * * *

Dated: April 30, 2010.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2010–11383 Filed 5–18–10; 8:45 am]

BILLING CODE 3410–XV–P

FARM CREDIT ADMINISTRATION

12 CFR Part 652

RIN 3052–AC56

Federal Agricultural Mortgage Corporation Funding and Fiscal Affairs; Farmer Mac Investments and Liquidity

AGENCY: Farm Credit Administration.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The Farm Credit Administration (FCA, Agency, us, or we) is considering amending our regulations governing the Federal Agricultural Mortgage Corporation (Farmer Mac or the Corporation) non-program investments and liquidity requirements. The objective of these regulations is to ensure that Farmer Mac holds an appropriate level of high-quality, liquid investments to maintain a sufficient liquidity reserve, invest surplus funds, and manage interest rate risk.

DATES: You may send us comments by July 6, 2010.

ADDRESSES: We offer a variety of methods for you to submit comments on this advanced notice of proposed rulemaking. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through the Agency's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *E-mail:* Send us an e-mail at *reg-comm@fca.gov*.
- *FCA Web site: http://www.fca.gov*. Select "Public Commenters," then "Public Comments," and follow the directions for "Submitting a Comment."
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Joseph T. Connor, Associate Director for Policy and Analysis, Office of Secondary Market Oversight, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or on our Web site at *http://www.fca.gov*. Once you are in the Web site, select "Public Commenters," then "Public Comments," and follow the directions for "Reading Submitted Public Comments." We will show your comments as submitted, but for technical reasons we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Connor, Associate Director for Policy and Analysis, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TTY (703) 883–4056; or

Jennifer A. Cohn, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this ANPRM is to solicit public comments on revisions and updates to Farmer Mac's non-program investment and liquidity management regulations in light of investment and liquidity risk issues that arose during the recent financial crisis. With the benefit of information gained through this ANPRM and our internal analysis, we will consider changes to the regulations to enhance their fundamental objective: to ensure the safety and soundness and continuity of Farmer Mac operations.

II. Background

Congress established Farmer Mac in 1988 as part of its effort to resolve the agricultural crisis of the 1980s. Congress expected that establishing a secondary market for agricultural and rural housing mortgages would increase the availability of competitively priced mortgage credit to America's farmers, ranchers, and rural homeowners.

In addition to serving its investor-stakeholders, Farmer Mac, like all Government-sponsored enterprises (GSEs), has a public policy purpose embedded in its corporate mission that arises from having been created by an act of Congress. The public policy component of its mission explicitly includes its service to customer-stakeholders (farmers, ranchers, rural homeowners, and rural utility cooperatives, all through their lenders).[1] The public policy component also includes protection of taxpayer-stakeholders. The latter arises from Farmer Mac's ability to issue debt to the Department of the Treasury to cover guarantee losses under certain circumstances.[2] These two public policy components of Farmer Mac's mission are, in some respects, counterbalancing, as we now explain.

A fundamental premise of finance is the natural positive relationship between risk and expected return. This means that when Farmer Mac increases its expected return, it also increases its risk of loss; the opposite is true when risk decreases. More return, in general, will better position Farmer Mac to reduce the rates it charges customers (a benefit to those stakeholders) and increase its earnings (a benefit to investor-stakeholders). However, the risk Farmer Mac assumes to earn a greater return increases the risk to others, including ultimately taxpayers, and thus adds an offsetting cost to these earnings benefits.

In general, a guiding principle for FCA in establishing regulations is to maintain an appropriate balance between these costs and benefits, *i.e.,* attempting to maximize Farmer Mac's ability to serve its customers and provide an appropriate return for investors while ensuring that it engages in safe and sound operations, thereby providing a high degree of certainty that Farmer Mac will continue to be able to make its products available to serve

[1] *See* title VIII of the Farm Credit Act of 1971, as amended (Act), 12 U.S.C. 2279aa–2279cc *et seq.*)

[2] *See* section 8.13 of the Act.

customers and will never need to issue debt to the Department of Treasury.

Liquidity is a firm's ability to meet its obligations as they come due without substantial negative impact on its operations or financial condition. While the management of Farmer Mac's non-program investment portfolio and its liquidity risk are closely linked, they are not synonymous. Management of the non-program investment portfolio, and specifically the associated market risk, is one component under the general heading of liquidity risk management. Liquidity risk is the risk that the Corporation is unable to meet expected obligations (and reasonably estimated unexpected obligations) as they come due without substantial adverse impact on its operations or financial condition. Reasonably estimated liquidity risk should consider scenarios of debt market disruptions, asset market disruptions such as industry sector security price risk scenarios, as well as contingent liquidity events. Contingent liquidity events include significant changes in overall economic conditions, or events that would impact the market's perception of Farmer Mac such as reputation risks and legal risks, as well as a broad and significant deterioration in the agriculture sector and its potential impact on Farmer Mac's need for cash to fulfill obligations under the terms of products such as Long-Term Standby Purchase commitments.

Farmer Mac's primary sources of liquidity are the principal and interest it receives from non-program and program investments and its access to debt markets. The sale of non-program investments—which consist of investment securities, cash, and cash equivalents—provides a secondary source of liquidity cushion in the event of a short-term disruption in Farmer Mac's access to the capital markets that prevents Farmer Mac from issuing new debt. The sale of Farmer Mac's program investments in agricultural mortgages, rural home loans, and rural utility cooperative loans could provide additional liquidity, although the amount of liquidity provided by these instruments in times of stress is uncertain. The reason for that uncertainty is that, with the exception of the subset of these investments that are guaranteed by the United States Department of Agriculture (USDA),[3] we are not aware of significantly active markets in which to sell them. As a result, FCA regulations do not currently recognize any liquidity value in Farmer Mac's program book of business (with the exception of a discounted amount of the Farmer Mac II volume).

During 2008, the markets in corporate debt and asset-backed securities experienced significant value reductions in response to the general seizing up of these markets. For financial regulators, these events highlighted the need to reevaluate the requirements for liquidity risk management. This experience also has triggered broad re-evaluation of liquidity risk management among institutions and regulators globally—including a re-evaluation of the degree of confidence that is assumed in corporate policies and regulatory guidance regarding the availability of markets for debt issuance and asset sales under stressful economic or market conditions. We are interested in public response to questions regarding FCA regulatory requirements related to Farmer Mac's management of market risk, liquidity risk, and funding risk.

III. Section-by-Section Questions for Public Comment

A discussion of our existing regulations (which became effective in the third quarter of 2005), along with our questions about changes we are considering to these regulations, follow. For ease of use, Section IV., at the end of this document, lists the key questions asked throughout this section.

A. Section 652.10—Investment Management and Requirements

Effective risk management requires financial institutions to establish: (1) Policies; (2) risk limits; (3) mechanisms for identifying, measuring, and reporting risk exposures; and (4) strong corporate governance including specific procedures and internal controls. Section 652.10 requires Farmer Mac to establish and follow certain fundamental practices to effectively manage risks in its investment portfolio.

This provision requires Farmer Mac's board of directors to adopt written policies that establish risk limits and guide the decisions of investment managers. Board policies must establish objective criteria so investment managers can prudently manage credit, market, liquidity, and operational risks. Investment policies must provide for specific risk limits and diversification requirements for the various classes of eligible investments and for the entire investment portfolio. Risk limits must be based on Farmer Mac's business mix, capital position, the term structure of its debt, the cash flow attributes of both on- and off-balance sheet obligations and risk tolerance capabilities. Risk tolerance can be expressed through several parameters such as duration, convexity, sector distribution, yield curve distribution, term structure of debt, credit quality, risk-adjusted return, portfolio size, total return volatility, or value-at-risk.[4] Farmer Mac must use a combination of parameters to appropriately limit its exposure to credit and market risk. The policies must also establish other controls—such as delegation of responsibilities, separation of duties, timely and effective valuation practices, and routine reporting—that are consistent with sound business practices.

1. Earnings Performance and Risk Benchmarks

We have questions regarding several areas of § 652.10. Our first general area of discussion pertaining to this section concerns the usefulness of adding regulatory guidance to benchmark earnings performance and risk profiles of the investment portfolio to evaluate liquidity risk and non-program investment management. Section 652.10(c) requires Farmer Mac's board to establish investment risk limits, and § 652.10(g) requires Farmer Mac's management to report to the board on investment performance and risk. The regulation does not, however, include specific requirements regarding acceptable levels of either earnings performance (such as the spread over cost of funds or the spread over an appropriate yield benchmark) or risk (such as measured by historical variation of returns or as implied by changes in earnings levels).

Risk is measured in terms of the uncertainty (*i.e.,* volatility) of the expected earnings stream. Inferences about real-time changes in risk can be drawn from the real-time changes in prices, *i.e.,* the yield the market demands on the instruments at any point in time. An increase in return demanded by investors implies greater risk. In this discussion, we use return measurements as a proxy for relative risk measurements.

Earnings spreads are performance indicators with implications regarding relative risk. For example, in times of market turbulence, investors may prefer

[3] Farmer Mac's program investments in loans that are guaranteed by the USDA as described in section 8.0(9)(B) of the Act, and which are securitized by Farmer Mac, are known as the "Farmer Mac II" program.

[4] Duration measures a bond's or portfolio's price sensitivity to a change in interest rates. Convexity measures the rate of change in duration with respect to a change in interest rates. Yield curve distribution refers to the distribution of the portfolio's investments in short-, intermediate-, or long-term investments. Term structure of debt refers to the distribution of the Corporation's debt maturities over time. Value-at-risk is a methodology used to measure market risk in an investment portfolio.

debt issued by Farmer Mac simply because it is GSE debt—a "flight to quality"—and not because of any positive developments in Farmer Mac's business. With its debt in greater demand, its cost of funds would decrease. The coupon interest Farmer Mac receives on its investments would continue at its previous level.[5] The result would be a widening in the spread between Farmer Mac's earnings rates and its cost of funds. Would this scenario clearly imply an increase in Farmer Mac's liquidity risk?

To ensure an appropriate level of earnings performance while limiting risk to an acceptable level, should our regulations (and/or Farmer Mac board policy) specify earnings performance benchmarks and some acceptable band of earnings performance above and below such benchmarks? The benchmark could be used to evaluate investment portfolio earnings and risk. Earnings performance that is too low compared to the benchmark would indicate a need for improved management of earnings performance, and earnings performance that is too high indicating unacceptable levels of liquidity risk, or credit risk, or both? A detailed explanation and more detailed questions follow.

Investor behavior is an indicator of relative risk in the market. For purposes of this explanation, we divide the universe of investors into two general categories by risk tolerance—either risk-seeking or risk-averse. In periods of "flight to quality," two changes occur in investor behavior relative to the pre-turbulence baseline: (1) Risk-seeking investors demand higher yields (and theoretically the increase is specifically higher liquidity premium or credit premium, or both)[6] and (2) risk-averse investors accept lower yields from perceived higher-quality issuers. In periods of "flight to quality," interest rates on non-GSE debt securities would tend to move up, while interest rates on GSE debt would tend to move down. For Farmer Mac, this has two implications: (1) Its cost of funds declines; and (2) the liquidity risk in its non-program investments increases. The latter occurs because the market's view of the relative liquidity and credit strength of marketable securities has deteriorated—which is why investments purchased in a more normal environment would then sell at discount to par in order to provide risk-seeking investors with the increased liquidity/credit premiums they require.[7]

The market's perception of liquidity and credit quality constantly fluctuates. Therefore, a key question is: Is there some level of increased earnings spread (relative to an appropriate spread benchmark) that could reasonably be assumed to indicate an unacceptable amount of increased liquidity risk? We do not believe that an institution should be penalized for a decline in the liquidity of what had previously been acceptable investments due to events over which it had no influence. However, should the regulations (or board policy) recognize the reduced liquidity in the investment portfolio and guide management's response to steer the institution back toward a more acceptable level of liquidity risk? *If so, how might Farmer Mac's liquidity management policy establish limits around an investment portfolio benchmark, either statically or dynamically, to reflect the potential changes in investment value that can occur in stressful market or economic environments?*

There may be market-based measures such as spreads (and the amount of time over which unusually wide or narrow spreads are sustained) that would be more dynamic indicators of liquidity risk and enhance the recognition of, and response to, significantly increased risks through discounting procedures that are indexed to major changes in such indicators. Dynamic indicators could be included in Farmer Mac board policy and, when exceeded, simply instruct management to steer the portfolio back toward the targeted indicator level over some period of time. From a conceptual perspective, a dynamic indicator showing an unusually wide spread may indicate increased risk in the liquidity value of the investment portfolio. Further, an unusual degree of narrowing of spreads (that occurs despite no change in Farmer Mac's financial position) may indicate reduced risk in the liquidity value of the investment portfolio. Therefore, a dynamic indicator based on earnings spreads of eligible securities might be used to establish limits that would trigger a rebalancing of the investment portfolio. This rebalancing would help ensure that the portfolio maintains stability in market value even under stressful conditions.[8]

We recognize that one possible complicating factor to such spread limits might be the inability in some cases to clearly identify the underlying funding instruments (and therefore the costs) of a given subset of Farmer Mac's investments. Therefore, return levels (*i.e.,* yields) might offer another indication of relative risk. Yield thresholds might be an alternative for a dynamic threshold to help ensure that portfolio liquidity risk does not exceed acceptable levels. For example, would it be appropriate for Farmer Mac to set triggers based on weighted-average yield thresholds set at some level above a benchmark eligible investment portfolio return—which, when triggered, would require management to rebalance the investment portfolio (or asset class within the portfolio)?

2. Contingency Liquidity Funding Plan

Our second area of discussion pertaining to this regulation concerns § 652.10(c)(3). That provision requires that Farmer Mac's investment policies describe the liquidity characteristics of eligible investments that it will hold to meet its liquidity needs and objectives, but it does not require liquidity contingency funding planning. Such plans are generally regarded as a key component of good corporate governance, and Farmer Mac currently has a contingency funding plan in place. *Would it be appropriate for our regulations to require a liquidity contingency funding plan? If so, how specific should the regulation be regarding required components of the plan versus simply requiring that the plan reasonably reflect current standards, for example, those specified by the Basel Committee on Banking Supervision?*[9]

3. Debt Maturity Management Plan

Third, the maturity structure of Farmer Mac's debt is a key driver of its liquidity position at any given time and

[5] The scenario ignores interest rate effects which could influence the spread in either direction depending on the circumstances, and also the impact of any new investments over the period.

[6] Yields are generally viewed as containing four compensation components: (1) The risk-free rate (which includes a load for expected inflation), (2) credit premium over the risk-free rate, which compensates the investor for default risk, (3) liquidity premium over the risk-free rate, which compensates the investor for the risk that he will be unable to sell the investment quickly at, or near, par, and (4) premium associated with the value of embedded options (if any). For purposes of this explanation, we assume option-adjusted spreads to remove the impact on spreads of changes in the value of embedded options.

[7] Excluding Treasury and GSE investments with regard, at least, to credit risk.

[8] In addition, another scenario may be worth considering. Is there a plausible scenario under which Farmer Mac's cost of funds would drop precipitously enough to increase earnings spreads above some wide threshold over benchmark spreads that would be due solely to positive developments in Farmer Mac's business, and therefore have no implications on the liquidity risk of its investments?

[9] "Principles for Sound Liquidity Risk Management and Supervision", Basel Committee on Banking Supervision, Bank for International Settlements, September 2008 (or successor document, in the future). This document can be found at *http://www.bis.org/publ/bcbs144.htm.*

a key input to the calculation of its minimum liquidity reserve requirement (discussed in Section III.B. of this preamble). Under normal yield curve conditions, long-term debt—debt maturing in greater than 1 year—is more costly than short-term debt—debt maturing in less than 1 year. Long-term debt, however, is generally viewed as adding stability and strength to a corporation's liquidity position compared to short-term debt given the need to frequently roll over such debt.

Farmer Mac's term structure of debt, as published in its balance sheet, has normally been heavily weighted in short-term debt. Farmer Mac often synthetically extends the term of much of its short-funded debt using swap contracts, which results in a lower net cost of funds compared to simply issuing longer term debt. The fact that these combinations of debt and derivative positions behave like longer term debt contributes to the stability and strength of its liquidity position. However, the practice adds counterparty risk on the swaps and short-term debt rollover risk to Farmer Mac's overall liquidity risk position compared to issuing long-term debt.

In light of the marginal funding instability that results from relying primarily on shorter term debt—even when the maturity is extended synthetically—would it be appropriate to require Farmer Mac to establish a debt maturity management plan? If so, how might such a requirement be structured?

We recognize that the minimum daily liquidity reserve requirement includes incentives to this same end of moderating the term structure of debt. However, this question asks specifically whether this additional requirement would appropriately augment the minimum daily liquidity reserve requirement and partially compensate for some of the shortcomings of that measurement discussed in Section III.B. of this preamble.

4. Evidence of Market for Program Investments

Finally, as discussed above, we are aware of no significantly active markets in which Farmer Mac could sell its program investments held on-balance sheet (other than Farmer Mac II assets), and therefore the amount of liquidity provided by these investments is uncertain. We recognize that Farmer Mac from time to time has sold these instruments successfully in the past. Moreover, the principal and interest cash flows on these assets provide liquidity in the normal course of business. *In light of the foregoing, should the availability of a liquid market for Farmer Mac's program investments be considered in the Corporation's liquidity contingency funding plan?*[10]

B. Section 652.20(a)—Minimum Daily Liquidity Reserve Requirement

The minimum daily liquidity reserve requirement found at § 652.20(a) requires Farmer Mac to hold eligible liquidity instruments such as cash, eligible non-program investments, and/or Farmer Mac II assets (subject to certain discounts) to fund its operations for a minimum of 60 days.[11]

This "days-of-liquidity" metric, while useful, has drawbacks. Perhaps foremost among those drawbacks is that this metric contains information about a single point-in-time, but it provides no projected information. A large days-of-liquidity measurement today provides little or no information about what the measurement might be tomorrow.

Are there other metrics or approaches that might improve upon, augment, or appropriately replace days-of-liquidity as currently used in § 652.20(a)? For example, in the current days-of-liquidity calculation, once discounts have been applied to assets, each liquid asset dollar (net of discounts) is viewed (for purposes of the calculation) as being of equal quality and liquidity value. However, clearly there is greater liquidity value in, for example, the amount of undiscounted cash dollars in that total than there is in the dollars associated with corporate debt securities. Under the current rule, the debt securities are discounted at either 5 percent or 10 percent for purposes of estimating liquidity value, but the actual amount realized in a sale would depend on many factors. If stress developed suddenly in the market, the debt securities might be worth considerably less than the discounted amounts, but the cash dollars would not change.

Therefore, to recognize greater differences in the liquidity value of different asset classes, and to augment the minimum days-of-liquidity requirement, would it be appropriate to establish a subcategory of the minimum days-of-liquidity requirement that would include, for example, only cash or Treasury securities in the definition of "primary liquid assets" but also set a smaller minimum required number of days? Recognizing that liquidity risk cannot be eliminated for Farmer Mac, could a "primary" days-of-liquidity minimum add significant certainty to Farmer Mac's liquidity policies at an acceptable cost? We recognize that the return on such investments is likely to be lower than Farmer Mac's funding costs, which would create a drag on earnings. *If such a requirement is warranted, what would be the appropriate number of minimum primary days-of-liquidity, balancing the benefits gained from maintaining these higher quality liquid assets against their higher cost?*

C. Section 652.20(c)—Discounts

Section 652.20(c) requires Farmer Mac to apply specified discounts to all investments in the liquidity portfolio, other than cash and overnight investments, in order to reflect the risk of diminished marketability of even these liquid investments under adverse market conditions. The investments that must be discounted include money market instruments, floating and fixed rate debt and preferred stock securities, diversified investment funds, and Farmer Mac II assets. In the wake of the recent disruptions in financial markets, we are considering whether a more conservative view of the discounts is appropriate.

At the same time, we recognize that deep discounts, if actually realized during a liquidation, impact not only Farmer Mac's ability to meet obligations in a timely manner, but also its capital position. In other words, the loss on sale of these assets at extremely deep discounts could, at large volumes, have a very detrimental impact on capital levels.

Thus, in setting this policy, there is a trade-off between setting deeper, more conservative discounts versus the alternative of excluding those assets from eligibility (or, in the case of Farmer Mac II assets, excluding them from the liquidity reserve) because appropriately deep discounts might reasonably be so deep that, if realized, they could destabilize Farmer Mac's capital position. *In light of these concerns, would it be appropriate to re-evaluate the discounts in § 652.20(c) to better reflect the risk of diminished marketability of liquid investments under adverse conditions? If so, which ones and what would be the appropriate degree of change? In particular, we request public comment on whether the discount currently applied on Farmer Mac II securities is appropriate.*

In addition, the existing, relatively coarse discounting schedule could

[10] Section 652.10, on investment management and requirements, currently governs only non-program investment activities. This would be a new requirement governing the liquidity of Farmer Mac's program investments.

[11] The purpose of this minimum daily liquidity reserve requirement is to enable Farmer Mac to continue its operations if its access to the capital markets were impeded or otherwise disrupted.

overlook important liquidity-quality characteristics of individual investments. *Would it be appropriate to refine the schedule of discounts in § 652.20(c)? For example, there is no difference in the discounts applied to AAA-rated versus AA-rated corporate debt securities.* Conversely, is the coarseness of the current discount schedule more desirable because of its simplicity?

D. Section 652.35(a)—Eligible Non-Program Investments

The current rule provides Farmer Mac with a broad array of eligible high-quality, liquid investments while providing a regulatory framework that can readily accommodate innovations in financial products and analytical tools.

Farmer Mac may purchase and hold the eligible non-program investments listed in § 652.35 to maintain liquidity reserves, manage interest rate risk, and invest surplus short-term funds. As we stated in our preamble adopting this rule, only investments that can be promptly converted into cash without significant loss are suitable for achieving these objectives.[12] We further stated our intent that all eligible investments be either traded in active and universally recognized secondary markets or valuable as collateral.[13] For many of the investments, the regulation requires that they not exceed certain maximum percentages of the total non-program investment portfolio. We established these portfolio caps to limit credit risk exposures, promote diversification, and encourage investments in securities that exhibit low levels of price volatility and liquidity risk. In addition, the table sets single obligor limits to help reduce exposure to counterparty risk.

Would the experience gained during the financial markets crisis of 2008 and 2009 justify adjustments to many of the portfolio limits in § 652.35 to add conservatism to them and improve diversification of the portfolio? We invite comments on appropriate changes for each asset class, final maturity limit, credit rating requirement, portfolio concentration limit, and other restrictions. We also request comment on several specific provisions, as follows.

1. Section 652.35(a)(1)—Obligations of the United States

Section 652.35(a)(1) permits Farmer Mac to invest in Treasuries and other obligations (except mortgage securities) fully insured or guaranteed by the United States Government or Government agency without limitation. *Given that Farmer Mac might not always hold the "on the run" (i.e., highest liquidity) issuance of Treasury securities, would imposing maximum maturity limitations enhance the resale value of these investments in stressful conditions?*

2. Section 652.35(a)(2)—Obligations of Government-Sponsored Agencies

In light of the recent financial instability of Government-sponsored agencies such as Fannie Mae and Freddie Mac, would it be appropriate to revise this section to put concentration limits on exposure to these entities in § 652.35(a)(2)? [14]

3. Section 652.35(a)(3)—Municipal Securities

Section 652.35(a)(3) authorizes investment in municipal securities. Currently, revenue bonds are limited to 15 percent or less of Farmer Mac's total investment portfolio, while general obligations have no such limitation. The maturity limits and credit rating requirements are also more generous for general obligations. *The requirements in § 652.35(a)(3) carry the implied assumption that general obligation bonds are always less risky than revenue bonds. But is that always the case?* In the scenario of severe economic recession, could a municipal issuer's tax base erode faster than the revenues on a bridge or toll road, for example? *Would it be more appropriate for our regulation to limit both sub-categories equally?*

4. Section 652.35(a)(6)—Mortgage Securities

Section 652.35(a)(6) authorizes investments in non-Government agency or Government-sponsored agency securities that comply with 15 U.S.C. 77(d)5 or 15 U.S.C. 78c(a)(41). These types of mortgage securities are typically issued by private sector entities and are mostly comprised of securities that are collateralized by "jumbo" mortgages with principal amounts that exceed the maximum limits of Fannie Mae or Freddie Mac programs. *We invite comment on whether it is appropriate to include mortgage securities collateralized by "jumbo" mortgages as an eligible liquidity investment.*

5. Section 652.35(a)(8)—Corporate Debt Securities

Section 652.35(a)(8) authorizes investment in corporate debt securities. The rule does not contain concentration limits related to industry sector exposure. We request comment on whether such industry sector exposure limits should be added. *Further, is it appropriate to allow investments in subordinated debt as the current rule does? If so, is it appropriate that subordinated debt receives discounts and investment limits at the same level as more senior types of corporate debt?*

E. Section 652.35(d)(1)—Obligor Limits

An appropriate level of diversification is a key attribute of a liquidity investment portfolio. In § 652.35(d)(1), we prohibit Farmer Mac from investing more than 25 percent of its regulatory capital in eligible investments issued by any single entity, issuer, or obligor. Government-sponsored agencies have a different obligor limit; Farmer Mac may not invest more than 100 percent of its regulatory capital in any one Government-sponsored agency. There are no obligor limits for Government agencies.

Do the obligor limits in § 652.35(d)(1) generally provide for an adequate level of diversification? Specifically, in light of the uncertainty associated with the current conservatorships of both Fannie Mae and Freddie Mac, is it appropriate to maintain a higher obligor limit for Government-sponsored agencies?

F. Section 652.40—Stress Tests for Mortgage Securities

In the current rule, stress-testing requirements apply to one type of asset—mortgage securities—and one type of stress—interest rate risk.[15] *Is the scope of the stress-testing requirement adequate, or should it be broadened to apply to the entire investment portfolio (both individually and at a portfolio level)? Should the scope of the stress-testing be expanded to include market price risks due to factors other than interest rate changes?* We refer to both firm-specific risks and systemic risks. Firm-level risks include operational fraud, deteriorating program asset quality, and negative media coverage. Systemic risks include industry sector shocks such as occurred on September 11, 2001, with payment system disruption, or asset class as was seen in the financial services sector in 2007 and

[12] 70 FR 40641 (July 14, 2005).

[13] *Id.*

[14] Under § 652.35(a)(2), Government-sponsored agency mortgage securities, but no other such securities, are limited to 50 percent of Farmer Mac's total non-program investment portfolio. In addition, § 652.35(d)(1) bars Farmer Mac from investing more than 100 percent of its regulatory capital in any one Government-sponsored agency.

[15] By interest rate risk, we refer to the price sensitivity of mortgage instruments over different interest rate/yield curve scenarios, including prepayment and interest rate volatility assumptions—as described in current § 652.40.

2008. *If the scope of required stress-testing is expanded, what types and severity of liquidity event scenarios should be tested, and how should forward-looking cash-flow projections be built around these scenarios?*

IV. List of Key Questions

• To ensure an appropriate level of earnings performance while limiting risk to an acceptable level, should our regulations (and/or Farmer Mac board policy) specify earnings performance benchmarks and some acceptable band of earnings performance above and below such benchmarks? If so, how might Farmer Mac's liquidity management policy establish limits around an investment portfolio benchmark, either statically or dynamically, to reflect the potential changes in investment value that can occur in stressful market or economic environments?

• Would it be appropriate for our regulations to require a liquidity contingency funding plan? If so, how specific should the regulation be regarding required components of the plan versus simply requiring that the plan reasonably reflect current standards, for example, those specified by the Basel Committee on Banking Supervision?

• In light of the marginal funding instability that results from relying primarily on shorter term debt—even when the maturity is extended synthetically—would it be appropriate to require Farmer Mac to establish a debt maturity management plan? If so, how might such a requirement be structured?

• Should the availability of a liquid market for Farmer Mac's program investments be considered in the Corporation's liquidity contingency funding plan?

• Are there other metrics or approaches available that might improve upon, augment, or appropriately replace days-of-liquidity as currently used in § 652.20(a)? For example, to recognize greater differences in the liquidity value of different asset classes, and to augment the minimum days-of-liquidity requirement, would it be appropriate to establish a subcategory of the minimum days-of-liquidity requirement that would include, for example, only cash or Treasury securities in the definition of "primary liquid assets" but also set a smaller minimum required number of days? If such a requirement is warranted, what would be the appropriate number of minimum primary days-of-liquidity, balancing the benefits gained from maintaining these higher quality liquid assets against their higher cost?

• Would it be appropriate to re-evaluate the discounts in § 652.20(c) in order to better reflect the risk of diminished marketability of liquid investments under adverse conditions? If so, which ones and what would be the appropriate degree of change? In particular, we request public comment on whether the discount currently applied on Farmer Mac II securities is appropriate. Would it be appropriate to refine the schedule of discounts in § 652.20(c)? For example, there is no difference in the discounts applied to AAA-rated versus AA-rated corporate debt securities.

• Would the experience gained during the financial markets crisis of 2008 and 2009 justify adjustments to many of the portfolio limits in § 652.35 to add conservatism to them and improve diversification of the portfolio? We invite specific comments on appropriate changes for each asset class, final maturity limit, credit rating requirement, portfolio concentration limit, and other restrictions.

Given that Farmer Mac might not always hold the "on the run" (*i.e.,* highest liquidity) issuance of Treasury securities, would imposing maximum maturity limitations enhance the resale value of these investments in stressful conditions?

In light of the recent financial instability of Government-sponsored agencies such as Fannie Mae and Freddie Mac, would it be appropriate to revise this section to put concentration limits on exposure to these entities in § 652.35(a)(2)?

The requirements in § 652.35(a)(3) carry the implied assumption that general obligation bonds are always less risky than revenue bonds. But is that always the case? Would it be more appropriate for our regulation to limit both sub-categories equally?

We invite comment on whether it is appropriate to include mortgage securities collateralized by "jumbo" mortgages as an eligible liquidity investment.

Further, is it appropriate to allow investments in subordinated debt as the current rule does? If so, is it appropriate that subordinated debt receives discounts and investment limits at the same level as more senior types of corporate debt?

• Do the obligor limits in § 652.35(d)(1) generally provide for an adequate level of diversification? Specifically, in light of the uncertainty associated with the current conservatorships of both Fannie Mae and Freddie Mac, is it appropriate to maintain a higher obligor limit for Government-sponsored agencies?

• Is the scope of the stress-testing requirement adequate, or should it be broadened to apply to the entire investment portfolio (both individually and at a portfolio level)? Should the scope of the stress-testing be expanded to include market price risks due to factors other than interest rate changes? If the scope of required stress-testing is expanded, what types and severity of liquidity event scenarios should be tested, and how should forward-looking, cash flow projections be built around these scenarios?

V. Conclusion

We welcome comments on all provisions of this notice, even if we did not request specific comments on those provisions.

Dated: May 13, 2010.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 2010–12012 Filed 5–18–10; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0478; Directorate Identifier 2008–NM–090–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes); and Model A300 and A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as: Two cases of complete nose landing gear (NLG) shock absorber bolts failure were reported to the manufacturer. In both cases, the crew was unable to retract the gear and was forced to an In Flight Turn Back. In one case, the aircraft experienced a low speed runway excursion. The root cause of the bolts failure has been identified

being due to a bolt(s) over-torque. The investigation has highlighted that the design of the NLG shock absorber was not tolerant to the over-torque, and an inspection plan has been developed to track any NLG shock absorber-to-main barrel attachment bolts status. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by July 6, 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 W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; e-mail: *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0478; Directorate Identifier 2008–NM–090–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008–0052R1, dated June 30, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Two cases of complete nose landing gear (NLG) shock absorber bolts failure were reported to the manufacturer. In both cases, the crew was unable to retract the gear and was forced to an In Flight Turn Back. In one case, the aircraft experienced a low speed runway excursion. The root cause of the bolts failure has been identified being due to a bolt(s) over-torque. The investigation has highlighted that the design of the NLG shock absorber was not tolerant to the over-torque, and an inspection plan has been developed to track any NLG shock absorber-to-main barrel attachment bolts status. The preliminary inspection plan, required by DGAC France Airworthiness Directive (AD) F–2004–075 and F–2004–076, has allowed limiting the number of findings: High at the initial inspection, it has decreased following the repetitive inspections.
>
> This new AD retains the requirements of those ADs, which are superseded, and requires a repetitive torque check of the NLG shock absorber-to-main barrel attachment bolts with new thresholds and intervals. This new AD also refers to an optional modification as terminating action.
>
> * * * * *

The optional modification involves modifying the shock absorber-to-barrel attachment to increase over-torque tolerances. The actions to address the unsafe condition also include inspecting the NLG shock absorber-to-main barrel attachment bolts and doing corrective actions. The corrective actions include replacing bolts, screws, nuts, washers, and cotter pins; contacting Airbus for repair and doing the repair; and modifying the shock absorber; as applicable. The inspection of the NLG shock absorber-to-main barrel attachment bolts is repeated at intervals not to exceed 400 flight hours or 1,000 flight cycles, depending on the inspection results and corrective actions performed. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued the following service information:

- All Operator Telexes A300–32A0447, A300–32A6093, and A310–32A2132, all dated April 22, 2004;
- Mandatory Service Bulletins A300–32–0447, A300–32–6093, and A310–32–2132, all Revision 01, all including Appendix 01, all dated June 1, 2007; and
- Service Bulletins A300–32–0453, A300–32–6099, and A310–32–2135, all dated June 1, 2007.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

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 proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 229 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $38,930, or $170 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2010–0478; Directorate Identifier 2008–NM–090–AD.

Comments Due Date

(a) We must receive comments by July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A300 B2–1A, B2–1C, B4–2C, B2K–3C, B4–103, B2–203, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes; and Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes; all certified models, all serial numbers, certificated in any category; except airplanes on which Airbus Modification 13212 has been done in production or Airbus Service Bulletin A300–32–0453, A310–32–2135, or A300–32–6099 has been done in service.

Subject

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

Reason

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

Two cases of complete nose landing gear (NLG) shock absorber bolts failure were reported to the manufacturer. In both cases, the crew was unable to retract the gear and was forced to an In Flight Turn Back. In one case, the aircraft experienced a low speed runway excursion. The root cause of the bolts failure has been identified being due to a bolt(s) over-torque. The investigation has highlighted that the design of the NLG shock absorber was not tolerant to the over-torque, and an inspection plan has been developed to track any NLG shock absorber-to-main barrel attachment bolts status. The preliminary inspection plan, required by DGAC France Airworthiness Directive (AD) F–2004–075 and F–2004–076, has allowed limiting the number of findings: high at the initial inspection, it has decreased following the repetitive inspections.

This new AD retains the requirements of those ADs, which are superseded, and requires a repetitive torque check of the NLG shock absorber-to-main barrel attachment bolts with new thresholds and intervals. This new AD also refers to an optional modification as terminating action.

The optional modification involves modifying the shock absorber-to-barrel attachment to increase over-torque tolerances. The actions to address the unsafe condition also include inspecting the NLG shock absorber-to-main barrel attachment bolts and corrective actions. The corrective actions include replacing bolts, screws, nuts, washers, and cotter pins; contacting Airbus for repair and doing the repair; and modifying the shock absorber; as applicable.

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.

Inspection and Corrective Action

(g) At the applicable time specified in paragraph (g)(1), (g)(2), or (g)(3) of this AD: Do a visual inspection to detect operational condition (*i.e.,* free of corrosion and not deformed) and inspect rotation/torque of the NLG shock absorber-to-main barrel attachment bolts and do all applicable corrective actions, in accordance with the applicable all operators telex (AOT) identified in Table 1 of this AD. Do all applicable corrective actions before further flight. Thereafter, repeat the inspection at the applicable intervals, depending on inspection results and the corrective actions performed, as specified in the applicable AOT identified in Table 1 of this AD.

(1) For airplanes on which the NLG has been overhauled (the bolts have been removed) as of the effective date of this AD: Within 30 days or 1,000 flight cycles on the NLG after the effective date of this AD, whichever occurs later.

(2) For airplanes on which, as of the effective date of this AD, the NLG has accumulated less than 1,000 total flight cycles, has not been overhauled (the bolts have never been removed), since manufacture of the NLG: Before the accumulation of 1,000 total flight cycles on the NLG, or within 30 days after the effective date of this AD, whichever occurs later.

(3) For airplanes on which, as of the effective date of this AD, the NLG has accumulated 1,000 or more total flight cycles, and has not been overhauled since new (the bolts have never been removed): Within 30 days after the effective date of this AD.

TABLE 1—AIRBUS ALL OPERATOR TELEXES

Airbus all operator telex—	Dated—
A300–32A0447	April 22, 2004.
A300–32A6093	April 22, 2004.
A310–32A2132	April 22, 2004.

Torque Load Inspection and Corrective Action

(h) At the latest of the compliance times specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, do an inspection of the torque load of the nuts of the NLG shock absorber-to-main barrel attachment bolts in accordance with the Accomplishment Instructions of the applicable service bulletin listed in Table 2 of this AD. Depending on the torque load value found during the inspection, before further flight: Retighten the bolt(s) or replace the discrepant bolt(s), or replace all bolts, in accordance with the applicable service bulletin listed in Table 2 of this AD. Thereafter, repeat the torque load inspection at intervals not to exceed 3,200 flight cycles or 30 months' time-in-service accumulated by the NLG, whichever occurs first.

(1) Within 3,200 flight cycles or 30 months since NLG's first flight, whichever occurs first.

(2) Within 3,200 flight cycles or 30 months accumulated by the NLG since installation of new bolts, whichever occurs first.

(3) Within 3,200 flight cycles or 30 months after the effective date of this AD, whichever occurs first.

TABLE 2—SERVICE INFORMATION FOR INSPECTIONS

Airbus Mandatory Service Bulletin—	Revision level—	Dated—
A300–32–0447, including Appendix 01	01	June 1, 2007.
A300–32–6093, including Appendix 01	01	June 1, 2007.
A310–32–2132, including Appendix 01	01	June 1, 2007.

(i) After accomplishment of the initial inspection in accordance with paragraph (h) of this AD, as applicable, the repetitive inspections of paragraph (g) of this AD are no longer required.

Optional Terminating Action

(j) For airplanes on which the modification of the shock absorber-to-barrel attachment has been done in accordance with the applicable service bulletin listed in Table 3 of this AD, the requirements of this AD are no longer required, as long as that modification remains installed.

TABLE 3—SERVICE INFORMATION FOR OPTIONAL TERMINATING ACTION

Airbus Service Bulletin—	Dated—
A300–32–0453	June 1, 2007.
A300–32–6099	June 1, 2007.
A310–32–2135	June 1, 2007.

Reporting Requirement

(k) For each inspection required in paragraph (h) of this AD that results in re-torque or replacement of bolt(s): At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD, send a report to Airbus, using Appendix 01 of the applicable service bulletin listed in Table 2 of this AD.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No Differences.

Other FAA AD Provisions

(l) 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; 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

(m) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2008–0052R1, dated June 30, 2008; and the service information identified in Tables 1, 2, and 3 of this AD; for related information.

Issued in Renton, Washington, on May 3, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–11902 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0477; Directorate Identifier 2009–NM–226–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as: Three events have been reported where insulation material was found to be fouling pulleys in the aileron interconnect circuit in the cabin roof area. Interference between the cable and the insulation bag causes the material to be drawn into the gap between the pulley and the pulley guard. This condition, if not detected and corrected, could lead to restricted

aileron movement and consequently, reduced control of the aeroplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by July 6, 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 W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact BAE Systems Regional Aircraft, 13850 McLearen Road, Herndon, Virginia 20171; telephone 703–736–1080; e-mail *raebusiness@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

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:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0477; Directorate Identifier 2009–NM–226–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0205, Revision 1, dated January 12, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Three events have been reported where insulation material was found to be fouling pulleys in the aileron interconnect circuit in the cabin roof area. The insulation material is contained in a bag, the material of which tends to become brittle with age. During the production life of the aeroplane type, several methods of bag retention were applied, all of which involved puncturing the bag. This puncture tends to result in a tear, which, if detected in time, can be repaired with tape; however, the affected cabin roof area is not frequently accessed for inspection. Over time, the weight of the bag also tends to cause tears in the material, making the insulation material sag, thereby causing interference with the cable and pulley.
>
> Interference between the cable and the insulation bag causes the material to be drawn into the gap between the pulley and the pulley guard. This condition, if not detected and corrected, could lead to restricted aileron movement and consequently, reduced control of the aeroplane.
>
> For the reasons described above, this AD requires the installation of additional guards, bolts and nuts on the aileron interconnect cable pulleys at frame 29 (left and right).
>
> This AD has been revised to exclude aeroplanes from the Applicability that have been modified to freighter configuration in accordance with BAE Systems modification No. HCM50200B. As this modification includes the removal of the insulation bags, the unsafe condition that is addressed by this AD cannot exist or develop on those aeroplanes.

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

Relevant Service Information

BAE Systems (Operations) Limited has issued Modification Service Bulletin SB.27–183–36246A, dated December 9, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

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 proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 1 product of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $340 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 costs. 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 the proposed AD on U.S. operators to be $765.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BAE Systems (Operations) Limited: Docket No. FAA–2010–0477; Directorate Identifier 2009–NM–226–AD.

Comments Due Date

(a) We must receive comments by July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to BAE SYSTEMS (Operations) Limited Model BAe 146–100A, –200A, and –300A series airplanes and Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes, certificated in any category, all serial numbers, except those airplanes modified to freighter configuration in accordance with BAE Systems modification No. HCM50200B.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight Controls.

Reason

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

Three events have been reported where insulation material was found to be fouling pulleys in the aileron interconnect circuit in the cabin roof area.

Interference between the cable and the insulation bag causes the material to be drawn into the gap between the pulley and the pulley guard. This condition, if not detected and corrected, could lead to restricted aileron movement and consequently, reduced control of the aeroplane.

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.

Actions

(g) Within 6 months after the effective date of this AD, install new aileron interconnect cable pulley guards, in accordance with paragraph 2.C. "Modification" of the Accomplishment Instructions of BAE SYSTEMS (Operations) Limited Modification Service Bulletin SB.27–183–36246A, dated December 9, 2008.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(h) 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

(i) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009–0205, Revision 1, dated January 12, 2010; and BAE SYSTEMS (Operations) Limited Modification Service Bulletin SB.27–183–36246A, dated December 9, 2008; for related information.

Issued in Renton, Washington, on May 4, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–11903 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0479 Directorate Identifier 2009–NM–220–AD]

RIN 2120–AA64

Airworthiness Directives; Fokker Services B.V. Model F.28 Mark 0070 and 0100 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as: Recently, a brake fire was reported which was caused by a ruptured brake piston. The fire was quickly extinguished but caused damage to the paint and hydraulic/electrical harness and its components. Detailed investigation showed that a hydraulic lock must have been present close to the affected brake creating enough internal pressure to rupture the piston. The most probable scenario for the hydraulic lock is a loosened (not necessarily disconnected) brake QD [quick-disconnect] coupling. Further investigation of the service experience files at Fokker Services showed that more brake fires have occurred on aeroplanes in a pre-mod SBF100–32–127 configuration. The unsafe condition is loss of braking capability and possible brake fires, which could reduce the ability of the flightcrew to safely land the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by July 6, 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 W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; telephone +31 (0)252–627–350; fax +31 (0)252 627 211; e-mail *technicalservices.fokkerservices@stork.com;* Internet *http://www.myfokkerfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0479; Directorate Identifier 2009–NM–220–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0176, dated August 6, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> During 1995, several reports were received of brake QD [quick-disconnect] couplings loosened and/or disconnected during operation. In a few cases, residual brake pressure was trapped in the affected brake, causing asymmetric braking and/or resulting in hot brakes. Loosened couplings may cause a hydraulic leak with the risk of a brake fire. Investigation revealed that the installation of the brake QD couplings must be done with care and that the locking teeth on the light alloy sleeve are prone to wear. The Fokker 70/100 Aircraft Maintenance Manual (AMM) has been revised to include additional information to ensure correct removal and installation of the couplings.
>
> In 1997, Fokker Services issued SBF100–32–106, recommending the introduction of QD couplings with corrosion resistant steel (CRES) sleeves that would prevent excessive wear of the locking teeth on the light alloy sleeve. In response to more reported cases of loosened QD couplings resulting in brake problems, further improved QD couplings were introduced in 2001 through SBF100–32–127. These couplings increase the reliability of the brake system.
>
> Recently, a brake fire was reported which was caused by a ruptured brake piston. The fire was quickly extinguished but caused damage to the paint and hydraulic/electrical harness and its components. Detailed investigation showed that a hydraulic lock must have been present close to the affected brake creating enough internal pressure to rupture the piston. The most probable scenario for the hydraulic lock is a loosened (not necessarily disconnected) brake QD coupling. Further investigation of the service experience files at Fokker Services showed that more brake fires have occurred on aeroplanes in a pre-mod SBF100–32–127 configuration.
>
> In order to reduce the probability of a fluid fire as described in CS (certification specification) 25.863, additional action is deemed necessary.
>
> For the reasons described above, this AD requires repetitive [detailed] inspections [for wear] of the affected brake QD couplings and replacement of the QD couplings with improved units. Installation of the improved QD couplings terminates the repetitive inspections requirements.

The unsafe condition is loss of braking capability and possible brake fires, which could reduce the ability of the flightcrew to safely land the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Fokker Services B.V. has issued Service Bulletin SBF100–32–156, Revision 1, dated June 29, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

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 proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 16 products of U.S. registry. We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $4,814 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 costs. 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 the proposed AD on U.S. operators to be $82,464, or $5,154 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket No. FAA–2010–0479; Directorate Identifier 2009–NM–220–AD.

Comments Due Date

(a) We must receive comments by July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Fokker Services B.V. Model F.28 Mark 0070 and 0100 airplanes, certificated in any category, all serial numbers, with any brake quick-disconnect (QD) coupling having part number (P/N) AE70690E, AE70691E, AE99111E, or AE99119E installed.

Subject

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

Reason

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

During 1995, several reports were received of brake QD couplings loosened and/or disconnected during operation. In a few cases, residual brake pressure was trapped in the affected brake, causing asymmetric braking and/or resulting in hot brakes. Loosened couplings may cause a hydraulic leak with the risk of a brake fire. Investigation revealed that the installation of the brake QD couplings must be done with care and that the locking teeth on the light alloy sleeve are prone to wear. The Fokker 70/100 Aircraft Maintenance Manual (AMM) has been revised to include additional information to ensure correct removal and installation of the couplings.

In 1997, Fokker Services issued SBF100–32–106, recommending the introduction of QD couplings with corrosion resistant steel (CRES) sleeves that would prevent excessive wear of the locking teeth on the light alloy sleeve. In response to more reported cases of loosened QD couplings resulting in brake problems, further improved QD couplings were introduced in 2001 through SBF100–32–127. These couplings increase the reliability of the brake system.

Recently, a brake fire was reported which was caused by a ruptured brake piston. The fire was quickly extinguished but caused damage to the paint and hydraulic/electrical harness and its components. Detailed investigation showed that a hydraulic lock must have been present close to the affected brake creating enough internal pressure to rupture the piston. The most probable scenario for the hydraulic lock is a loosened (not necessarily disconnected) brake QD coupling. Further investigation of the service experience files at Fokker Services showed that more brake fires have occurred on aeroplanes in a pre-mod SBF100–32–127 configuration.

In order to reduce the probability of a fluid fire as described in CS (certification specification) 25.863, additional action is deemed necessary.

For the reasons described above, this AD requires repetitive [detailed] inspections [for wear] of the affected brake QD couplings and replacement of the QD couplings with improved units. Installation of the improved QD couplings terminates the repetitive inspections requirements.

The unsafe condition is loss of braking capability and possible brake fires, which could reduce the ability of the flightcrew to safely land the airplane.

Compliance

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

Actions

(g) Do the following actions.

(1) Within 6 months after the effective date of this AD, do a detailed inspection for wear of the brake QD couplings by measuring dimension "A," in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–156, Revision 1, dated June 29, 2009. Repeat the inspection thereafter at the applicable intervals specified in Table 1 of this AD, except as required by paragraph (g)(2) of this AD.

TABLE 1—REPETITIVE INSPECTION INTERVALS

If dimension "A" is—	Repeat the inspection at intervals not to exceed—
Greater than or equal to 0.76 mm	6 months.
Less than 0.76 mm but greater than or equal to 0.72 mm	3 months.
Less than 0.72 mm but greater than or equal to 0.68 mm	30 days.
Less than 0.68 mm but greater than or equal to 0.61 mm	7 days.
Less than 0.61 mm but greater than 0.53 mm	24 hours.

(2) If, during any inspection required by paragraph (g)(1) of this AD, dimension "A" on any brake QD coupling is less than or equal to 0.53 mm, before further flight, replace the affected brake QD coupling with an improved unit having P/N AE73059E or P/N AE73091E, as applicable, in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–156, Revision 1, dated June 29, 2009.

(3) Within 24 months after the effective date of this AD, replace all remaining brake QD couplings having P/N AE70690E, P/N AE70691E, P/N AE99111E, and P/N AE99119E with improved units, in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–156, Revision 1, dated June 29, 2009.

(4) Installation of brake QD couplings with an improved unit having P/N AE73059E or P/N AE73091E at all locations terminates the repetitive inspections required by paragraph (g)(1) of this AD.

(5) Replacing the brake QD couplings is also acceptable for compliance with the corresponding requirements of paragraphs (g)(1), (g)(2), and (g)(3) of this AD if done before the effective date of this AD, in accordance with any of the service bulletins specified in Table 2 of this AD:

TABLE 2—FOKKER CREDIT SERVICE BULLETINS

Fokker Service Bulletins	Revision	Date
Fokker Service Bulletin SBF100–32–127	Original	July 20, 2001.
Fokker Service Bulletin SBF100–32–127	1	March 6, 2009.
Fokker Service Bulletin SBF100–32–156	Original	March 6, 2009.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(h) 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: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; 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

(i) Refer to MCAI EASA Airworthiness Directive 2009–0176, dated August 6, 2009; and Fokker Service Bulletin SBF100–32–156, Revision 1, dated June 29, 2009; for related information.

Issued in Renton, Washington, on May 4, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–11904 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1157; Directorate Identifier 2009–NE–26–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc (RR) RB211–22B and RB211–524 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) 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 low pressure turbine (LPT) shafts have been found

with cracks originating from the rear cooling air holes. The cracks were found at normal component overhaul, by the standard Magnetic Particle Inspection (MPI) technique defined in the associated engine manual. The cracks have been found to initiate from corrosion pits. Propagation of a crack from the rear cooling air holes may result in shaft failure and subsequently in an uncontained Low Pressure Turbine failure. For the reasons stated above, this AD requires the inspection of the affected engines' LPT shafts and replacement of the shaft, as necessary. We are proposing this AD to detect cracks, initiated by corrosion pits, originating from the rear cooling air holes, which could result in shaft failure and subsequently in an uncontained failure of the LPT and damage to the airplane.

DATES: We must receive comments on this proposed AD by July 6, 2010.

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

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

Contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom: Telephone 011 44 1332 242424; fax 011 44 1332 249936, for the service information identified in this proposed AD.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *tara.chaidez@faa.gov*; telephone (781) 238–7773; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2009–1157; Directorate Identifier 2009–NE–26–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007–0310 R1, dated January 8, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products.] The MCAI states:

> Several low pressure turbine (LPT) shafts have been found with cracks originating from the rear cooling air holes. The cracks were found at normal component overhaul, by the standard Magnetic Particle Inspection (MPI) technique defined in the associated engine manual. The cracks have been found to initiate from corrosion pits. Propagation of a crack from the rear cooling air holes may result in shaft failure and subsequently in an uncontained Low Pressure Turbine failure. For the reasons stated above, this AD requires the inspection of the affected engines' LPT shafts and replacement of the shaft, as necessary.

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

Relevant Service Information

Rolls-Royce plc has issued Alert Service Bulletin RB.211–72–AF336, dated October 24, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom, and is approved for operation in the United States. Pursuant to our bilateral agreement with the United Kingdom, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 10 products of U.S. registry. We also estimate that it would take about 7 work-hours per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $15,000 per product. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $155,950.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the

distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce plc: Docket No. FAA–2009–1157; Directorate Identifier 2009–NE–26–AD.

Comments Due Date

(a) We must receive comments by July 6, 2010.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc RB211–22B series and RB211–524B4–D–02, RB211–524D4–19, RB211–524D4–39, RB211–524D4–B–19, RB211–524D4–B–39, RB211–524D4X–19, and RB211–524D4X–B–19 model turbofan engines. These engines are installed on, but not limited to, Boeing 747 series and Lockheed L–1011 series airplanes.

Reason

(d) This AD results from:

Several low pressure turbine (LPT) shafts have been found with cracks originating from the rear cooling air holes. The cracks were found at normal component overhaul, by the standard Magnetic Particle Inspection (MPI) technique defined in the associated engine manual. The cracks have been found to initiate from corrosion pits. Propagation of a crack from the rear cooling air holes may result in shaft failure and subsequently in an uncontained Low Pressure Turbine failure. For the reasons stated above, this AD requires the inspection of the affected engines' LPT shafts and replacement of the shaft, as necessary.

We are issuing this AD to detect cracks, initiated by corrosion pits, originating from the rear cooling air holes, which could result in shaft failure and subsequently in an uncontained failure of the LPT and damage to the airplane.

Actions and Compliance

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

Initial Inspection Requirements

(1) At the next engine shop visit after the effective date of this AD when the LPT shaft is completely disassembled to piece-part level, inspect the LPT shaft using paragraphs 3.A.(1)(a) through 3.A.(4)(l) of the accomplishment instructions of Rolls-Royce Service Bulletin RB.211–72–AF336, dated October 24, 2007.

Repetitive Inspection Requirements

(2) Thereafter, reinspect the LPT shaft using paragraphs 3.A.(1)(a) through 3.A.(4)(l) of the accomplishment instructions of Rolls-Royce Service Bulletin RB.211–72–AF336, dated October 24, 2007 and the following schedule in Table 1 of this AD:

TABLE 1—REPETITIVE INSPECTION INTERVAL BY ENGINE MODEL

Engine model	Maximum time between inspections (engine cycles)
(i) RB211–22B Series, all models	3,500.
(ii) RB211–524B4–D–02	4,000.
(iii) RB211–524D4–19, RB211–524D4–39, RB211–524D4–B–19, RB211–524D4–B–39, RB211–524D4X–19 and RB211–524D4X–B–19.	At the next engine shop visit after the last inspection.

Remove Parts With Cracks

(3) Remove cracked LPT shafts, found using paragraphs (e)(1) or (e)(2) of this AD, from service before further flight.

Definitions

(4) For the purpose of this AD, an engine shop visit is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges. The separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

Other FAA AD Provisions

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

Related Information

(g) Refer to MCAI EASA Airworthiness Directive 2007–0310 R1, dated January 8, 2008, and Rolls-Royce plc Alert Service Bulletin RB.211–72–AF336, dated October 24, 2007, for related information. Contact Rolls-Royce plc P.O. Box 31, Derby, DE24 8BJ, United Kingdom; telephone 044 1332 242424; fax 044 1332 249936, for a copy of this service information.

(h) Contact Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *tara.chaidez@faa.gov;* telephone (781) 238–7773; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on May 12, 2010.

Peter A. White,

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

[FR Doc. 2010–11998 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0480; Directorate Identifier 2010–NM–035–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 747–400 and 747–400D Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Model 747–400 and 747–400D series airplanes. This proposed AD would

require installing aluminum gutter reinforcing brackets to the forward and aft drip shield gutters of the main equipment center (MEC); and adding a reinforcing fiberglass overcoat to the top surface of the MEC drip shield, including an inspection for cracking and holes in the MEC drip shield, and corrective actions if necessary. This proposed AD also provides for an option to install an MEC drip shield drain system, which, if accomplished, would extend the compliance time for adding the reinforcing fiberglass overcoat to the top surface of the MEC drip shield. This proposed AD results from a report indicating that an operator experienced a multi-power system loss in-flight of #1, #2, and #3 alternating current (AC) electrical power systems located in the MEC. We are proposing this AD to prevent water penetration into the MEC, which could result in the loss of flight critical systems.

DATES: We must receive comments on this proposed AD by July 6, 2010.

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

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Marcia Smith, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6484; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0480; Directorate Identifier 2010–NM–035–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received a report indicating that an operator experienced a multi-power system loss in-flight of #1, #2, and #3 AC electrical power systems located in the main equipment center (MEC). The forward MEC drip shield gutters and exhaust plenum have each been identified as part of the leak path into the MEC. Multiple operators have reported MEC drip shield gutter and upper surface cracks. These cracks can allow water to penetrate the MEC drip shield and enter the MEC. This condition, if not corrected, could allow water penetration into the MEC, which could result in the loss of flight critical systems.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 747–25A3555, dated November 4, 2009. The service bulletin describes procedures for installing aluminum gutter reinforcing brackets to the forward and aft drip shield gutters of the main equipment center (MEC). The service bulletin also describes procedures for adding a reinforcing fiberglass overcoat to the top surface of the MEC drip shield, including a general visual inspection for cracking and holes in the top surface of the MEC drip shield, and corrective actions if necessary. The corrective actions include repairing any crack or hole found. The service bulletin also describes procedures for an option to install an MEC drip shield drain system, which, if accomplished, would extend the compliance time for adding the reinforcing fiberglass overcoat.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD would affect 71 airplanes of U.S. registry. The following table provides the estimated costs, depending on airplane configuration, for U.S. operators to comply with this proposed AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Install Brackets	Between 7 and 8 [1]	$85	None	Up to $680 [1]	71	Up to $48,280.[1]
Add Overcoat	Between 11 and 12 [1]	85	None	Up to $1,020 [1]	71	Up to $72,420.[1]

TABLE—ESTIMATED COSTS—Continued

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Install Optional MEC Drip Shield Drain System.	Between 12 and 13 [1]	85	Up to $8,982 [1]	Up to $10,087 [1]	71	Up to $716,177.[1]

[1] Depending on work package.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2010–0480; Directorate Identifier 2010–NM–035–AD.

Comments Due Date

(a) We must receive comments by July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 747–400 and 747–400D series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 747–25A3555, dated November 4, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 25: Equipment/Furnishings.

Unsafe Condition

(e) This AD results from a report indicating that an operator experienced a multi-power system loss in-flight of #1, #2, and #3 alternating current electrical power systems located in the main equipment center (MEC). The Federal Aviation Administration is issuing this AD to prevent water penetration into the MEC, which could result in loss of flight critical systems.

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.

Modification

(g) Do the actions specified in either paragraph (g)(1) or (g)(2) of this AD, at the times specified in those paragraphs, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–25A3555, dated November 4, 2009 ("the service bulletin").

(1) Within 24 months after the effective date of this AD, install the reinforcing brackets of the MEC drip shield aluminum gutter, in accordance with Work Package 1 of the Accomplishment Instructions of the service bulletin; and add a reinforcing fiberglass overcoat to the top surface of the MEC drip shield, including doing a general visual inspection for cracking and holes in the top surface of the MEC drip shield, and doing all applicable corrective actions, in accordance with Work Package 3 of the Accomplishment Instructions of the service bulletin. Do all applicable corrective actions before further flight after doing the general visual inspection.

(2) Do the actions specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) Within 24 months after the effective date of this AD, install the reinforcing brackets of the MEC drip shield aluminum gutter, in accordance with Work Package 1 of the Accomplishment Instructions of the service bulletin; and install a MEC drip shield drain system, in accordance with Work Package 2 of the Accomplishment Instructions of the service bulletin.

(ii) Within 96 months after the effective date of this AD, add a reinforcing fiberglass overcoat to the top surface of the MEC drip shield, including doing a general visual inspection for cracking and holes in the top surface of the MEC drip shield, and doing all applicable corrective actions, in accordance with Work Package 3 of the Accomplishment Instructions of the service bulletin. Do all applicable corrective actions before further flight after doing the general visual inspection.

Alternative Methods of Compliance (AMOCs)

(h)(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: Marcia Smith, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6484; 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.

Issued in Renton, Washington, on May 5, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–11901 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0481; Directorate Identifier 2009–NM–192–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 737–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Model 737–100 and –200 series airplanes. This proposed AD would require repetitive inspections for cracking and damaged fasteners of certain fuselage frames and stub beams, and corrective actions if necessary. For certain airplanes, this proposed AD would also require repetitive inspections for cracking of the inboard chord fastener hole of the frame at body station 639, stringer S–16, and corrective actions if necessary. For certain airplanes, this proposed AD would also require an inspection to determine the edge margin of the lower chord. For airplanes with a certain short edge margin, this proposed AD requires repetitive inspections for cracking, and corrective actions if necessary; replacing the lower chord terminates the repetitive inspections. This proposed AD requires an eventual preventive modification. For certain airplanes, doing the modification or a repair would terminate the repetitive inspections for the repaired or modified frame only. For airplanes on which the modification or repair is done at certain body stations, this proposed AD would require repetitive inspections for cracking of certain frame webs and inner and outer chords, and corrective actions if necessary. For certain other airplanes, this proposed AD requires a modification which includes reinforcing the body frame inner chords, replacing the stub beam upper chords and attach angles, and reinforcing the stub beam web. This proposed AD results from reports of fatigue cracks at certain frame sections, in addition to stub beam cracking, caused by high flight cycle stresses from both pressurization and maneuver load. We are proposing this AD to detect and correct fatigue cracking of certain fuselage frames and stub beams, and possible severed frames, which could result in reduced structural integrity of the frames. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and result in rapid decompression of the fuselage.

DATES: We must receive comments on this proposed AD by July 6, 2010.

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

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0481; Directorate Identifier 2009–NM–192–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received reports of fatigue cracks found at certain frame sections, in addition to stub beam cracking, caused by high flight cycle stresses from both pressurization and maneuver load. Numerous cracks were found in the shear ties, webs, and inboard and outboard chords of the overwing body frames and stub beams between body stations 559 and 639. Cracks were also found in the webs, attach angles, and the upper and lower chords of the stub beams. There were reports of sheared fasteners in the overwing body frames and stub beams in the same location.

Fatigue cracking of certain fuselage frames and stub beams, if not detected and corrected, and possible severed frames, could result in reduced structural integrity of the frames. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and result in rapid decompression of the fuselage.

Relevant Service Information

We have reviewed Boeing Service Bulletin 737–53–1061, Revision 4, including Addendum, dated July 16, 1992. For airplanes on which a repair (Part III) or preventive modification (Part II) has not been done, the service bulletin describes procedures for

repetitive detailed inspections for cracks and damaged fasteners in the circumferential frame and the stub beam at body stations 559, 578, 597, 616, and 639, and corrective actions if necessary. For Group 1–3 airplanes, the service bulletin describes procedures for repetitive eddy current inspections for cracking of the inboard chord fastener hole of the frame at body station 639, stringer S–16, and corrective actions if necessary. For airplanes on which certain stub beam lower chords were installed, the service bulletin describes procedures for an inspection to determine if a short edge margin exists in the lower chord and, for airplanes with a certain short edge margin, repetitive inspections for cracking and corrective actions if necessary. For airplanes on which either circumferential frame at body station 597 was changed as given in Boeing Service Bulletin 737–53–1061, Revision 1, dated December 16, 1983; Revision 2, dated April 18, 1986; or Revision 3, dated June 15, 1989; the service bulletin describes procedures for repetitive detailed inspections for cracking of the frame.

This service bulletin also describes a preventive modification, which would eliminate the need for the repetitive inspections. For airplanes on which the modification or repair is done at body stations 616 and 639, the service bulletin describes procedures for repetitive detailed inspections for cracking of the body station 616 and 639 frame webs and inner and outer chords, near stringer S–16, and corrective actions if necessary.

The corrective actions include doing a repair for any cracking and damaged fasteners that are within the limits specified, replacing a cracked component by installation of a preventive modification if the cracks are outside the limits, and contacting Boeing for instructions if cracks or damaged fasteners cannot be repaired in accordance with the specified procedures or if the upper chord was replaced at a certain location.

For Group 1–3 airplanes, the service bulletin describes procedures for a modification, which includes reinforcing the body frame inner chords, replacing the stub beam upper chords and attach angles, and reinforcing the stub beam web at body stations 597, 616, and 639.

Related Rulemaking

We are in the process of issuing an AD that refers to Boeing Alert Service Bulletin 737–53A1254, Revision 1, dated July 9, 2009, and is related to this proposed AD. That service information applies to Model 737–200, –300, –400, and –500 series airplanes. During review of that service information it was determined that the same unsafe condition exists on earlier Boeing Model 737–100 and –200 series airplanes identified in Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992, referred to in this proposed AD as the appropriate source of service information for accomplishing the actions.

FAA's Determination and Requirements of This Proposed AD

We are proposing this AD because we evaluated all relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the Proposed AD and the Service Information."

Differences Between the Proposed AD and the Service Information

Although the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992, include a modification for Group 4 airplanes (Model 737–200C airplanes), the applicability of this proposed AD does not include those airplanes. This proposed AD is applicable to passenger airplanes only.

The service bulletin also specifies to contact the manufacturer for instructions on repairing cracks, but this proposed AD would require repairing cracks in one of the following ways:

- Using a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Delegation Authorization (ODA) that we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD would affect 45 airplanes of U.S. registry.

We estimate that it would take about 4 work-hours per product to comply with the proposed inspections. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed inspection to the U.S. operators to be $15,300, or $340 per product, per inspection cycle.

We estimate that it would take about 288 work-hours per product to comply with the proposed modification (for Group 1–3 airplanes). The average labor rate is $85 per work-hour. Required parts would cost about $58,742 per product. Based on these figures, we estimate the cost of this proposed modification to the U.S. operators to be $83,222 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2010–0481; Directorate Identifier 2009–NM–192–AD.

Comments Due Date

(a) We must receive comments by July 6, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 737–100 and –200 series airplanes, certificated in any category; line numbers 1 through 848 inclusive.

Subject

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

Unsafe Condition

(e) This AD results from reports of fatigue cracks at certain frame sections, in addition to stub beam cracking, caused by high flight cycle stresses from both pressurization and maneuver load. The Federal Aviation Administration is issuing this AD to detect and correct fatigue cracking of certain fuselage frames and stub beams, and possible severed frames, which could result in reduced structural integrity of the frames. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and result in rapid decompression of the fuselage.

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.

Inspections

(g) For airplanes on which a repair (Part III of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061) or preventive modification (Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061) has not been done in accordance with Boeing Service Bulletin 737–53–1061 as of the effective date of this AD: Before the accumulation of 15,000 total flight cycles or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, do the inspections required by paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992. Repeat the inspection at the time specified, until the terminating action required by paragraph (l) of this AD is done.

(1) Do a detailed inspection (Part I of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061) for cracks and damaged fasteners of the fuselage frames and stub beams. If no crack or damaged fastener is found, repeat the inspection thereafter at intervals not to exceed 4,500 flight cycles.

(2) Do an eddy current inspection (Part IV of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061) for cracking of the inboard chord fastener hole of the frame at body station 639, stringer S–16. If no crack is found, repeat the inspection thereafter at intervals not to exceed 15,000 flight cycles.

Note 1: Access and restoration instructions, as detailed in the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992, are not required by this AD. Operators may do those actions in accordance with their maintenance practices.

(h) For airplanes on which the body station 597 frame was changed as of the effective date of this AD, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, dated May 28, 1982; Revision 1, dated December 16, 1983; Revision 2, dated April 18, 1986; or Revision 3, dated June 15, 1989: Within 3,000 flight cycles after the effective date of this AD, do a detailed inspection for cracking of the frame, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992. Repeat the detailed inspection thereafter at intervals not to exceed 4,500 flight cycles. Installation of new radius fillers in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992, terminates the inspections required by this paragraph.

(i) For airplanes on which a stub beam lower chord with ¼-inch diameter fasteners at body station 597 is installed as of the effective date of this AD, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, Revision 1, dated December 16, 1983; Revision 2, dated April 18, 1986; or Revision 3, dated June 15, 1989: Within 3,000 flight cycles after the effective date of this AD, do a detailed inspection for short edge margins. If the short edge margin is determined to be less than 1.5D (diameter), before further flight, do a detailed inspection for cracking of the stub beam lower chords, in accordance with Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992. Repeat the detailed inspection thereafter at intervals not to exceed 4,500 flight cycles, if the edge margin is less than 1.5D. If the edge margin is greater than or equal to 1.5D, no further action is required by this paragraph. Replacing the lower chord in accordance with Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992, terminates the repetitive inspections specified in this paragraph.

Corrective Actions

(j) Except as required by paragraph (k) of this AD, if any crack or damaged fastener is found during any inspection required by this AD, before further flight, repair if cracking and damaged fasteners are within the specified limits, or do a preventive modification if cracking or damaged fasteners are outside the specified limits, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992.

Exception to Service Information

(k) Where Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992, specifies to contact Boeing for repair instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

Terminating Action (Preventive Modification) for Certain Inspections

(l) Before the accumulation of 75,000 total flight cycles: Do the preventive modification in accordance with Part II, or repair in accordance with Part III, of the Accomplishment Instructions of Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992. The modification or repair terminates the repetitive inspection requirements of this AD for the repaired or modified frame only, except as required by paragraph (m) of this AD.

Post-Modification or Repair Inspections

(m) For airplanes on which a repair or modification at body station 616 or 639 is done: Within 24,000 flight cycles after doing the repair or modification, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, do a detailed inspection for cracking of the BS 616 and 639 frame webs, inner chord, and outer chord near stringer S–16, in accordance with Boeing Service Bulletin 737–53–1061, Revision 4, dated July 16, 1992.

(1) If no cracking is found, repeat the inspection thereafter at intervals not to exceed 4,500 flight cycles.

(2) If any cracking is found, before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

Alternative Methods of Compliance (AMOCs)

(n)(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: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6447; 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 Delegation 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.

Issued in Renton, Washington, on May 5, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–11905 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0514; Directorate Identifier 2010–NE–02–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D–9, –9A, –11, –15, –17, and –17R Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for Pratt & Whitney (PW) JT8D–9, –9A, –11, –15, –17, and –17R turbofan engines. This proposed AD would require overhauling fan blade leading edges at the first shop visit after 4,000 cycles-in-service (CIS) since the last total fan blade overhaul was performed. This proposed AD results from reports of failed fan blades. We are proposing this AD to prevent high-cycle fatigue cracking at the blade root, which could result in uncontained failures of first stage fan blades and damage to the airplane.

DATES: We must receive any comments on this proposed AD by July 19, 2010.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

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

Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605, for a copy of the service information identified in this proposed AD.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA–2010–0514; Directorate Identifier 2010–NE–02–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the AD Docket

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

Discussion

We have received reports of 16 first stage fan blade root fractures, two of which resulted in penetration of the cowl and minor damage to the fuselage. Engineering investigation has determined that increased vibratory stress in the root and airfoil from eroded and blunt leading edges caused the fan blade failures. The primary cause of leading edge erosion is the operating environment, particularly rain and sand. The aerodynamic performance of the blade is diminished and vibratory stress in the airfoil and root is increased. This condition, if not corrected, could result in uncontained failures of first stage fan blades and damage to the airplane.

Relevant Service Information

We have reviewed and approved the technical contents of PW JT8D Maintenance Advisory Notice MAN–JT8D–2–06, dated November 20, 2006, that describes procedures for overhauling the first stage fan blades at every shop visit where pairs of major mating flanges are separated.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. We are proposing this AD, which would require overhauling the total set of stage 1 fan blades at:

- The first shop visit after 4,000 CIS since the last total stage 1 fan blade overhaul or
- The next shop visit after the effective date of this proposed AD if the CIS since the last total stage 1 fan blade overhaul is unknown and
- Thereafter, at the next shop visit after 4,000 CIS since the last total stage fan blade overhaul.

The proposed AD would require you to use the service information described previously to perform these actions.

Costs of Compliance

We estimate that this proposed AD would affect 1,527 engines installed on airplanes of U.S. registry. We also estimate that it would take about 63 work-hours per engine to perform the proposed actions, and that the average labor rate is $85 per work-hour. There would be no required parts. Based on these figures, we estimate the total cost of the proposed AD to U.S. operators to be $8,177,085.

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

PRATT & WHITNEY: Docket No. FAA–2010–0514; Directorate Identifier 2010–NE–02–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by July 19, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pratt & Whitney (PW) JT8D–9, –9A, –11, –15, –17, and –17R turbofan engines. These engines are installed on, but not limited to, Boeing 727 series, Boeing 737–200 series and McDonnell Douglas DC–9 airplanes.

Unsafe Condition

(d) This AD results from reports of failed fan blades. We are issuing this AD to prevent high-cycle fatigue cracking at the blade root, which could result in uncontained failures of first stage fan blades and damage to the airplane.

Compliance

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

Initial Overhaul

(f) For engines where the cycles-in-service (CIS) since last overhaul are known, overhaul the total set of stage 1 fan blades at the first shop visit after 4,000 CIS since the last total stage 1 fan blade overhaul, or the next shop visit after the effective date of this AD, whichever occurs later. Guidance on performing a fan blade overhaul can be found in Pratt & Whitney JT8D Maintenance Advisory Notice, MAN–JT8D–2–06 and the Engine Manual Chapter/Section 72–33–21, Inspection 00.

(g) For engines where the CIS since last overhaul are unknown, overhaul the total set of stage 1 fan blades at the next shop visit after the effective date of this AD. Guidance on performing a fan blade overhaul can be found in Pratt & Whitney JT8D Maintenance Advisory Notice, MAN–JT8D–2–06 and the Engine Manual Chapter/Section 72–33–21, Inspection 00.

Repetitive Overhaul

(h) Thereafter, overhaul the total set of stage 1 fan blades at the first shop visit after 4,000 CIS since the last total stage 1 fan blade overhaul. Guidance on performing a fan blade overhaul can be found in Pratt & Whitney JT8D Maintenance Advisory Notice, MAN–JT8D–2–06 and the Engine Manual Chapter/Section 72–33–21, Inspection 00.

Definitions

(i) For the purpose of this AD, a shop visit is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transporting the engine without subsequent engine maintenance does not constitute an engine shop visit.

Alternative Methods of Compliance

(j) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

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

(l) Pratt & Whitney JT8D Maintenance Advisory Notice MAN–JT8D–2–06, dated November 20, 2006, pertains to the subject of this AD. Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–7700; fax (860) 565–1605, for a copy of this service information.

Issued in Burlington, Massachusetts, on May 13, 2010.

Peter A. White,

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

[FR Doc. 2010–11999 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0521; Directorate Identifier 2009–NE–21–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211–524C2 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) 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: A number of LPT casings have been found cracked during engine shop visit. Cracking of the LPT casing reduces the capability of the casing to contain debris in the event of an LPT stage 1 blade failure. Therefore, blade failure in an engine featuring a cracked LPT casing may result in release of uncontained high energy debris. For the reason described above, this AD requires repetitive inspections and corrective actions, depending on

findings. We are proposing this AD to detect cracks in the LPT casings, which could result in the release of uncontained high-energy debris in the event of a stage 1 blade failure. Uncontained high-energy debris could result in damage to the airplane.

DATES: We must receive comments on this proposed AD by July 6, 2010.

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

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

Contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; telephone 011 44 1332 242424; fax 011 44 1332 249936 for the service information identified in this proposed AD.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *tara.chaidez@faa.gov;* telephone (781) 238–7773; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0521; Directorate Identifier 2009–NE–21–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0083, dated April 16, 2009 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> A number of LPT casings have been found cracked during engine shop visit. Cracking of the LPT casing reduces the capability of the casing to contain debris in the event of an LPT stage 1 blade failure. Therefore, blade failure in an engine featuring a cracked LPT casing may result in release of uncontained high energy debris.

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

Relevant Service Information

Rolls-Royce plc has issued Alert Service Bulletin RB.211–72–AG076, dated November 13, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom, and is approved for operation in the United States. Pursuant to our bilateral agreement with the United Kingdom, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 10 products of U.S. registry. We also estimate that it would take about 10 work-hours per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $25,000 per product. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $258,500.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce plc (Formerly Rolls-Royce Limited): Docket No. FAA–2010–0521; Directorate Identifier 2009–NE–21–AD.

Comments Due Date

(a) We must receive comments by July 6, 2010.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc (RR) model RB211–524C2–19 and RB211–524C2–B–19 turbofan engines. These engines are installed on, but not limited to, Boeing 747 series airplanes.

Reason

(d) A number of low-pressure turbine (LPT) casings have been found cracked during engine shop visit. Cracking of the LPT casing reduces the capability of the casing to contain debris in the event of an LPT stage 1 blade failure. Blade failure in an engine with a cracked LPT casing may result in release of uncontained high-energy debris.

We are issuing this AD to detect cracks in the LPT casings, which could result in the release of uncontained high-energy debris in the event of a stage 1 blade failure. Uncontained high energy debris could result in damage to the airplane.

Actions and Compliance

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

Initial Inspection Requirements

(1) Perform a fluorescent penetrant inspection (FPI) before the life of the LPT casing has reached 4,500 cycles-since-new (CSN) or within 4,500 cycles-since-last inspection (CSLI) or within 500 cycles after the effective date of this AD, whichever occurs later. You can find guidance on performing the FPI in RR Alert Service Bulletin (ASB) RB.211–72–AG076, dated November 13, 2008.

Repetitive Inspection Requirements

(2) Thereafter, perform an FPI at intervals not exceeding 4,500 CSLI. You can find guidance on performing the FPI in Rolls-Royce plc ASB RB.211–72–AG076, dated November 13, 2008.

Remove Parts With Cracks

(3) Remove cracked LPT casings, found using paragraphs (e)(1) or (e)(2) of this AD, from service before further flight.

Other FAA AD Provisions

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

Related Information

(g) Refer to MCAI EASA Airworthiness Directive 2009–0083, dated April 16, 2009, and Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AG076, dated November 13, 2008, for related information. Contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; telephone 011 44 1332 242424; fax 011 44 1332 249936, for a copy of this service information.

(h) Contact Tara Chaidez, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *tara.chaidez@faa.gov;* telephone (781) 238–7773; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on May 12, 2010.

Peter A. White,

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

[FR Doc. 2010–11997 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2008–0740; FRL–9152–9]

Revisions to the California State Implementation Plan; Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from beef feedlots. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by June 18, 2010.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2008–0740, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions.

2. E-mail: *steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, EPA Region IX, (415) 947–4115, *steckel.andrew@epa.gov.*

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

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resource Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
ICAPCD	420	Beef Feedlots	10/10/06	08/24/07

On September 17, 2007, EPA found this rule submittal met the completeness criteria in 40 CFR Part 51 Appendix V. These criteria must be met before formal EPA review.

B. Are there other versions of this rule?

On February 26, 2003, we approved and incorporated into the SIP a previous version of Rule 420 (see 68 FR 8839). CARB has made no subsequent submittals of the rule.

C. What is the purpose of the submitted rule revisions?

PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions. ICAPCD's Rule 420 is designed to limit the emission of particulate matter from beef feedlots using a Dust Control Plan based on maintaining a target soil moisture content and manure removal and management practices designed to prevent adverse public health conditions.

EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (*see* section 110(a) of the Act) and must not relax existing requirements (*see* sections 110(l) and 193). In addition, SIP rules generally must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), in moderate PM nonattainment areas, and Best Available Control Measures (BACM), including Best Available Control Technology (BACT), in serious PM nonattainment areas (*see* CAA sections 189(a)(1) and 189(b)(1)).

On August 11, 2004, Imperial County was reclassified as a serious PM nonattainment area (*see* 69 FR 48792 and 40 CFR part 81). On December 11, 2007, EPA found that Imperial County failed to meet the serious area attainment deadline of December 31, 2001 and must now submit a "5% Plan" pursuant to Section 189(d) of the CAA by December 11, 2008 (*please see* 72 FR 70222). The Imperial County Board adopted a PM–10 "5% Plan" in August 2009 and forwarded it to CARB for submittal; CARB, however, has not submitted the plan to us.

ICAPCD has produced two reports analyzing the significant source categories that contribute to violations of the PM–10 standard and require BACM: "Draft Final Technical Memorandum Regulation VIII BACM Analysis," October 2005; and, "2009 Imperial County State Implementation Plan for Particulate Matter Less Than 10 Microns in Aerodynamic Diameter," August 11, 2009. On the basis of these analyses, ICAPCD determined that PM–10 emissions from beef feedlots were below the estimated "de minimis" or significant source threshold. Consequently, we are not evaluating Rule 420 as a BACM rule; instead, we will evaluate this rule for its enforceability and whether or not it maintains or strengthens the SIP. Please see our guidance at 59 FR 41998 for determining significant source categories and requiring BACM and our TSD for further discussion.

We used the following guidance and policy documents to evaluate specific enforceability and RACM or BACM requirements:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register.**
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
4. "State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).
5. "PM–10 Guideline Document," EPA 452/R–93–008, April 1993.

B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. We found no deficiencies within the rule. The dust control plan submittal and implementation requirements are clear and enforceable. The testable moisture content standard and manure management requirements are as stringent as any existing California rule. The rule contains an adequate test method for determining moisture content of the livestock corrals according to the rule's requirements. For the reasons discussed earlier and in our TSD, we are not evaluating Rule 420 as a BACM rule.

The TSD has more information on our evaluation.

C. EPA Recommendations to Further Improve the Rule

We have no recommendations for the next time the local agency modifies the rule.

D. Public Comment and Final Action

Because EPA believes Rule 420 fulfills all relevant requirements, we are proposing to fully approve it as described in section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period, we intend to publish a final approval action that will incorporate this rule into the Federally enforceable SIP.

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; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: April 30, 2010.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2010–11984 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10–754; MB Docket No. 10–81; RM–11600]

FM Table of Allotments, Fairbanks, Alaska

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: This document sets forth a proposal to amend the FM Table of Allotments. The Commission requests comment on a petition filed by Educational Media Foundation proposing the allotment of FM Channels 224C2 and 232C2 as the thirteenth and fourteenth local service at Fairbanks, Alaska. Both stations can be allotted at Fairbanks in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.4 km (5.9 miles) north of Fairbanks, at 64–55–20 North Latitude and 147–42–49 West Longitude. Concurrence in the allotments by the Government of Canada is required because the proposed allotments are located within 320 kilometers (199 miles) of the U.S.–Canadian border. See Supplementary Information infra.

DATES: The deadline for filing comments is 30 days following publication in the Federal Register. Reply comments must be filed on or before 15 days following the deadline for initial comments.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Karen A. Ross, Esq., David D. Oxenford, Esq., Davis Wright Tremaine LLP, 1919 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 10–81, adopted April 30, 2010, and released May 3, 2010. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, S.W., Washington, D.C. 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, (800) 378–3160, or via the company's website, www.bcpiweb.com. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506 (c)(4).

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alaska, is amended by adding Channels 224C2 and 232C2 at Fairbanks.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2010–11965 Filed 5–18–10; 8:45 am]

BILLING CODE 6712–01–S

Notices

Federal Register

Vol. 75, No. 96

Wednesday, May 19, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 14, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Pamela_Beverly_OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Institute of Food and Agriculture

Title: 4–H Enrollment Report.

OMB Control Number: 0524–0045.

Summary of Collection: The mission of the National 4–H Headquarters; National Institute of Food and Agriculture, United States Department of Agriculture; is to advance knowledge for agriculture, the environment, human health and well-being, and communities by creating opportunities for youth. 4–H is the premier youth development program of the United States Department of Agriculture. Originating in the early 1900's as "four-square education," the 4–H's (head-heart-hands-health) seek to promote positive youth development, facilitate learning and engage youth in the work of their community to enhance the quality of life.

Need and Use of the Information: The annual 4–H Enrollment Report is the principal means by which the 4–H movement can keep track of its progress, as well as emerging needs, potential problems and opportunities. All of the information necessary to run the 4–H program is collected from individuals clubs, and other units. The following information will be collected: (1) Youth enrollment totals by delivery mode; (2) youth enrollment totals by type of 4–H activity; (3) youth enrollment totals by school grade; (4) youth enrollment totals by gender; (5) youth enrollment totals by place of residence; (6) adult volunteer totals; (7) youth volunteer totals; and (8) youth enrollment totals by race and ethnicity. Without the information it would be impossible to justify federal funding for the 4–H program.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 56.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 56.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–11981 Filed 5–18–10; 8:45 am]

BILLING CODE 3410–09–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 14, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Web-Based Supply Chain System (WBSCM).

OMB Control Number: 0560–0177.

Summary of Collection: The Web-Based Supply Chain System (WBSCM) is a new procurement system in

development to replace the current Commodity Operations Systems for several USDA agencies, and the United States Agency for International Development. The Agricultural Trade Development and Assistance Act of 1954, as amended, (Title II, Pub. L. 480), Section 416(b) of the Agricultural Act of 1949, as amended (Section 416(b)), and the Food for Progress Act of 1985, as amended (for Food for Progress) authorizes Commodity Management Division and International Procurement Division to prepare and issue announcement for the purchase of grain, procure, sell, and transport agricultural commodities, and obtain discharge/delivery survey information. Contractors, vendors, and steamship companies submit competitive offers for agricultural commodities and services. The Farm Service Agency (FSA) will collect information using WBSCM and some forms.

Need and Use of the Information: The information collected will enable Kansas City Commodity Office (KCCO) to evaluate offers impartially, purchase or sell commodities, and obtain services to meet domestic and export program needs. Without the information KCCO could not meet program requirements.

Description of Respondents: Business or other for-profit.

Number of Respondents: 829.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly; Weekly; Semi-annually; Monthly; Annually; Other (Bi-weekly & Bi-monthly).

Total Burden Hours: 1,066.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–12003 Filed 5–18–10; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Request for Extension and Revision of a Currently Approved Information Collection Under the Packers and Stockyards Act

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the Grain Inspection, Packers and Stockyards Administration's (GIPSA) intention to request approval from the Office of Management and Budget (OMB) for an extension of a currently approved information collection in support of the reporting and recordkeeping requirements under the Packers and Stockyards Act of 1921, as amended and supplemented (P&S Act). This approval is required under the Paperwork Reduction Act of 1995 (PRA).

DATES: We will consider comments that we receive by July 19, 2010.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments by any of the following methods:

- *E-Mail: comments.gipsa@usda.gov.*
- *Mail:* Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1647–S, Washington, DC 20250–3604.
- *Fax:* (202) 690–2755.
- *Hand Delivery or Courier:* Deliver comments to: Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1647–S, Washington, DC 20250–3604.
- *Internet:* Go to *http://www.regulations.gov* and follow the on-line instructions for submitting comments.

Instructions: All comments should be identified as "P&S Act Information Collection," and should reference the date and page number of this issue of the **Federal Register**. Information collection package and other documents relating to this action will be available for public inspection in Room 1643–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604 during regular business hours. All comments will be available for public inspection in the above office during regular business hours (7 CFR 1.27(b)). Please call the Management and Budget Services Staff of GIPSA at (202) 720–7486 to arrange to inspect comments.

FOR FURTHER INFORMATION CONTACT: For information regarding the information collection activities and the use of the information, contact Catherine Grasso by telephone at (202) 720–7201, or by E-mail at *Catherine.M.Grasso@usda.gov.*

SUPPLEMENTARY INFORMATION: GIPSA administers and enforces the P&S Act (7 U.S.C. 181–229, 229c). The P&S Act prohibits unfair, deceptive, and fraudulent practices by livestock market agencies, dealers, stockyard owners, meat packers, swine contractors, and live poultry dealers in the livestock, poultry, and meatpacking industries.

Title: Packers and Stockyards Program Reporting and Recordkeeping Requirements.

OMB Number: 0580–0015.

Expiration Date of Approval: January 31, 2011.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The P&S Act and the regulations issued under the P&S Act authorize the collection of information for the purpose of enforcing the P&S Act and regulations and for conducting studies requested by Congress. GIPSA needs this information in order to carry out its responsibilities under the P&S Act. The information is necessary for GIPSA to monitor and examine financial, competitive, and trade practices in the livestock, meat packing and poultry industries. The purpose of this notice is to solicit comments from the public concerning GIPSA's information collection.

Estimate of Burden: Public reporting and recordkeeping burden for this collection of information is estimated to average 8.5 hours per response.

Respondents (Affected Public): Livestock auction markets, livestock dealers, packer buyers, meat packers, and live poultry dealers.

Estimated Number of Respondents: 10,950.

Estimated Number of Responses per Respondent: 3.3.

Estimated Total Annual Burden on Respondents: 307,148 hours.

As required by the PRA (44 U.S.C. 3506(c)(2)(A)) and its implementing regulations (5 CFR 1320.8(d)(1)(i)), GIPSA specifically requests comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Authority: 44 U.S.C. 3506 and 5 CFR 1320.8.

J. Dudley Butler,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2010–11992 Filed 5–18–10; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Montana Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Beaverhead-Deerlodge National Forest's Southwest Montana Resource Advisory Committee will meet on Thursday June 3, 2010, from 9 a.m. until 4 p.m., in Dillon, Montana. The purpose of the meeting is to review funding proposals for Title II funding.

DATES: Thursday, June 3, 2010, from 9 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Beaverhead-Deerlodge Forest Headquarters located at 420 Barrett Street, Dillon, Montana (MT 59725).

FOR FURTHER INFORMATION CONTACT: Patty Bates, Committee Coordinator, Beaverhead-Deerlodge National Forest, 420 Barrett Road, Dillon, MT 59725 (406) 683–3979; e-mail *pbates@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda for this meeting includes discussion about 32 new project proposals seeking funding. Proposals for funding include Basin Creek Road Bridge Replacement, Targeted Weed Grazing, Little Sheep Creek Noxious Weed Control, Stock Lane Corridor Weed Control, Tumbledown Trail Maintenance and Access, Cherry Creek Trail Switchback and Grade Realignments, Yellow Star Thistle and Knapweed, Invasive Species Education and Awareness, Sentinel Creek/Expedition Pass Trout Habitat Restoration and Trail Reconstruction, Antelope Basin Road Gravel, Noxious Weed Aerial Treatment, Tepee Creek Stream Restoration, Birch Creek Resurfacing and Bridge Replacement, Laura Tolman Scott Wildflower Trail, Dry Creek Pipeline and Standpipe Fill Station, Madison District Ground Spraying, Madison District Route Enhancement, Indian Creek Bridge Replacement and Road Maintenance, Hell Roaring Odell Mountain Trail Improvement, North Meadow Creek Noxious Weed Education and Outreach, Narrows Creek Native Fish Spawning, South Arm Whitetail Reservoir Restoration, Shovel Creek Hardened Crossings, Madison Valley Wildlife Planning Model, Blacktail Ridge/Dyce Creek/Clark Canyon Reservoir Weed Treatment, Bloody Dick Cabin Jack Fence, Browne's Lake Toilet, Dillon District Road Drainage Contract, Elk Productivity, Survival and Recruitment Study, Halfway Park Bridge Replacement, Little Sheep Creek Weed Treatment, Maud–S Canyon Trail Reconstruction, Maverick Mountain Hazard Tree Removal, and Southwest Montana Incident Recycling Trailer. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee throughout the meeting.

Dated: May 11, 2010.

David R. Myers,

Designated Federal Official.

[FR Doc. 2010–11839 Filed 5–18–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2010–0013]

Codex Alimentarius Commission: Meeting of the Codex Alimentarius Commission

AGENCY: Office of Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of Food Safety, U.S. Department of Agriculture (USDA), is sponsoring a public meeting on June 8, 2010. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions that will be discussed at the 33rd Session of the Codex Alimentarius Commission (CAC), which will be held in Geneva, Switzerland, July 5–9, 2010. The Office of Food Safety recognizes the importance of providing interested parties the opportunity to obtain background information on the 33rd Session of the CAC and to address items on the agenda.

DATES: The public meeting is scheduled for June 8, 2010, from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held at USDA, Room 107–A, Jamie L. Whitten Building, 1400 Independence Avenue, SW., Washington, DC 20250. Documents related to the 33rd Session of the CAC will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

The U.S. Delegate to the 33rd Session of the CAC invites interested U.S. parties to submit their comments electronically to the following e-mail address *Barbara.McNiff@fsis.usda.gov.*

Conference Call-in Number

There will be a conference call-in number to the CAC public meeting. The call-in information is as follows: please call 1–866–692–3158, when asked for the conference code, please enter: 5986642.

For Further Information About the 33rd Session of the CAC and About the Public Meeting Contact: Barbara McNiff, U.S. Codex Office, 1400 Independence Avenue, SW., Room 4861–S, Washington, DC 20250, Telephone: (202) 690–4719, Fax: (202) 720–3157, E-mail: *Barbara.Mcniff@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in food trade; and promote coordination of all food standards work undertaken by international governmental and non-governmental organizations. The CAC will finalize standards developed in Codex Committees, and publish them in a Codex Alimentarius either as regional or worldwide standards.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the 33rd Session of the CAC will be discussed during the public meeting:

- Amendments to the Codex Procedural Manual
- Draft Standards and Related Texts Submitted to the Commission for Adoption
- Proposed Draft Standards and Related Texts Submitted at Step 5
- Existing Codex Standards and Related Texts whose Revocation is Recommended
- Proposals for the Elaboration of New Standards and Related Texts
- Financial and Budgetary Matters
- Strategic Planning of the Codex Alimentarius Commission
- General Matters Arising from the Reports of Codex Committees and Task Forces
- FAO/WHO Project and Trust Fund for Enhanced Participation in Codex

Each issue on the CAC agenda will be described in documents distributed by the Secretariat prior to the meeting. Members of the public may access

copies of these documents (*see* **ADDRESSES**).

Public Meeting

At the June 8, 2010, public meeting, draft U.S. positions on the agenda items will be described and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 33rd Session of the CAC, Karen Stuck, U.S. Codex Manager (*see* **ADDRESSES**). Written comments should state that they relate to activities of the 33rd session of the CAC.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/Regulations_&_Policies/2010_Notices_Index/index.asp*.

FSIS will also 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 constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an electronic 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 May 13, 2010.

Karen Stuck,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2010–12005 Filed 5–18–10; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fremont and Winema Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Fremont and Winema Resource Advisory Committee will meet in Klamath Falls, Oregon, for the purpose of evaluating and recommending resource management projects for funding in FY 2011, under the provisions of Title II of the Secure Rural Schools and Community Self-Determination Act of 2008 (Pub. L. 110–343).

DATES: The meeting will be held on June 22 and 23, 2010.

ADDRESSES: The meeting will take place at the Klamath Ranger District Office, 2819 Dahlia Street, Klamath Falls, OR 97601. Send written comments to Fremont and Winema Resource Advisory Committee, c/o USDA Forest Service, 2819 Dahlia Street, Klamath Falls, OR 97601 or electronically to *agowan@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Amy Gowan, Designated Federal Official, c/o Klamath Ranger District, 2819 Dahlia Street, Klamath Falls, OR 97601, telephone (541) 883–6741.

SUPPLEMENTARY INFORMATION: The agenda will include a review of FY 2011 Title II project proposals submitted by the Forest Service, the public, non-profits and other agencies, presentations by project proponents, and final recommendations for funding of fiscal year 2011 projects.

All Fremont and Winema Resource Advisory Committee Meetings are open to the public. Public input and comment forum will take place in the afternoon of June 23, 2010. Interested citizens are encouraged to attend.

Dated: May 10, 2010.

Amy Gowan,

DFO.

[FR Doc. 2010–11888 Filed 5–18–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 34–2010]

Foreign-Trade Zone 14—Little Rock, Arkansas Application for Reorganization/Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Arkansas Economic Development Commission, grantee of FTZ 14, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 1/12/09; correction 74 FR 3987, 1/22/09). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 11, 2010.

FTZ 14 was approved by the Board on October 4, 1972 (Board Order 90, 37 FR 24853, 11/22/72), relocated on March 23, 1979 (Board Order 143, 43 FR 19502, 4/3/79), and expanded on February 3, 1999 (Board Order 1022, 64 FR 7853–7854, 2/17/99).

The current zone project includes the following sites: *Site 1* (759.48 acres)—located at the Little Rock Port Industrial Park; *Site 2* (969.394 acres)—industrial area located adjacent to Site 1 at the southeast corner of the Little Rock Port Industrial Park, on the McClellan-Kerr Arkansas River Navigation System, Little Rock; and, *Site 3* (191.54 acres)—located at the Little Rock National Airport, Adams Field, Little Rock.

The grantee's proposed service area under the ASF would be Clark, Conway, Dallas, Faulkner, Garland, Grant, Hot Spring, Jefferson, Lonoke, Montgomery, Nevada, Pike, Pulaski, Pope, Saline, Yell and White Counties, Arkansas. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Little Rock Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include all of the existing sites as "magnet" sites and expand Site 1 to

include an additional 155 acres at the Little Rock Industrial Park (new Site 1 total—914.48 acres). The ASF allows for the possible exemption of one magnet site from the "sunset" time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The applicant is also requesting approval of the following initial "usage-driven" site: *Proposed Site 4* (16.4 acres)—Timex Corporation, 1302 Pike Avenue, North Little Rock. Because the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 14's authorized subzones.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 19, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 2, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz*. For further information, Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: May 12, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–11982 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 33–2010]

Foreign-Trade Zone 22—Chicago, IL; Application for Reorganization/Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Illinois International Port District, grantee of FTZ 22, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 1/12/09; correction 74 FR 3987, 1/22/09). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 7, 2010.

FTZ 22 was approved by the Board on October 29, 1975 (Board Order 108, 40 FR 51242; November 4, 1975) and expanded on April 9, 1987 (Board Order 353, 52 FR 12217; April 15, 1987); on December 11, 1992 (Board Order 614, 57 FR 61044; December 23, 1992); on November 21, 2000 (Board Order 1127, 65 FR 76218; December 6, 2000); on December 19, 2003 (Board Order 1313, 69 FR 49; January 2, 2004); on May 9, 2005 (Board Order 1390, 70 FR 29277; May 20, 2005); and, on August 21, 2006 (Board Order 1474, 71 FR 51184; August 29, 2006). The general-purpose zone includes the following sites: *Site 1* (51 acres)—Lake Calumet Harbor Terminal Facility, 12200/12255 South Stony Island Avenue, Chicago (Cook County); *Site 2* (578 acres)—Illinois Diversatech Campus Corporation, One Diversatech Drive, Manteno (Kankakee County); *Site 3* (8 acres)—Gotoh Distribution Services, Inc., 703 Foster Avenue, Bensenville (Du Page County); *Site 4* (8 acres)—Meiko America, Inc., Gerry Drive and Hanson Court, Wood Dale (Du Page County); *Site 5* (1,468 acres)—CenterPoint Intermodal Center, 20901 West Walter Strawn Drive, Elwood (Will County); *Site 6* (317 acres)—Rock Run Business Park, Houlbolt Road and Interstate 80, Joliet (Will County); *Site 7* (21 acres) O'Hare Express North Business Park, 893 Upper Express Drive, Chicago (Cook County); *Site 8* (102 acres) ProLogis Park 80, Rt. 47 & ProLogis Parkway, Morris (Grundy County); *Site 9* (12 acres) Centex Industrial Park, 1717 Busse Road, Elk Grove Village (Cook County); *Site 10* (43 acres) Bolingbrook Distribution Center, 1701 Remington Boulevard, Bolingbrook (Will County); *Site 11* (137 acres) Heartland Corporate Center, 21228 SW Frontage Road, Shorewood (Will County); *Site 12* (17 acres) LG Electronics, 1251 115th Street, Bolingbrook (Will County); *Site 13* (4.6 acres) Henry Bath Iroquois Landing, 9301 South Kreiter Avenue, Chicago (Cook County); *Site 14* (9 acres) Exel, Inc., 3702–3710 River Road, Franklin Park (Cook County); *Site 15* (7.5 acres) Henry Bath, 1550 East 98th Place, Chicago (Cook County); *Site 16* (32 acres) BMW, 456 Internationale Parkway South, Minooka (Grundy County); *Site 17* (10 acres) Noramco-Chicago, Inc., 12228 New Avenue, Lemont (Cook County); and, *Site 18* (0.5 acres) Nagata Technology, Inc., 400 Lively Boulevard, Elk Grove Village (Cook County). Sites 8–11 are subject to a sunset provision that would terminate authority on September 30, 2011, where no activity has occurred under FTZ procedures before that date, and Sites 15–18 are subject to a time limit of March 31, 2011.

The grantee's proposed service area under the ASF would be Cook, Du Page, Grundy, Kankakee, Kendall, Lake and Will Counties and portions of McHenry and Kane Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Chicago Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project as follows: Sites 1, 2, 5, 6, 7, 8, 10, 11, 13 and 15 would become "magnet" sites; and, Sites 3, 4, 9, 12, 14, 16, 17 and 18 would become "usage-driven" sites. The ASF allows for the possible exemption of one magnet site from the "sunset" time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The applicant is also requesting approval of an additional "usage-driven" site in Du Page County: Proposed Site 19 (9.7 acres)—Eastman Kodak Company, 127 East Elk Trail Boulevard, Carol Stream. Since the ASF only pertains to establishing or reorganizing a general-purpose zone, the application would have no impact on FTZ 22's authorized subzones.

In accordance with the Board's regulations, Claudia Hausler of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 19, 2010. Rebuttal comments in response to material submitted during the foregoing period

may be submitted during the subsequent 15-day period to August 2, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Claudia Hausler at *Claudia.Hausler@trade.gov* or (202) 482–1379.

Dated: May 11, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–11983 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No.: 0907141137–0222–10]

RIN 0660–ZA28

Broadband Technology Opportunities Program

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of Funds Availability; Reopening of Application Filing Window for Broadband Technology Opportunities Program Comprehensive Community Infrastructure Projects.

SUMMARY: The National Telecommunications and Information Administration (NTIA) announces the limited reopening of the Comprehensive Community Infrastructure (CCI) application filing window for the Broadband Technology Opportunities Program (BTOP) that the agency established pursuant to the American Recovery and Reinvestment Act of 2009 (Recovery Act). Entities that have received waiver authority from the Federal Communications Commission (FCC) to use the 763–768/793–798 MHz (700 MHz) public safety broadband spectrum by the date of this Notice are invited to file a BTOP application and request BTOP funding.

DATES: All applications for funding CCI projects under this Notice must be submitted between June 1, 2010, at 8 a.m. Eastern Daylight Time (EDT) and July 1, 2010, at 5 p.m. EDT.

ADDRESSES: All applicants are required to submit their applications electronically at *https://applyonline.broadbandusa.gov. See* **SUPPLEMENTARY INFORMATION** for more details. The CCI application package for electronic submissions is available at *http://www.ntia.doc.gov/broadbandusa/.*

FOR FURTHER INFORMATION CONTACT: For general inquiries regarding BTOP, contact Anthony G. Wilhelm, PhD, Director, BTOP, Office of Telecommunications and Information Applications, NTIA, U.S. Department of Commerce, 1401 Constitution Avenue, NW., HCHB, Room 4887, Washington, DC 20230; BTOP Help Desk e-mail: *btop@ntia.doc.gov;* BTOP Help Desk telephone: 1–202–482–2048. Additional information regarding BTOP, including information regarding compliance issues, may be obtained at *http://www.ntia.doc.gov/broadbandusa/.*

Authority: This Notice is issued pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111–5, 123 Stat. 115 (2009).

SUPPLEMENTARY INFORMATION:

I. Background

A. Second Round of BTOP Funding

On January 22, 2010, NTIA published a Notice of Funds Availability and Solicitation of Applications (Second NOFA) in the **Federal Register** announcing general policy and application procedures for the second round of BTOP funding.[1] The filing deadline for CCI applications under the Second NOFA closed on March 26, 2010.[2] Under the Recovery Act, one of the core purposes of BTOP is to fund the advancement of broadband initiatives to support public safety agencies.[3] The Recovery Act also provides that the Assistant Secretary for Communications and Information may make competitive grants to "construct and deploy broadband facilities that improve public safety broadband communications services."[4] While NTIA received a limited number of public safety-related applications in the second round, some applicants may have been deterred from filing because, *inter alia,* they lacked the legal authority to use the 700 MHz public safety broadband spectrum.

B. Reopening the Application Window

On May 11, 2010, the FCC adopted an order authorizing the early deployment of public safety broadband networks in the 700 MHz public safety broadband spectrum for a number of entities that had petitioned for waiver authority for such relief.[5] To further the objectives of the Recovery Act and to help ensure that the core statutory purposes of BTOP are achieved, NTIA finds that, given these extraordinary circumstances, a limited reopening of the CCI application filing window is in the best interest of the federal government.[6] Accordingly, NTIA reopens the CCI application filing window to those entities that meet the eligibility criteria in the Second NOFA and that have received authority from the FCC by the date of this Notice to seek to use the 700 MHz public safety broadband spectrum to deploy a public safety broadband system.[7] NTIA is limiting eligibility under this Notice to this group of entities to help ensure that all BTOP grant funds can be obligated by the statutory deadline of September 30, 2010;[8] to provide the public safety community with the opportunity to obtain funding for an initial set of networks to support current NTIA efforts to test new standards and technologies that eventually will support a nationwide interoperable public safety broadband network; and to provide an opportunity to submit an application to entities that may have been discouraged from applying for BTOP funding because they did not have the legal authority to use the 700 MHz spectrum. Entities that received a FCC waiver and that already have applied for the second round of BTOP funding are *not* required to reapply during this new window.

C. 700 MHz Public Safety Broadband Network

A public safety broadband network utilizing the 700 MHz public safety broadband spectrum will increase the nationwide interoperable broadband communications capabilities of first responders and public safety agencies by improving the ability of public safety entities to utilize applications made

[1] Notice of Funds Availability and Solicitation of Applications, 75 FR 3792 (Jan. 22, 2010).

[2] Notice of Funds Availability; Extension of Application Closing Deadline for Comprehensive Community Infrastructure (CCI) Projects, 75 FR 10464 (Mar. 8, 2010); Notice of Funds Availability; Extension of Application Closing Deadline for Comprehensive Community Infrastructure (CCI) Projects, 75 FR 14131 (Mar. 24, 2010).

[3] American Recovery and Reinvestment Act of 2009, Public Law No. 111–5, § 6001(b), 123 Stat. 115, 512–13 (2009) (Recovery Act).

[4] *Id.* § 6001(g)(5), 123 Stat. at 514.

[5] Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, Order, PS Dkt. No. 06–229, FCC 10–79 (adopted May 11, 2010) (Waiver Order), available at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-79A1.pdf.*

[6] In the Second NOFA, NTIA anticipated that it might wish to reopen the application window at some point in the future and specifically put applicants on notice that there may be another solicitation. *See* Second NOFA, 75 FR at 3799.

[7] *See* Waiver Order, at Appendix A.

[8] *See* Recovery Act § 6001(d)(2), 123 Stat. at 513.

possible by broadband technologies. It also will improve public safety communications by providing dedicated broadband capacity for public safety uses and creating a statutorily required interoperability framework for use across the United States. The FCC's National Broadband Plan recognized that broadband technologies have the potential to revolutionize emergency response wireless mobile communications and outlined recommendations for moving 700 MHz spectrum activities forward.[9] Consistent with the FCC's recommendation, NTIA and the National Institute of Standards and Technology (NIST) are working on a joint initiative, the Public Safety 700 MHz Demonstration Network within the Public Safety Communications Research (PSCR) program, to provide a platform to test and evaluate systems and to help enable deployment of a nationwide interoperable public safety broadband network.[10] This limited reopening of the BTOP CCI application filing window will help support the efforts of NTIA and NIST and the testing, development, and implementation of a 700 MHz public safety broadband network.

Pursuant to the eligible cost provisions set forth in the Second NOFA, NTIA may award grants that will fund critical expenditures related to the deployment of a 700 MHz public safety broadband network, including the acquisition of broadband radio access network components (such as antennas, base station nodes, transceivers, amplifiers, and remote radio heads) and costs associated with the hardening of existing cell sites (such as installing backup power and enhancing security measures).[11] Grant awards also may be used to fund costs to lease wireline or wireless network infrastructure from existing commercial infrastructure to facilitate broadband connectivity for a 700 MHz public safety broadband network, including backhaul from cell sites and any associated installation charges paid to a vendor.

By facilitating the expansion of broadband communications services to public safety agencies, BTOP advances the objectives of the Recovery Act to increase economic efficiency by spurring technological advances, to invest in infrastructure that will provide long-term economic benefits, and to support stabilization of state and local government budgets in an effort to avoid reductions in essential services. Deployment of a public safety broadband network in the 700 MHz band also will enhance emergency response capabilities through support of broadband-enabled applications, including: streaming video (surveillance, remote monitoring); digital imaging; automatic vehicle location; computer-aided dispatching; electronic mail; mapping and GPS; remote database access; report management system access; text messaging; telemetry/remote diagnostics; and Web access.

Moreover, the 700 MHz public safety broadband network will support applications that existing narrowband and wideband data technologies cannot support. The network will allow public safety personnel to exchange mission-critical information in real time on a common operating platform, enhancing incident response and first-responder safety.

D. FCC 700 MHz Waiver Order

In 2007, the FCC chose the Public Safety Spectrum Trust Corporation (PSST) as the Public Safety Broadband Licensee for the 10 MHz of 700 MHz public safety broadband spectrum.[12] On May 11, 2010, the FCC adopted an order that permits certain state and local governmental entities to deploy public safety broadband systems using the 700 MHz spectrum licensed to the PSST.[13] The FCC's order now allows these entities to expeditiously enter into leases with the PSST for use and development of public safety broadband networks. Applicants filing under this Notice are subject to the provisions of the FCC's order and any subsequent rules adopted by the FCC regarding the use of 700 MHz spectrum, including those rules that are designed to ensure compatibility and interoperability of public safety networks.[14]

By reopening the CCI application window only to eligible entities that have received waiver authority from the FCC to enter into a lease to use 700 MHz spectrum, NTIA acknowledges that these entities may have been discouraged from filing a BTOP application during the first two BTOP funding rounds because they did not have the legal authority to use the spectrum before the filing deadlines. Because applicants filing under this Notice will be subject to the same general policies and terms as other CCI applicants in the second round, this limited reopening will not advantage or disadvantage either those entities eligible under this Notice or those that have filed applications earlier under the Second NOFA.

II. Application and Submission Information

A. Second NOFA Requirements

All applicants submitting BTOP applications pursuant to this Notice are subject to the requirements set forth in the Recovery Act and the Second NOFA. In addition, applicants should review the application guidance, workshop presentations, and "Frequently Asked Questions" located at *http://www.ntia.doc.gov/broadbandusa/* to help them submit their applications and understand BTOP requirements. As required by the CCI application, applicants must provide documentation that their request for a waiver authorizing use of the 700 MHz public safety spectrum has been granted by the FCC. NTIA will reject applications from entities other than those who are authorized to use the 700 MHz public safety broadband spectrum.

B. Filing Deadline

The application window will be open for filing between June 1, 2010, at 8 a.m. EDT and July 1, 2010, at 5 p.m. EDT. NTIA recognizes that this is a short application window given the complexity of CCI projects, particularly if they include a 700 MHz component. Nevertheless, to ensure that NTIA can fairly administer the program, comply with the requirements set forth in the Second NOFA, and obligate funds before September 30, 2010, NTIA will limit the filing window to this period.

C. Filing Instructions

As stated in the Second NOFA, electronic submissions of applications will allow for the expeditious review of an applicant's proposal consistent with the goals of the Recovery Act. As a result, all applicants are required to submit their applications electronically at *https://applyonline.broadbandusa.gov.* The electronic application system will provide a date-and-time-stamped confirmation number that will serve as proof of submission. Please note that applications will not be accepted via paper, facsimile machine transmission,

[9] Federal Communications Commission (FCC) National Broadband Plan, ch. 16 (March 17, 2010), available at *http://download.broadband.gov/plan/national-broadband-plan-chapter-16-public-safety.pdf.*

[10] *See* Public Safety Communications Research, Projects, at *http://www.pscr.gov/projects/broadband/700mhz/700mhz.php.*

[11] *See* Second NOFA, 75 FR at 3799.

[12] Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, Order, 22 F.C.C. Rcd. 20453 (2007).

[13] *See* Waiver Order.

[14] *Id.* at 12–13. For example, the FCC requires the entities subject to the order to adhere to the technical criteria that the Emergency Response Interoperability Center will establish through rules adopted by the FCC or the Public Safety and Homeland Security Bureau.

electronic mail, or other media format. Applicants, however, may request a waiver of these filing instructions pursuant to Section X.N. of the Second NOFA.[15]

Dated: May 13, 2010.

Anna M. Gomez,

Acting Assistant Secretary for Communications and Information.

[FR Doc. 2010–11898 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–60–P

[15] Additional guidance for seeking a waiver of the electronic filing requirements can be found in the CCI Grant Guidance at *http://www.ntia.doc.gov/broadbandusa/*. Note that the CCI Grant Guidance includes key submission dates. These dates have been superseded by the dates contained in this Notice.

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–P–2010–0040]

Electronic Filing System—Web (EFS-Web) Contingency Option

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is increasing the availability of its patent electronic filing system, Electronic Filing System—Web (EFS-Web) by providing a new contingency option when the primary portal to EFS-Web has an unscheduled outage. Previously, the entire EFS-Web system is not available to the users during such an outage. The contingency option in EFS-Web will permit users to sign-on as unregistered EFS-Web users to file new applications, national stage submissions under the Patent Cooperation Treaty (PCT) submitted with the basic national fee necessary to enter the national stage, requests for reexamination, and certain petitions, during an unscheduled outage of the primary portal to EFS-Web.

DATES: *Effective Date:* May 19, 2010.

FOR FURTHER INFORMATION CONTACT: Joni Y. Chang, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy, by telephone at 571–272–7720, or by mail addressed to: Mail Stop Comments Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

Inquiries regarding EFS-Web and other USPTO information technology (IT) systems may be directed to the Patent Electronic Business Center (Patent EBC), by telephone: 1–866–217–9197 (toll-free) and 571–272–4100, or by e-mail: *ebc@uspto.gov*.

Inquiries regarding IT policy for U.S. national patent applications may be directed to Mark Polutta, Senior Legal Advisor, Office of Patent Legal Administration, by telephone at 571–272–7709.

Inquiries regarding IT policy for international patent applications may be directed to Tamara Graysay, Special Program Examiner, Office of Patent Cooperation Treaty (PCT) Legal Administration, by telephone at 571–272–6728.

SUPPLEMENTARY INFORMATION: The USPTO is increasing the availability of EFS-Web by providing a new contingency option in EFS-Web when the primary portal to EFS-Web has an unscheduled outage. Currently, approximately eighty-seven percent of new patent applications are being electronically filed via EFS-Web. Applicants experience many benefits from filing their applications and follow-on documents electronically. For example, applicants promptly receive an electronic acknowledgment receipt of their electronic submissions and have the ability to review their applications or documents via the Patent Application Information Retrieval (PAIR) system within an hour after the USPTO receives the electronic submissions. Furthermore, independent inventors and other small entity applicants who file their applications electronically via EFS-Web receive a discount on the basic filing fee. Previously, when the primary portal to EFS-Web is unavailable during an unscheduled outage, the entire EFS-Web system is unavailable to users. The new contingency option in EFS-Web will minimize any inconvenience to users who wish to file a new application during an unscheduled outage of the primary portal to EFS-Web.

I. EFS-Web Contingency Option

Effective immediately, the USPTO will provide EFS-Web Contingency Option to users to file new applications, national stage submissions under 35 U.S.C. 371, requests for reexamination, and certain petitions when the primary portal to EFS-Web is unavailable during an unscheduled outage. The USPTO will post a notification of any unscheduled outage of the primary portal to EFS-Web and provide the link to EFS-Web Contingency Option on the EFS-Web Internet page (*http://www.uspto.gov/patents/process/file/efs/index.jsp*). The EFS-Web Contingency Option will have the same functionality as EFS-Web for unregistered e-filers (*https://sportal.uspto.gov/secure/portal/efs-unregistered*). It will permit users to sign on as unregistered EFS-Web users to file new applications, national stage submissions under 35 U.S.C. 371 submitted with the basic national fee necessary to enter the national stage, requests for reexamination, and certain petitions. However, other follow-on documents and fee payments filed after the initial submission of the application or reexamination request (*e.g.,* amendments and replies to Office actions) cannot be filed using EFS-Web Contingency Option.

Specifically, EFS-Web Contingency Option will only permit users to electronically file the following items as unregistered EFS-Web users:

1. Provisional patent applications under 35 U.S.C. 111(b);
2. Nonprovisional utility patent applications under 35 U.S.C. 111(a) (including reissue utility patent applications);
3. Nonprovisional design patent applications under 35 U.S.C. 171 (including reissue design patent applications);
4. International applications under PCT Article 11 for filing in the United States Receiving Office;
5. National stage submissions under 35 U.S.C. 371 submitted with the basic national fee necessary to enter the national stage;
6. Requests for *ex parte* reexamination under 35 U.S.C. 302 for utility or design patents;
7. Requests for *inter partes* reexamination under 35 U.S.C. 311 for utility or design patents;
8. Petitions to make special based on age under 37 CFR 1.102(c) when filed as an e-petition using the EFS-Web SB130 form, for the automatic processing of the e-petition (for more information *see http://www.uspto.gov/ebc/portal/efs/sb130_instructions.doc*);
9. Petitions to accept an unintentionally delayed payment of maintenance fee under 37 CFR 1.378(c) when filed as an e-petition using the EFS-Web SB66 form, for the automatic processing of the e-petition (for more information *see http://www.uspto.gov/ebc/portal/efs/sb0066e_fill.doc*); and
10. Petition to make special under the accelerated examination program (must be filed with a nonprovisional utility patent application under 35 U.S.C. 111(a)).

Documents filed via EFS-Web Contingency Option as part of the submissions listed above must meet the same file format requirements established for EFS-Web, *e.g.,* file size and PDF embedded-font requirements. The same file validation performed in EFS-Web will be performed in EFS-Web Contingency Option. Similar to EFS-

Web, EFS-Web Contingency Option will provide an Electronic Acknowledgement Receipt that establishes the date of receipt by the USPTO of an application or document submitted via EFS-Web Contingency Option. Applicant will not be required to, and should not, resubmit the application or document when the primary portal to EFS-Web is once again available. Any resubmission of an application will result in filing a duplicate application and, if applicant pays the filing fees again when submitting the duplicate application, no refund will be provided.

Applications filed via EFS-Web Contingency Option are protected with the same level of security as EFS-Web for unregistered e-filers by using Transport Layer Security (TLS) to encrypt transmission over the Internet. Registered e-filers who have uploaded documents to a Saved Submission package in EFS-Web will not be able to access those Saved Submission documents in EFS-Web Contingency Option. Applicants can submit on-line fee payments by selecting fees on the fee calculation screen and completing their payment at time of submission (*i.e.,* chose the "Yes! I want to pay now" button rather than "No—I will pay later" button).

When the primary portal to EFS-Web is unavailable during an unscheduled outage, applicants may also file new applications, national stage submissions under 35 U.S.C. 371 submitted with the basic national fee necessary to enter the national stage, and reexamination requests, by hand-delivery to the USPTO, or "Express Mail" from the United States Postal Service (USPS) in accordance with 37 CFR 1.10, to establish the filing date or national stage entry date. *See Legal Framework for Electronic Filing System—Web (EFS-Web),* 74 FR 55200, 55204 (October 27, 2009) (notice), and Revised Legal Framework for EFS-Web (*http://www.uspto.gov/patents/process/file/efs/guidance/New_legal_framework.jsp*) (Section C3). New applications, national stage submissions under 35 U.S.C. 371 submitted with the basic national fee necessary to enter the national stage, and reexamination requests cannot be submitted by facsimile transmission, and certificate of mailing procedures under 37 CFR 1.8 do not apply to these items.

The EFS-Web Contingency Option does not permit follow-on fee payments and follow-on documents other than those listed above. Applicants may file the documents or fee payments by: (1) Facsimile transmission, (2) first class mail with a certificate of mailing in accordance with 37 CFR 1.8, (3) hand-delivery to the USPTO, or (4) "Express Mail" from USPS in accordance with 37 CFR 1.10. Documents that are required to establish the filing date of an application (*e.g.,* a missing drawing figure or page of the specification) cannot be submitted by facsimile transmission, and certificate of mailing procedures under 37 CFR 1.8 do not apply to these documents.

II. Improperly Filed Follow-on Documents

As previously stated, EFS-Web Contingency Option and EFS-Web for unregistered e-filers permit users to sign on as unregistered EFS-Web users to file new applications, national stage submissions under 35 U.S.C. 371 submitted with the basic national fee necessary to enter the national stage, requests for reexamination and certain petitions. Unfortunately, EFS-Web Contingency and EFS-Web for unregistered e-filers have limited functionality, which do not permit users to file other follow-on documents and follow-on fee payments after the initial submission of the application or reexamination request (*e.g.,* amendments and replies to Office actions). Accordingly, it will be improper for users to file follow-on documents as new applications. The USPTO will continue to provide answers to frequently asked questions, and other helpful information on the USPTO Web site. Users are encouraged to check the USPTO Web site for more information and contact the Patent Electronic Business Center for questions related to the usage of USPTO electronic systems.

III. Additional Information Regarding National Stage Submissions

The basic national fee is required in order for an international application to enter the national stage under 35 U.S.C. 371. *See* 37 CFR 1.495. Users are permitted to submit the basic national fee with the national stage submission under 35 U.S.C. 371 via EFS-Web and EFS-Web Contingency Option using on-line payment screens that interface with the Revenue Accounting and Management (RAM) system. If the RAM system is unavailable, neither EFS-Web nor EFS-Web Contingency Option will permit users to make payment using the interactive payment screens. Applicant may pay the necessary national stage entry fees by including a written authorization to charge the desired fees together with the national stage submission under 35 U.S.C. 371, or sending the payment via "Express Mail" from the USPS in accordance with 37 CFR 1.10 on the same date that the national stage submission is electronically filed.

For any national stage submissions under 35 U.S.C. 371 filed via the EFS-Web or EFS-Web Contingency Option, the system automatically checks the Patent Application Locating and Monitoring (PALM) system to verify that no previous national stage submission has been made for the particular PCT international application referenced in the initial national stage submission. If the PALM system is unavailable, neither EFS-Web nor EFS-Web Contingency Option can complete the PALM verification, and thus EFS-Web and EFS-Web Contingency Option will not permit any national stage submissions under 35 U.S.C. 371 to be filed. Therefore, if PALM is unavailable, applicants may use hand-delivery or "Express Mail" from the USPS in accordance with 37 CFR 1.10 to timely submit documents and fees for national stage entry. However, applicants may *not* file national stage submissions under 35 U.S.C. 371 and the basic national fee necessary to enter the national stage via facsimile transmission. *See* 37 CFR 1.6(d)(3) and 1.8(a)(2)(i)(F).

Dated: May 12, 2010.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2010–11906 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–810]

Certain Welded Stainless Steel Pipes From the Republic of Korea: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 7, 2010, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain welded stainless steel pipes (WSSP) from the Republic of Korea (Korea). This review covers one producer/exporter of the subject merchandise to the United States, SeAH Steel Corporation (SeAH). The period of review (POR) is December 1, 2007, through November 30, 2008. Based on our analysis of the comments received, we have made certain changes

in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of Review."

DATES: *Effective Date:* May 19, 2010.

FOR FURTHER INFORMATION CONTACT: Holly Phelps, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0656.

SUPPLEMENTARY INFORMATION:

Background

On January 7, 2010, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on WSSP from Korea. *See Certain Welded Stainless Steel Pipes from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 973 (Jan. 7, 2010) (*Preliminary Results*).

We invited parties to comment on our preliminary results. In February 2010, we received a case brief from SeAH. We did not receive a case brief or rebuttal brief from the petitioners.[1] The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to the antidumping duty order is welded austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for steel pipe include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines. Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of the antidumping duty order is limited to welded austenitic stainless steel pipes. The HTSUS subheadings are provided for convenience and customs purposes. However, the written description of the scope of the order is dispositive.

Period of Review

The POR is December 1, 2007, through November 30, 2008.

Cost of Production

As discussed in the preliminary results, we conducted an investigation to determine whether SeAH made home market sales of the foreign like product during the POR at prices below their costs of production (COP) within the meaning of section 773(b) of the Act. *See Preliminary Results,* 75 FR at 976. For these final results, we performed the cost test following the same methodology as in the *Preliminary Results.*

We found that 20 percent or more of SeAH's sales of a given product during the reporting period were at prices less than the weighted-average COP for this period. Thus, we determined that these below-cost sales were made in "substantial quantities" within an extended period of time and at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. *See* sections 773(b)(1)–(2) of the Act.

Therefore, for purposes of these final results, we found that SeAH made below-cost sales not in the ordinary course of trade. Consequently, we disregarded these sales for SeAH and used the remaining sales as the basis for determining normal value pursuant to section 773(b)(1) of the Act.

Analysis of Comments Received

All issues raised in the case brief by SeAH are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum (the Decision Memo), which is adopted by this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room 1117, of the main Department building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/.* The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made certain changes to the margin calculations. These changes are discussed in the relevant sections of the Decision Memo.

Final Results of Review

We determine that the following weighted-average margin percentage exists for the period December 1, 2007 through November 30, 2008:

Manufacturer/Producer/Exporter	Percent margin
SeAH Steel Corporation	2.92

Assessment

The Department shall determine, and the U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates for SeAH based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent).

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by SeAH for which SeAH did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate established in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

Further, the following deposit requirements will be effective for all shipments of WSSP from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this

[1] The petitioners are Bristol Metals, LLC, Felker Brothers Corporation, Marcegaglia USA, Inc., and Outokumpu Stainless Pipe, Inc.

administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed company will be the rate shown above, except if the rate is less than 0.50 percent, *de minimis* within the meaning of 19 CFR 351.106(c)(1), the cash deposit will be zero; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period of review; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 7.00 percent, the all-others rate made effective by the LTFV investigation. *See Antidumping Duty Order and Clarification of Final Determination: Certain Welded Stainless Steel Pipes From Korea,* 57 FR 62301 (Dec. 30, 1992), as amended in *Notice of Amended Final Determination and Antidumping Duty Order: Certain Welded Stainless Steel Pipe From the Republic of Korea,* 60 FR 10064, 10065 (Feb. 23, 1995). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 13, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

General Issues

1. Offsetting of Negative Margins.
2. Inclusion of Inventory Valuation Allowances in Cost of Production.
3. Application of the Major Input Rule.

[FR Doc. 2010–11985 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XW48

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will hold public meetings in Sitka, AK.

DATES: The meetings will be held June 7 through June 15, 2010. The Council will begin its plenary session at 8 a.m. on Wednesday, June 9 continuing through Tuesday, June 15. The Council's Advisory Panel (AP) will begin at 8 a.m., Wednesday, June 7 and continue through Saturday June 12. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, June 7 and continue through Wednesday, June 9, 2010. The Enforcement Committee will meet Wednesday, June 8 from 1 p.m. to 5 p.m. at the Westmark Hotel, 330 Seward Street, Room ????, Sitka, AK. All meetings are open to the public, except executive sessions.

ADDRESSES: The meetings will be held at Harrigan Centennial Hall, 330 Harbor Drive, Sitka, AK. The Enforcement Committee meeting will be held at the Westmark Hotel, 330 Seward Street, Sitka, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: David Witherell, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

Reports:

1. Executive Director's Report
NMFS Management Report (including review of Amendment 91 proposed rule)
ADF&G Report
NOAA Enforcement Report
U.S. Coast Guard Report
U.S. Fish & Wildlife Service Report
Protected Species Report
2. Bering Sea Aleutian Island (BSAI) Chum Salmon Bycatch: receive update on outreach initiatives; review discussion paper and finalize alternatives for analysis; update on chum and Chinook salmon genetics research and sampling.
3. BSA Crab Annual Catch Limits (ACLs) and Rebuilding Plans: Initial review of analysis to establish ACLs and rebuild snow crab; approve Crab Stock Assessment Fishery Evaluation (SAFE)/Over Fishing Levels (OFLs) as necessary; review Prohibited Species Catch (PSC).
4. Scallop ACLs: Initial review of analysis to establish scallop ACLs.
5. Observer Program Restructuring: Initial review of analysis on program restructuring; receive report from Observer Committee.
6. Central Gulf of Alaska (GOA) Rockfish program: Final action on CGOA Catch Share Program.
7. Amendment 80 Program: Receive report on Groundfish Retention Standards (GRS) program. Final action on amendment for lost vessels replacement.
8. Groundfish Management: Initial review of analysis for GOA Pacific cod sideboards for crab vessels; initial review of analysis to adjust Maximum Retainable Amount (MRAs) in BSAI arrowtooth fishery.
9. Miscellaneous Issues: Review preliminary discussion paper on GOA halibut PSC; receive briefing on Alaska MPAs and fishery overlap; review Pacific cod assessment model run proposals (SSC only); review Council request for Tier 6 Working Group (SSC only); American Fisheries Act (AFA) preliminary report removal - initial/final action.
10. Staff Tasking: Review Committees and tasking.
11. Other Business

The SSC agenda will include the following issues:

1. Crab ACLs/Rebuilding
2. Crab SAFE
3. Scallop ACLs
4. Observer Program
5. Groundfish Management

6. Salmon genetics and sampling
7. Miscellaneous Issues

The Advisory Panel will address most of the same agenda issues as the Council, except for #1 reports. The Agenda is subject to change, and the latest version will be posted at *http://www.alaskafisheries.noaa.gov/npfmc/*.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: May 13, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–11894 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XW50

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/MPA/Ecosystem Committee in June, 2010 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, June 10, 2010 at 9:30 a.m.

ADDRESSES: This meeting will be held at the Marriott Hotel, 1 Orms Street, Providence, RI 02904; telephone: (401) 272–2400; fax: (401) 421–8006.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Committee will review goals and objectives for Omnibus EFH Amendment 2 and will also review PDT recommendations for additions/removals/modifications of habitat closed area (gear restricted areas) based on SASI model simulation runs. Based on these recommendations, the committee will develop alternatives related to additions/removals/modifications of habitat closed areas (gear restricted areas). These alternatives will be reviewed by the full Council at the June 22–24 meeting for inclusion in the Omnibus EFH Amendment 2 DEIS. As time permits and pending completion of analyses by the PDT, discuss ongoing PDT work and recommendations related to deep-sea coral protection areas, Habitat Areas of Particular Concern (HAPCs), research areas, and practicability metrics. Other topics may be discussed at the Chair's discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 13, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–11897 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XW49

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Surfclam, Ocean Quahog and Tilefish Committee, its Research Set-Aside Committee (RSA), its Squid, Mackerel, and Butterfish (SMB) Committee, its Ecosystems and Ocean Planning Committee, and its Executive Committeewill hold public meetings.

DATES: The meetings will be held Tuesday, June 8, 2010 through Thursday, June 10, 2010. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Radisson Martinique on Broadway, 49 West 32nd Street, New York, New York 10001; telephone: (212) 736–3800.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901–3910; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 674–2331, ext. 255.

SUPPLEMENTARY INFORMATION:

Tuesday, June 8, 2010

8:30 a.m. until 11 a.m. - The Surfclam, Ocean Quahog, and Tilefish Committee will meet with its Advisors.

11 a.m. until 12:30 p.m. - The RSA Committee will meet.

2 p.m. until 5 p.m. - The Squid, Mackerel, and Butterfish Committee will meet with its Advisors.

Wednesday, June 9, 2010

8 a.m. until 9:30 a.m. - the Ecosystems and Ocean Planning Committee will meet.

9:30 a.m. - The Council will convene at 9:30 a.m.

9:30 a.m. until 10 a.m. - The Council will receive a presentation regarding the outcome of the recent Transboundary Resource Assessment Committee's (TRAC) review of the status of Atlantic mackerel.

10 a.m. until 12 noon - The Council Business Session will meet.

1:30 p.m. until 3 p.m. - Surfclam and Ocean Quahog specification setting will be held for 2011–13.

3 p.m. until 4:30 p.m. - Squid, Mackerel, and Butterfish specification setting will be held for 2011.

4:30 p.m. until 5:30 p.m. - The Executive Committee will meet.

Thursday, June 10, 2010

8:30 a.m. - The Council will convene.

8:30 a.m. until 11 a.m. - The Council will review public comments and discuss the Omnibus ACL/AM Amendment (Annual Catch Limits / Accountability Measures).

11 a.m. until 12:30 p.m. - The Council will then receive Committee Reports and address any continuing and new business.

Agenda items by day for the Council's Committees and the Council itself are:

On Tuesday, June 8 - the Surfclam, Ocean Quahog and Tilefish Committee with Advisors will review the SSC and staff recommendations and advice for 2011–13 quota specifications and associated management measure for surfclams and ocean quahogs; develop 2011–13 quota specifications and associated management measures for Council consideration and action; and receive a presentation on Climate Change and Responses in a Coupled Marine System; the Mid-Atlantic surfclam (MASC) model is being developed as part of a multi-disciplinary study looking at adaptation to climate change in a human-natural coupled system. The RSA Committee will review the Mid-Atlantic RSA program performance and develop a mission statement to emphasize ways to improve program coordination with other cooperative research efforts. The Squid, Mackerel, and Butterfish Committee with Advisors will review the SSC and Monitoring Committee's recommendations and SSC advice for 2011 quota levels and associated management measures; develop 2011 quota specifications and associated management measures for Council consideration and action; address Amendment 11's outstanding issue: cap capacity via a mackerel limited entry system; and, ratify earlier approved purposes / actions included in Amendment 11.

On Wednesday, June 9 - the Ecosystems and Ocean Planning Committee will receive an annual presentation regarding NMFS NERO's habitat initiatives and programs. The Council will convene to receive a presentation on the outcome of the recent TRAC Assessment of Atlantic mackerel, conduct its Business Session, receive Organizational and Council Liaison Reports, the Executive Director's Report and receive an update on the status of Council FMPs. The Council will review the Surfclam and Ocean Quahog Committee's recommendations for 2011–13 quota specifications and associated management measures, and develop and adopt 2011–13 quota specifications and associated management measures for surfclams and ocean quahogs. The Council will review the SMB Committee's recommendations for 2011 quota specifications and associated management measures, and develop and adopt 2011 quota specifications and associated management measures for Atlantic mackerel, squids, and butterfish. The Executive Committee will review highlights of the May Northeast Regional Coordinating Council (NRCC) meeting; review highlights of the May Council Coordination Committee (CCC) meeting; discuss the framework and the process to move forward with the "Visioning" project suggested at the end of the Council's March Catch Share Workshop; review and discuss Advisory Panel input in the specification setting process; and, discuss the status of the proposed surfclam excessive share analysis.

On Thursday, June 10 - the Council will convene to review Public Hearing oral comments and written comments on the Omnibus ACL / AM Amendment; review the Tilefish trip analysis; address SMB Amendment 11 allocation action and implications for ACLs / AMs; address the means to make future modifications to the ACL / AM Amendment; discuss the integration of the ACL / AM Amendment with Atlantic State Marine Fisheries Commission regarding annual specification setting processes; and, discuss the mechanics of how the August specification setting process will be actualized. Following this action, the Council will receive Committee Reports and discuss any continuing and new business.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: May 13, 2010.

Tracey L. Thompson,

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

[FR Doc. 2010–11895 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions or certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. EDA has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT 4/23/2010 THROUGH 5/12/2010

Firm	Address	Date accepted for filing	Products
Piolax Corporation	139 Etowah Industrial Ct., Canton, GA 30114.	4/27/2010	The firm produces plastic automotive components/fasteners; primary manufacturing material is plastic.
Surface Products, Inc	18623 Northline Drive, Cornelius, NC 28031.	4/27/2010	The firm produces counter-tops; manufacturing materials include granite, solid surface & engineered stone.
BesTech Tool Corp	1605 Corporate Center Drive, West Bend, WI 53095.	4/28/2010	Stamped and machined metal parts.
Victor Insulator, Inc	280 Maple Ave., Victor, NY 14564.	5/4/2010	Electrical porcelain insulators.
Argent International, Inc	41016 Concept Drive, Plymouth, MI 48170.	5/4/2010	Self-adhesive sheet, tape and strip parts.
UPCO, Inc	P.O. Box 725, Claremore, OK 74018.	5/6/2010	UPCO manufactures various oilfield products to include sucker and pony rods, sinker bars and pup joints.
Photovac, Inc	300 Second Avenue, Waltham, MA 02451.	5/7/2010	Photovac, Inc. manufactures hand-held instruments for detection, measurement, analysis and monitoring of volatile organic compounds (VOCs) in air, soil or groundwater.
Pine Door Manufacturing, Inc	P.O. Box 178; 3225 Old Darby, MT 59829.	5/4/2010	Product: Flush doors. Materials: Wood, stain, varnish, glue, inlay, sawing, planing, sanding equipment. Process: Plane and sand wood, cut wood pieces, do inlay, glue, sand, stain, varnish, add hardware, inspect, ship.
Sioux Corporation	One Sioux Plaza; P.O. Box Beresford, SD 57004.	5/5/2010	Service industry machinery, specializing in high pressure cleaning equipment.
Dakota Micro, Inc	8659 148th Ave., SE., Cayuga, ND 58013.	5/4/2010	Dakota Micro manufactures the AgCam system, a video camera and monitor system for agricultural applications. The systems are produced using electrical components, which are assembled using either line production or hand assembly into the AgCam systems.
New Standard Corporation, Inc	74 Commerce Way, York, PA 17406.	5/4/2010	New Standard is a manufacturer of metal products for various industries. Products are stamped, fabricated, welded and/or assembled. Metal products—different types of steel, copper pressure leaf filters.
Quality Rolling & Deburring Inc	135 South Main Street, Thomaston, CT 06787.	5/5/2010	Quality Rolling & Deburring Inc. is a metal cleaning and finishing service manufacturer. They finish parts with copper, zinc, nickel, gold and bright tin.
HY–C Company, Inc	2107 N. 14th Street, St. Louis, MO 63106.	5/12/2010	Fireplace articles made of steel and copper.
AGL Corporation	P.O. Box 189, Jacksonville, MO 72076.	5/12/2010	Laser and machine control systems.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: May 12, 2010.

Bryan Borlik,

Program Director.

[FR Doc. 2010–11961 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No.: 100427196–0196–01]

Solicitation of Applications for the Research and Evaluation Program: FY 2010 Mapping Regional Innovation Clusters Project Competition

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and request for applications.

SUMMARY: Pursuant to the Research and Evaluation program, the Economic Development Administration (EDA) solicits applications to develop, implement, and disseminate information that will enable policymakers and practitioners to more effectively understand the regional innovation clusters that drive the national economy and how regional assets and innovation inputs help shape these clusters at the local level. EDA's mission is to lead the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. Through its Research and Evaluation program, EDA works towards fulfilling its mission by funding research and technical assistance projects to promote competitiveness and innovation in distressed rural and urban regions throughout the United States and its territories. By working in conjunction with its research partners, EDA will help States, local governments, and community-based organizations to achieve their highest economic potential.

DATES: To be considered timely, a completed application, regardless of the format in which it is submitted, must be either (a) transmitted and time-stamped at *http://www.grants.gov* no later than June 21, 2010, at 5:00 pm Eastern Time; or (b) received by the EDA

representative listed under "For Further Information Contact" no later than June 21, 2010, at 5 p.m. Eastern Time.

Application Submission Requirements: Applicants are advised to read carefully the instructions contained in section IV of the Federal funding opportunity (FFO) announcement for this request for applications. For a copy of the FFO announcement, please see the Web sites listed below under "Electronic Access."

Applications may be submitted in two formats: (a) electronically in accordance with the instructions provided at *http://www.grants.gov* or via e-mail to the address provided below in "Electronic Submissions;" or (b) in paper format at the address provided below. EDA will not accept facsimile transmissions of applications. The content of the application is the same for paper submissions as it is for electronic submissions.

Applicants applying electronically through *http://www.grants.gov* or via e-mail may access the application package by following the instructions provided at *http://www.grants.gov*. Alternatively, you may obtain paper application packages by contacting the individual listed below under "For Further Information Contact."

Electronic Submissions: Applicants may submit complete applications through *http://www.grants.gov* or via e-mail to Hillary Sherman-Zelenka at *HSherman@eda.doc.gov*. Applicants are encouraged to submit applications electronically at *http://www.grants.gov*. The preferred electronic file format for attachments is portable document format (PDF); however, EDA will accept electronic files in Microsoft Word, WordPerfect, or Microsoft Excel.

Applicants are strongly encouraged to start early and not to wait until the approaching deadline before logging on and reviewing the application instructions at *http://www.grants.gov*. Applicants should save and print written proof of an electronic submission made at *http://www.grants.gov*. If problems occur, the applicant is advised to (a) print any error message received; and (b) call the *http://www.grants.gov* Contact Center at 1–800–518–4726 for assistance. The Contact Center is open 24 hours a day, 7 days a week (except for Federal holidays). The following link lists useful resources: *http://www.grants.gov/help/help.jsp*. If you do not find an answer to your question under "Applicant FAQs," try consulting the "Applicant User Guide" or contacting *http://www.grants.gov* via e-mail at *support@grants.gov* or telephone at 1–800–518–4726.

Paper Submissions: Paper (hardcopy) applications submitted under this notice and request for applications may be hand-delivered or mailed to:

FY 2010 Mapping Regional Innovation Clusters Project Competition, Hillary Sherman-Zelenka, Program Analyst, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 7009, Washington, DC 20230.

Applicants are advised that, due to mail security measures, EDA's receipt of mail sent via the United States Postal Service may be substantially delayed or suspended in delivery. Applicants may wish to use a guaranteed overnight delivery service.

FOR FURTHER INFORMATION CONTACT: For additional information on the Research and Evaluation program or to obtain a paper application package for this notice, please contact Hillary Sherman-Zelenka, Program Analyst, via e-mail at *HSherman@eda.doc.gov* (preferred) or by telephone at (202) 482–3357. Additional information about EDA and its Research and Evaluation program may be obtained from EDA's Web site at *http://www.eda.gov*.

SUPPLEMENTARY INFORMATION:

Background: Recent shifts in the global landscape are profoundly impacting regions across the United States. Communities across the nation, both urban and rural, are facing the intensifying pressures of globalization. For instance, the deployment of high-speed communications, adoption of liberalized trade policies, and innovations in transportation infrastructure have heightened the mobility of goods, labor and knowledge.

These transformations warrant dramatic shifts in the role of economic development professionals. While in the past some development specialists could focus exclusively on the "buffalo hunt" (i.e., seek to attract large employers to their region) and conceive strategies in narrow, jurisdictional terms, today these practices are no longer effective and development specialists must engage in thoughtful analysis of regional assets to create comprehensive strategies that are capable of successfully promoting regional prosperity.

Clusters—and specifically regional innovation clusters—represent an important concept for development practitioners aiming to promote the prosperity of their region. Introduced into the common lexicon by Michael E. Porter's foundational work,[1] clusters are generally recognized to represent the economic efficiencies that exist when industries and their suppliers co-locate. In the twenty years since Porter's first work on the subject, numerous researchers have examined the benefits and opportunities that they afford. In particular, recent work has focused on regional innovation clusters and how they can be employed to create jobs, spur business creation, and promote long-term economic prosperity.[2]

Unlike traditional clusters, regional innovation clusters represent not only the economic efficiencies that exist from the co-location of similar industries and suppliers, but also consist of the active networks of synergistic organizations that engage with various businesses within a particular industry sector, the regional assets that exist within the geographic region, and the nodes that are critical for supporting the innovation work of the industry sector, such as R&D centers, venture capitalists, universities and colleges, national labs, and networks of entrepreneurs.

While the body of literature defining regional innovation clusters and discussing their impact on communities is prolific among academics, policy analysts, and national development organizations, this information has not been adequately translated and disseminated into an accessible and persuasive format to the people charged with promoting local economic prosperity.

Recognizing this discontinuity, EDA, pursuant to its Research and Evaluation program, solicits applications for an economic development research project aimed at developing a replicable method for identifying and mapping regional innovation clusters, providing resources on best practices, and providing recommendations on metrics for the evaluation of regional innovation clusters.

Proposed Study: Clusters—and specifically regional innovation clusters (RICs)—hold much promise for assisting local economic development specialists in developing comprehensive economic development strategies that can create jobs, spur business creation, and promote long-term economic prosperity. Unfortunately, while RICs have been widely discussed among policy circles, information on how to identify or support RICs has not been made widely available to front-line practitioners. To rectify this, EDA solicits applications

[1] Michael E. Porter, *The Competitive Advantage of Nations* (New York, NY: Free Press, 1990).

[2] Jonathan Sallet, Ed Paisley, and Justin Masterman, *The Geography of Innovation: The Federal Government and the Growth of Regional Innovation Clusters* (Science Progress, 2009).

from qualified researchers to accomplish the following:

a. Solicit Input From Practitioners and Policymakers

Applicants should include a process for soliciting input from practitioners and policymakers on how they anticipate using the regional innovation cluster map and tool. Applicants are encouraged to seek input from a diverse spectrum of users, and should ensure that inputs from individuals in both urban and rural geographies are sought out.

b. Develop a Method for Identifying Regional Innovation Clusters

Applicants should propose a method for identifying regional innovation clusters across the U.S. EDA envisions a method that allows users to glean information not only on their industrial and/or occupational clusters, but also on the competitive strengths (assets) of their region, and the region's innovation potential. Applicants are strongly encouraged to build upon previous cluster, asset mapping, and innovation work.

While there are a wide variety of methods for identifying clusters, most are based on assessing the density of industries in a given region using location quotients of the industry NAICS codes (i.e., the density of industries in a region compared to the national density of industries). Occupational clusters, which are based on Standard Occupational Classification (SOC) codes generated by the U.S. Department of Labor, offer another perspective for viewing the density of the skill-sets of a regional population. EDA recognizes the intrinsic value such methods afford, but believes that they sometimes offer a limited snapshot through which to view local economies. Further, EDA recognizes that much of today's cluster work utilizes location quotients without taking into account the historical trajectory of the growth or decline. EDA anticipates selecting a proposal that articulates ways to incorporate the use of location quotients as a foundation, but that also utilizes cluster analysis, trend analysis, and forecasting to inform the method for identifying regional innovation clusters and developing a related mapping tool.

A wide body of literature exists on what inputs are critical to support innovation. This work should be considered as part of the development of the method for identifying regional innovation clusters. EDA has funded two projects focused on innovation: (i) Indiana Business Research Center's Innovation Index (available at *http://www.statsamerica.org/innovation/index.html*), and (ii) West Virginia University's State Innovation Map (available at *http://rrigis.rri.wvu.edu/*). Applicants are strongly encouraged to leverage the work produced from these previous EDA investments. EDA recognizes the value such innovation tools afford, but also understands that their applicability would be much greater if tied to the clusters and competitive strengths of a region. EDA anticipates funding a proposal that offers a method for integrating innovation inputs and activities with data on a region's competitive assets and clusters.

An extensive body of literature discusses how clusters and innovation depend upon the underlying assets of a region [3]. EDA expects to fund a proposal that recognizes the inherent link among clusters, innovation, and regional assets and proposes a method for identifying regional innovation clusters that considers these inputs in developing the method.

Please see the FFO announcement for this request for applications for more detailed information on the project scope of work and required tasks, including the development of a national map of regional innovation clusters, creation of an interactive mapping tool, and identification of metrics for success of evaluating regional innovation clusters.

Any information disseminated to the public under this announcement is subject to the Information Quality Act (Pub. L. 106–554). Applicants are required to comply with the Information Quality Guidelines issued by EDA pursuant to the Information Quality Act, which are designed to ensure and maximize the quality, objectivity, utility, and integrity of information disseminated by EDA. These guidelines can be found on EDA's Web site at *http://www.eda.gov*.

Electronic Access: The FFO announcement for the FY 2010 Mapping Regional Innovation Clusters Project competition is available at *http://www.grants.gov* and at *http://www.eda.gov/InvestmentsGrants/FFON.xml*.

Funding Availability: Funding appropriated under the Consolidated Appropriations Act, 2010 (Pub. L. 111–117, 123 Stat. 3034 at 3114 (2009)) is available for the economic development assistance programs authorized by the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121 *et seq.*) (PWEDA) and for the Trade Adjustment Assistance for Firms Program under the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*). Funds in the amount of $255,000,000 have been appropriated for FY 2010 and shall remain available until expended.

For the Research and Evaluation program, EDA is allocating $1,500,000 in FY 2010. EDA anticipates that the mapping regional innovation clusters award or awards made under this competitive solicitation will involve a multi-year project period, with total funding for this research effort reaching up to $1,000,000 for each year. Funding beyond the first year for the grant award shall be contingent on satisfactory performance, availability of appropriations, and EDA priorities.

Statutory Authority: The authority for the Research and Evaluation program is section 207 of PWEDA (42 U.S.C. 3147). EDA's regulations, which will govern an award made under this announcement, are codified at 13 CFR chapter III. The regulations and PWEDA are accessible at *http://www.eda.gov/InvestmentsGrants/Lawsreg.xml*.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.312, Economic Development—Research and Evaluation.

Applicant Eligibility: Pursuant to PWEDA, eligible applicants for and recipients of EDA investment assistance include a District Organization; an Indian Tribe or a consortium of Indian Tribes; a State; a city or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; an institution of higher education or a consortium of institutions of higher education; and a public or private non-profit organization or association. For-profit, private-sector entities also are eligible for investment assistance under the Research and Evaluation program to carry out specific research or for other purposes set forth in section 207 of PWEDA (42 U.S.C. 3147) and 13 CFR 306.1. *See also* 42 U.S.C. 3122.

Anticipated Project Period: EDA anticipates a three-year project period with funding in one-year increments, subject to the availability of funds, EDA policy, and satisfactory performance under the award. Applicants should ensure that their proposal and budget clearly specify how they will complete the scope of work, which consists of the tasks listed in section I.B of the FFO announcement, compose the resulting report and Web tools, and present the report and Web tools to EDA senior

[3] Council on Competitiveness, *Illuminate: Asset Mapping Roadmap: A Guide to Assessing Regional Development Resources* (2007).

management within this timeframe. A typical research project period begins with an initial meeting between the recipient and EDA staff to discuss project scope and to ensure that all parties are in agreement as to project terms. After the initial meeting, the recipient generally submits a final work plan to EDA staff for review and approval. Since an award made under this competitive solicitation is envisioned as a cooperative agreement, EDA will have substantial involvement throughout the project period. Progress and financial reports, and project work will be submitted to EDA based on the dates agreed to during the initial meeting and as outlined in the award special terms and conditions.

Typically, the recipient submits a draft research report to EDA at least 90 days before the end of the project period for EDA's review. If the draft research report is approved, EDA will approve publication of a final research report, and the recipient will brief EDA senior management on research methods and report results.

Cost Sharing Requirement: Generally, the amount of the EDA grant may not exceed fifty percent of the total cost of the project. Projects may receive an additional amount that shall not exceed thirty percent, as determined by EDA, based on the relative needs of the region in which the project will be located. *See* section 204(a) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(1). The Assistant Secretary of Commerce for Economic Development has the discretion to establish a maximum EDA investment rate of up to one-hundred percent where the project: (i) Merits and is not otherwise feasible without an increase to the EDA investment rate; or (ii) will be of no or only incidental benefit to the recipient. *See* section 204(c)(3) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(4).

EDA will consider the nature of the contribution (cash or in-kind), the amount of any matching share funds, and fairly assess any in-kind contributions in evaluating the cost to the Government and the feasibility of the project budget (*see* the "Evaluation Criteria" section below). While cash contributions are preferred, in-kind contributions, fairly evaluated by EDA, may provide the non-Federal share of the total project cost. *See* section 204(b) of PWEDA (42 U.S.C. 3144) and section III.B of the FFO announcement for this request for applications. In-kind contributions, which may include assumptions of debt and contributions of space, equipment, and services, are eligible to be included as part of the non-Federal share of eligible project costs if they meet applicable Federal cost principles and uniform administrative requirements. Funds from other Federal financial assistance awards are considered matching share funds only if authorized by statute, which may be determined by EDA's reasonable interpretation of the statute. *See* 13 CFR 300.3. The applicant must show that the matching share is committed to the project for the entire project period, will be available as needed, and is not conditioned or encumbered in any way that precludes its use consistent with the requirements of EDA investment assistance. *See* 13 CFR 301.5.

Intergovernmental Review: Applications under the Research and Evaluation program are not subject to Executive Order 12372, "*Intergovernmental Review of Federal Programs.*"

Application Review and Award Notification Information: To apply for an award under this request for applications, an eligible applicant must submit a completed application to EDA before the closing date and time specified in the **DATES** section of this notice, and in the manner provided in section IV of the applicable FFO announcement. Any application received or transmitted, as the case may be, after 5 p.m. Eastern Time on June 21, 2010, will not be considered for funding. Applications that do not include all items required or that exceed the page limitations set forth in section IV.B of the FFO announcement will be considered non-responsive and will not be considered by the review panel. A panel comprised of at least three EDA staff members, all of whom will be full-time Federal employees, will be formed to review applications using the evaluation criteria specified in this notice. The review panel's rating and ranking of the applications will be presented to the Assistant Secretary, who is the Selecting Official, under this competitive solicitation. By September 15, 2010, EDA expects to notify the applicant selected for investment assistance under this notice.

Evaluation Criteria: The review panel will evaluate applications and rate and rank them using the following criteria of approximate equal weight:

(1) Conformance with EDA's statutory and regulatory requirements, including the extent to which the proposed project satisfies the award requirements set out below and as provided in 13 CFR 306.2:

- Strengthens the capacity of local, State, or national organizations and institutions to undertake and promote effective economic development programs targeted to regions of distress;
- Benefits distressed regions; and
- Demonstrates innovative approaches to stimulate economic development in distressed regions.

(2) The degree to which an EDA investment will have strong organizational leadership, relevant project management experience, and a significant commitment of human resources talent to ensure the project's successful execution (*see* 13 CFR 301.8(b)). EDA recognizes that the project scope of work under this competitive solicitation requires diverse skills, and therefore will give preference to consortia of organizations.

(3) The ability of the applicant to successfully implement the proposed project (*see* 13 CFR 301.8).

(4) The feasibility of the budget presented.

(5) The cost to the Federal government.

(6) The inclusion of a plan to distribute the research and project data to development practitioners through a project website that can be accessed free of charge.

(7) The ability to complete key tasks within a timely manner.

(8) The inclusion of a solid plan for sustaining the project after the EDA investment.

For purposes of this competitive solicitation, EDA will consider applications submitted only by applicants with the current capacity to undertake research that advances innovation in economic development practice or theory, and that has the potential for impact on a regional or national scale. *See* section 3 of PWEDA (42 U.S.C. 3122) and 13 CFR 300.3 and 306.2.

Selection Factors: The Assistant Secretary, as the Selecting Official, expects to fund the highest ranking application, as recommended by the review panel, submitted under this competitive solicitation. However, if EDA does not receive satisfactory applications, the Assistant Secretary may not make any selection. Depending on the quality of the applications received, the Assistant Secretary may select more than one application. Also, the Assistant Secretary may select an application out of rank order for the following reasons: (1) A determination that the selected application better meets the overall objectives of sections 2 and 207 of PWEDA (42 U.S.C. 3121 and 3147); (2) the applicant's performance under previous awards; or (3) the availability of funds.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements: Administrative and national policy

requirements for all Department of Commerce awards are contained in the *Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements,* published in the **Federal Register** on February 11, 2008 (73 FR 7696). This notice may be accessed at *http://www.gpoaccess.gov/fr/retrieve.html,* making sure the radial button for the correct **Federal Register** volume is selected (here, 2008 **Federal Register,** Vol. 73), entering the **Federal Register** page number provided in the previous sentence (7696), and clicking the "Submit" button.

Paperwork Reduction Act: This request for applications contains collections of information subject to the requirements of the Paperwork Reduction Act (PRA). The Office of Management and Budget (OMB) has approved the use of Form ED–900 (*Application for Investment Assistance*) under control number 0610–0094. Forms SF–424 (*Application for Federal Assistance*); SF–424A (*Budget Information—Non-Construction Programs*), and SF–424B (*Assurances—Non-Construction Programs*) are approved under OMB control numbers 4040–0004, 4040–0006, and 4040–0007, respectively. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless the collection of information displays a currently valid OMB control number.

Executive Order 12866: This notice has been determined to be not significant for purposes of Executive Order 12866, "*Regulatory Planning and Review.*"

Executive Order 13132: It has been determined that this notice does not contain "policies that have Federalism implications," as that phrase is defined in Executive Order 13132.

Administrative Procedure Act/Regulatory Flexibility Act: Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for rules concerning 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 inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: May 14, 2010.

Brian P. McGowan,

Deputy Assistant Secretary of Commerce for Economic Development.

[FR Doc. 2010–11949 Filed 5–18–10; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision (ROD) for the Training Land Acquisition (Including Purchase and Lease) at Fort Polk, LA

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability (NOA).

SUMMARY: The Department of the Army announces the availability of its ROD which summarizes and documents its decision to proceed with Alternative 3, the acquisition of up to 100,000 acres of additional training land in Vernon and Rapides Parrish in the areas South of Peason Ridge, and to the North and East of Fort Polk's existing training lands. The decision considers the Army's mission requirements at Fort Polk and the environmental analysis contained in the Final Environmental Impact Statement (FEIS) for Training Land Acquisition at Fort Polk, Louisiana (March 2009). The ROD describes the Army's decision to proceed with Alternative 3. This decision provides the Army with the most options and best opportunities to meet Fort Polk and the Joint Readiness Training Center (JRTC) training needs and is also the environmentally preferred alternative.

ADDRESSES: For questions regarding the ROD, please contact Ms. Susan Walker, Fort Polk Public Affairs Office (PAO), 7033 Magnolia Road, Fort Polk, LA 71459–5342. A copy of the FEIS and ROD are available at the following Web site: *http://www.jrtc-polk.army.mil/LandPurchase/index.html.*

FOR FURTHER INFORMATION CONTACT: Ms. Susan Walker at (337) 531–9125 from 9 a.m. to 5 p.m. CST or e-mail *Susan.T.Walker@conus.army.mil.*

SUPPLEMENTARY INFORMATION: The Fort Polk FEIS analyzed the environmental, cultural and socioeconomic impacts of several acquisition location alternatives, each of which included the acquisition of up to 100,000 acres of land. Alternative 1 considered the acquisition of lands directly adjacent to Fort Polk's existing training areas to the south of Peason Ridge and directly north and east of the main post. As part of Alternative 1, units would continue to lease lands to convoy to Peason Ridge to access training areas. Alternative 2 considered the acquisition of the land considered in Alternative 1, and, in addition, considered the acquisition of parcels that connect Peason Ridge with Fort Polk's main post. Alternative 3, the Preferred Alternative and selected alternative, considered the acquisition of those lands considered in Alternative 2, and the acquisition of lands to the east of Fort Polk in Rapides Parish. The FEIS also analyzed the No Action Alternative, which evaluates the impacts of taking no action to acquire or use additional training land around Fort Polk. Under the No Action alternative, the purpose and need for the proposed action would not be met.

Alternative 3 has been selected by the Army because it has the most potential to allow the Army to acquire adequate maneuver training land to support the training requirements of the JRTC and Fort Polk's resident units. Alternative 3 provides the best opportunities for the Army to acquire new lands that are compatible with Fort Polk's training needs, and the implementation of this alternative will reduce future potential training land use conflicts between JRTC and Fort Polk's resident units. The implementation of Alternative 3 will also attenuate adverse environmental impacts over a broader area and will ensure a greater amount of land is actively managed to promote increased sustainability and reduce environmental impacts.

In making its decision, the Army has determined that significant environmental impacts may occur from the selected alternative with regard to changes in land use and potentially from noise depending on which lands are eventually acquired as part of this decision. In addition to these potentially significant impacts, the Army anticipates that moderate impacts to soil resources, water resources, wetlands, biological resources, cultural resources, and socioeconomics would occur as a result of implementing the Proposed Action. To mitigate potential impacts, the Army will survey new lands for cultural and natural resources prior to training and will manage training activities to reduce noise impacts. The Army will provide recreational/hunting access to new lands to the extent practicable and will bring new lands under the framework of the installation's existing environmental management programs. Substantive compliance with the National Historic Preservation Act (NHPA) will be accomplished through adherence to the Integrated Cultural Resource Management Plan, which, together with the FEIS, outline cultural resource management practices that would be

applied to newly acquired lands. Compliance with Section 106 of the NHPA is being accomplished as part of this EIS process.

Dated: May 12, 2010.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health).

[FR Doc. 2010–12014 Filed 5–18–10; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Record of Decision (ROD) for the Development and Implementation of Range-Wide Mission and Major Capabilities at White Sands Missile Range (WSMR), NM

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability (NOA).

SUMMARY: The Department of the Army announces the availability of the ROD that documents and summarizes the decision to proceed with implementing the Preferred Alternative (Alternative (1) identified in the Final Environmental Impact Statement (FEIS), including the following proposed land use changes: expansion of the Main Post and alterations in authorized uses of range areas; development of new and expanded infrastructure throughout the installation, and increase in the level of test activities; development of six new Specialized Areas (four for test operations and two to support small-scale military training); establishment of a Land Use and Airspace Strategy Plan and siting process for facilitating future tests and training activities at WSMR; and continued stationing of the Engineer Battalion and continued Main Post expansion for the Engineer Battalion, Brigade Combat Team (BCT) Modernization, and other ongoing tenant programs.

ADDRESSES: To request copies of the ROD, please contact: White Sands Test Center, Operations Office, Attention: Catherine Giblin, 124 Crozier Street, Building 124, Room B–15, White Sands Missile Range, NM 88002; fax: (575) 678–4082; e-mail: *WSMREIS@conus.army.mil.*

FOR FURTHER INFORMATION CONTACT: Monte Marlin, Public Affairs Office, Building 1782, Headquarters Avenue, White Sands Missile Range, NM 88002; (575) 678–1134; or e-mail *monte.marlin@us.army.mil.*

SUPPLEMENTARY INFORMATION: The development and implementation of a land use and airspace plan is intended to more fully realize and integrate the capabilities of the WSMR primary mission (research, development, testing, and evaluation (RDTE)) with new training capabilities and potential future Army stationing decisions. Establishing new test and training capabilities requires changing land use designations within the current installation boundaries. These changes would support current and future requirements and allow off-road vehicle maneuver on designated portions of the installation. WSMR will maintain its current RDTE mission and continue to support testing objectives of all military services and Federal agencies.

In addition to consideration of a No Action Alternative (current test capabilities and land use designations with current levels of operations and activities), the FEIS assessed an additional alternative (Alternative 2) that would include all of the actions included in the Preferred Alternative plus potential future stationing of a Heavy Brigade Combat Team (HBCT) (or comparable unit) by expanding the cantonment area and construction of supporting infrastructure and additional off-road maneuver areas for training on WSMR, On June 2, 2009, the Secretary of the Army announced a decision not to station an HBCT at WSMR in 2013; however, it was decided to retain the analysis in this FEIS to support implementation of potential future stationing decisions. After reviewing the alternatives presented in the FEIS, the Army has made the decision to implement the Preferred Alternative.

By choosing to implement the Preferred Alternative in the ROD, the Army expects direct, indirect, and cumulative impacts as a result of land use changes allowing for expanded off-road vehicle use, facilities and infrastructure construction, expanded test and training activities, and an increase in personnel to support expanded WSMR operations. Impacts analyzed include a wide range of environmental resource areas: land use, air quality, noise, geology and soils, water resources, biological resources, cultural resources, socioeconomics, transportation, utilities, hazardous and toxic substances, sustainability, and cumulative environmental effects. Significant impacts could occur to air quality, soils, water resources, biological resources, socioeconomic resources, transportation, and utilities.

As part of the decision to implement the Preferred Alternative at WSMR, the Army will enact environmental mitigation measures to minimize the impacts of this decision, including the implementation and continuation of existing environmental management programs, use of best management practices, and other specific mitigation measures.

The ROD outlines that the Preferred Alternative reflects the proper balance of initiatives for the protection of the environment, funding considerations, and the need for WSMR to expand its capabilities as a major range and test facility base to support future Army needs associated with Army Transformation, the Army Campaign Plan, modernization of the fighting force, Army Growth and Force Structure Realignment, Global Defense Posture Realignment, and other Army initiatives.

The ROD is available online at *http://www.wsmr.army.mil.*

Dated: May 12, 2010.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health).

[FR Doc. 2010–12017 Filed 5–18–10; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

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: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by June 1, 2010. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before July 19, 2010.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to

oira_submission@omb.eop.gov with a cc: to *ICDocketMgr@ed.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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 this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED 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 respondents, including through the use of information technology.

Dated: May 14, 2010.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Emergency.

Title: Civil Legal Assistance Attorney Student Loan Repayment Program.

Abstract: Under this program, civil legal assistance attorneys who meet certain qualifications may have a portion of certain Federal student loans repaid by the Department based on qualifying full-time employment for at least three years. After acceptance into the program using the Application to Participate and Service Agreement, the borrower will be required to submit for the following three years the Annual Certification of Employment to continue to receive this benefit. If the borrower doesn't continue to meet the employment requirements, they will have to repay any funding received through this program.

Additional Information: The Department is requesting an emergency approval of the Civil Legal Assistance Attorney Student Loan Repayment Program Application to Participate and Service Agreement and Annual Certification of Employment forms by June 1, 2010. This is needed to ensure there is sufficient time to implement the Agreement and for the Department to review the applications submitted by borrowers and make commitments of funds by the close of the 2010 fiscal year. Under the regular clearance process, the Department would not have an approved Agreement by the end of the fiscal year end date for which appropriations have been made. The Department will submit both of the forms for the regular clearance process after receiving emergency approval.

The Application to Participate and Service Agreement will serve as the means for an eligible borrower to apply to participate in the Civil Legal Assistance Attorney Loan Repayment Program and to agree to the terms and conditions of the three-year service period. The Annual Certification of Employment will serve as the means for a borrower who has completed a year of service as a full-time civil legal assistance attorney to request loan repayment and to provide the Department with verification of the qualifying employment. The Notice announcing the program will soon be finalized and will be published after the forms have been approved.

As the $5,000,000 in appropriated funds is for fiscal year 2010 only, the funds must be committed by the Department to eligible borrowers by the close of the fiscal year on September 30, 2010. To allow sufficient time for the Department to review applications submitted by borrowers and make commitments of funds by the close of the fiscal year, the Department intends to require borrowers to submit applications to the Department no later than August 16, 2010.

The Department requests emergency clearance of the Application to Participate and Service Agreement and Annual Certification of Employment forms by June 1, 2010.

Frequency: Annually.

Affected Public: Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 833.

Burden Hours: 142.

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 4309. 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. 2010–12060 Filed 5–18–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, June 9, 2010, 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Patricia J. Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–2347 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The main meeting presentation will be Long-Term Stewardship for Contaminated Areas on the Oak Ridge Reservation.

Public Participation: The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Patricia J. Halsey at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Patricia J. Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Patricia J. Halsey at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.oakridge.doe.gov/em/ssab/minutes.htm.*

Issued at Washington, DC, on May 14, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–12015 Filed 5–18–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, June 3, 2010, 9 a.m.–5 p.m.; Friday, June 4, 2010, 8:30 a.m.–4 p.m.

ADDRESSES: Red Lion Hotel Hanford House, 802 George Washington Way, Richland, WA 99352.

FOR FURTHER INFORMATION CONTACT: Paula Call, Federal Coordinator, Department of Energy, Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, A7–75, Richland, WA 99352; Phone: (509) 376–2048; or E-mail: *Paula_K_Call@rl.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Agency Updates, including progress on the American Recovery and Reinvestment Act (Office of River Protection and Richland Operations Office; Washington State Department of Ecology; U.S. Environmental Protection Agency)
- Committee Updates, including: Tank Waste Committee; River and Plateau Committee; Health, Safety and Environmental Protection Committee; Public Involvement Committee; and Budgets and Contracts Committee
- Beryllium update
- CERCLA 5-year review scoping update
- Lifecycle cost and schedule update
- Tutorial on Hanford Advisory Board Web site
- Potential Board Advice/Letters
  - TPA proposed change packages (M–15, M–91)
  - 2012 Budget Request
- Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Paula Call at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Paula Call at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Paula Call's office at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.hanford.gov/page.cfm/hab.*

Issued at Washington, DC, on May 14, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–12016 Filed 5–18–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–426–000]

CenterPoint Energy Gas Transmission Company; Notice of Application

May 12, 2010.

Take notice that on May 11, 2010, CenterPoint Energy Gas Transmission Company (CEGT), 1111 Louisiana Street, Houston, Texas 77002, filed in the above referenced docket an application pursuant to section 7(b) of the Natural Gas Act (NGA) and part 157 of the Commission's regulations, requesting authorization to abandon in place two 1,100 horsepower (HP) compressor units, fuel meter, compressor building and associated yard and station piping located at Dunn Junction Compressor Station in Logan County, Arkansas. CEGT states that the Dunn Junction Compressor Station is adjacent to the Dunn Compressor Station and yard and station piping at the Dunn Compressor Station has been reconfigured. CEGT asserts that gas supplies can be redirected from Dunn Junction Compressor Station to the Dunn Compressor Station, thus making the Dunn Junction Compressor Station inactive and no longer needed, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call

toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application may be directed to Michelle Willis, Manager, Regulatory & Compliance, CenterPoint Energy Gas Transmission Company, P.O. Box 21734, Shreveport, Louisiana 71151, at (318) 429–3708.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filings of comments, 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: June 2, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–11912 Filed 5–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2851–016]

Cellu Tissue Corporation; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

May 12, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2851–016.

c. *Date Filed:* April 29, 2010.

d. *Applicant:* Cellu Tissue Corporation.

e. *Name of Project:* Natural Dam Hydroelectric Project.

f. *Location:* On the Oswegatchie River in the town of Gouverneur, St. Lawrence County, New York. The project would not occupy any Federal lands.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Agent Contact:* Chris Fiedler or Robin Gaumes, Cellu Tissue Corp., Natural Dam Mill, 4921 Route 58N, Gouverneur, NY 13642, (315) 287–7190.

i. *FERC Contact:* John Baummer, (202) 502–6837.

j. This application is not ready for environmental analysis at this time.

k. *Project Description:* The existing project consists of: (1) A 155 foot-long-dam and spillway with a inflatable rubber crest at a deflated crest elevation of 394.0 feet National Geodetic Vertical Datum (NGVD); (2) a 180-foot-long auxiliary dam/spillway with a crest elevation of 397.3 feet NGVD; (3) a 570-acre impoundment with a normal water surface elevation of 396.0 feet NGVD; (4) a 152-foot-long gated headpond structure leading to an intake structure and a 412-foot-long flume along the west bank of the river; (5) a 570-foot-long bypass reach; (6) a powerhouse containing three turbine generating units with a total installed capacity of 1,020 kW; and (7) electrical transformers located in a transformer yard adjacent to the north wall of the powerhouse that supply power for use at the Natural Dam Mill to produce specialty paper products.

Cellu Tissue Corporation proposes to: (1) Operate the project in a run-of river mode with a minimum impoundment elevation of 395.85 feet; (2) maintain a minimum bypass flow of 77 cubic feet per second (cfs) or inflow, whichever is less; (3) upgrade water level monitoring equipment for the impoundment; and (4) install equipment to allow for automatic pond level control.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Procedural Schedule:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis	June 29, 2010.
Filing of Recommendations, preliminary terms and conditions, and fishway prescriptions	August 28, 2010.
Commission issues Non-Draft EA	December 26, 2010.
Comments on EA	January 25, 2011.

Milestone	Target date
Modified Terms and Conditions	March 26, 2011.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–11910 Filed 5–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1992–003]

Ken Willis; Notice of Authorization for Continued Project Operation

May 12, 2010.

On April 25, 2008, Ken Willis, licensee for the Fire Mountain Lodge Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Fire Mountain Lodge Hydroelectric Project is located in Fern Springs, in Tehama County, California near the town of Chester, Plumas County, California.

The license for Project No. 1992 was issued for a period ending April 30, 2010. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 1992 is issued to Ken Willis for a period effective May 1, 2010 through April 30, 2011, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2011, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise. If the project is not subject to section 15 of the FPA, notice is hereby given that Ken Willis is authorized to continue operation of the Fire Mountain Lodge Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–11909 Filed 5–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

May 10, 2010.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC10–66–000.

Applicants: Black Hills Power, Inc.

Description: Application of Black Hills Power, Inc.

Filed Date: 05/07/2010.

Accession Number: 20100507–5116.

Comment Date: 5 p.m. Eastern Time on Friday, May 28, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER05–1232–024; ER07–1358–014.

Applicants: J.P. Morgan Ventures Energy Corporation, BE Louisiana LLC.

Description: J.P. Morgan Ventures Energy Corporation and BE Louisiana LLC's Supplement to Updated Market Power Analysis and Order No. 697 Compliance Filing.

Filed Date: 05/05/2010.

Accession Number: 20100505–5111.

Comment Date: 5 p.m. Eastern Time on Wednesday, May 26, 2010.

Docket Numbers: ER07–930–002; ER06–146–004; ER98–2782–017; ER98–2782–018; ER98–2782–019.

Applicants: AER NY–Gen, LLC; Alliance Energy Marketing, LLC; AG–Energy, LP.

Description: AER NY–Gen, LLC *et al.* submits market power update for the Northeast Region in compliance with Order No 697.

Filed Date: 05/06/2010.

Accession Number: 20100510–0205.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 06, 2010.

Docket Numbers: ER10–1052–000.

Applicants: Public Service Electric and Gas Company.

Description: Public Service Electric and Gas Company submits an executed transmission facilities agreement with Atlantic City Electric Company substituting Original Service Agreement 1877 etc.

Filed Date: 04/29/2010.

Accession Number: 20100429–0073.

Comment Date: 5 p.m. Eastern Time on Thursday, May 20, 2010.

Docket Numbers: ER10–1207–000.

Applicants: Edgewood Energy, LLC.

Description: Edgewood Energy, LLC *et al.* submits Notice of Succession and revised market-based rate wholesale power sales tariff, FERC Electric Tariff, Original Volume 1.

Filed Date: 05/07/2010.

Accession Number: 20100510–0201.

Comment Date: 5 p.m. Eastern Time on Friday, May 28, 2010.

Docket Numbers: ER10–1208–000.

Applicants: Shoreham Energy, LLC.

Description: Edgewood Energy, LLC *et al.* submits Notice of Succession and revised market-based rate wholesale power sales tariff, FERC Electric Tariff, Original Volume 1.

Filed Date: 05/07/2010

Accession Number: 20100510–0201.

Comment Date: 5 p.m. Eastern Time on Friday, May 28, 2010.

Docket Numbers: ER10–1209–000.

Applicants: PPL Electric Utilities Corporation.

Description: PPL Electric Utilities Corporation submits revised tariff sheets to the PJM Interconnection, LLC Open Access Transmission Tariff.

Filed Date: 05/07/2010.

Accession Number: 20100510–0202.

Comment Date: 5 p.m. Eastern Time on Friday, May 28, 2010.

Docket Numbers: ER10–1210–000.
Applicants: FirstEnergy Nuclear Generation Corp.
Description: FirstEnergy Nuclear Generation Corp. submits tariff filing per 35.12: Market-Based Rate Power Sales Tariff to be effective 5/10/2010.
Filed Date: 05/10/2010.
Accession Number: 20100510–5021.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 01, 2010.

Docket Numbers: ER10–1211–000.
Applicants: DTE Pontiac North, LLC.
Description: DTE Pontiac North, LLC submits tariff filing per 35.12: DTE Pontiac North—Baseline Filing to be effective 5/14/2010.
Filed Date: 05/10/2010.
Accession Number: 20100510–5064.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 01, 2010.

Docket Numbers: ER10–1212–000.
Applicants: DTE River Rouge No.1, LLC.
Description: DTE River Rouge No.1, LLC submits tariff filing per 35.12: DTE River Rouge No. 1—Baseline Filing to be effective 5/14/2010.
Filed Date: 05/10/2010.
Accession Number: 20100510–5088.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 01, 2010.

Docket Numbers: ER10–1213–000.
Applicants: Metro Energy, LLC.
Description: Metro Energy, LLC submits tariff filing per 35.12: Metro Energy—Baseline Filing to be effective 5/14/2010.
Filed Date: 05/10/2010.
Accession Number: 20100510–5093.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 01, 2010.

Docket Numbers: ER10–1215–000.
Applicants: FirstEnergy Solutions Corp.
Description: FirstEnergy Solutions Corp. submits tariff filing per 35.12: Market-Based Rate Power Sales Tariff to be effective 5/10/2010 under ER10–01215–000 Filing Type: 370.
Filed Date: 05/10/2010.
Accession Number: 20100510–5121.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 01, 2010.

Docket Numbers: ER10–1219–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits an executed Large Generator Interconnection Agreement with Wichita Wind, LLC *et al.* under ER10–1219.
Filed Date: 05/10/2010.
Accession Number: 20100510–0212.
Comment Date: 5 p.m. Eastern Time on Tuesday, June 01, 2010.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–19–003.
Applicants: Ohio Valley Electric Corporation.
Description: Compliance Filing of Ohio Valley Electric Corporation & Indiana-Kentucky Electric Corporation.
Filed Date: 05/07/2010.
Accession Number: 20100507–5120.
Comment Date: 5 p.m. Eastern Time on Friday, May 28, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2010–11928 Filed 5–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF10–8–000]

Duke Energy Indiana, Inc.; Notice of Intent To Prepare an Environmental Assessment for the Planned Gallagher Station Project, and Request for Comments on Environmental Issues

May 12, 2010.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Gallagher Station Project, involving construction and operation of facilities by Duke Energy Indiana, Inc. (DEI) in Floyd and Harrison Counties, Indiana (IN) and Jefferson County, Kentucky (KY). The facilities include 20 miles of 20-inch-diameter natural gas pipeline, supporting valves and other meter stations. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on June 11, 2010.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable

agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" is available for viewing on the FERC Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

DEI plans to construct and operate approximately 20 miles of 20-inch-diameter pipeline. According to DEI, its project would enable it to provide natural gas from the existing interstate pipeline facilities of Texas Gas Transmission, LLC. (Texas Gas) in Jefferson County, KY to two of four existing coal-fired units at the Gallagher Station which are being converted to natural gas-fired units. The electric generating pipeline would be designed to have a delivery pressure of 480 psig to the Gallagher Station; with a peak flow rate of 5.6 million cubic feet per hour (MMcf/hr) and an off-peak flow rate of 4.4 MMcf/hr.

The Gallagher Station Project would also include:

- Construction of one new natural gas meter station at Milepost (MP) 0.0 in Jefferson County, KY;
- Construction of one new natural gas metering and regulation station at MP 19.52 in Floyd County, IN; and
- Construction of two mainline block valves: One in Floyd County, IN at MP 13.52, and the other in Harrison County at MP 7.21.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the planned facilities would disturb about 286 acres of land for the aboveground facilities and the pipeline. Following construction, about 118 acres would be maintained for permanent operation of the project's facilities; the remaining acreage would be restored and allowed to revert to former uses. About 50 percent of the planned pipeline route parallels an existing electric transmission and road right-of-way (ROW).

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. All comments received in a timely fashion will be considered during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise; and
- endangered and threatened species.

We will also evaluate reasonable alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EA.

Our independent analysis of the issues will be presented in the EA. The EA will be placed in the public record and, depending on the comments received during the scoping process, may be published and distributed to the public. A comment period will be allotted if the EA is published for review. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for the section 106 process, we are using this notice to solicit the views of the public on the project's potential effects on historic properties.[3] We will document our findings on the impacts on cultural resources and summarize the status of consultations under section 106 of the National Historic Preservation Act in our EA.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC on or before June 11, 2010.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number (PF10–8–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You may file your comments electronically by using the Quick Comment feature, which is located at *http://www.ferc.gov* under the link called "Documents and Filings". A

[1] The appendices referenced in this notice are not being printed in the **Federal Register.** Copies of appendices were sent to all those receiving this notice in the mail and are available at *http://www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] "We", "us", and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800.2(d).

Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the "eFiling" feature that is listed under the "*Documents and Filings*" link. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file to your submission. New eFiling users must first create an account by clicking on the links called "*Sign up*" or "*eRegister*". You will be asked to select the type of filing you are making. A comment on a particular project is considered a "Comment on a Filing"; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

Label one copy of the comments for the attention of Gas Branch 3, PJ–11.3.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential ROW grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

If the EA is published for distribution, paper copies will be sent to the environmental mailing list for public review and comment. If you would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once DEI files its application with the Commission, you may want to become an "intervenor", which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the "e-filing" link on the Commission's website. Please note that you may not request intervenor status at this time. You must wait until a formal application for the project is filed with the Commission.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF10–8). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–11911 Filed 5–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM10–13–000]

Credit Reforms in Organized Wholesale Electric Markets; Notice Establishing Date for Comments

May 12, 2010.

On May 11, 2010, Commission staff convened a technical conference related to the Commission's Notice of Proposed Rulemaking on Credit Reforms in Organized Wholesale Electric Markets.[1] Specifically, the technical conference addressed the proposal in the *Credit Reforms NOPR* regarding whether Independent System Operators/Regional Transmission Operators should adopt tariff revisions to clarify their status as a counterparty to transactions in their markets

Entities wishing to submit further, written comments regarding the counterparty proposal discussed at the technical conference should submit their comments in this docket on or before June 8, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–11908 Filed 5–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons to Attend

May 13, 2010.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

Agency Holding Meeting: Federal Energy Regulatory Commission.

Date and Time: May 20, 2010, 1 p.m.

Place: Room 2C, Commission Meeting Room, 888 First Street, NE., Washington, DC 20426.

Status: Closed.

Matters to be Considered: Non-Public Investigations and Inquiries, Enforcement Related Matters.

Contact Person for More Information: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

Chairman Wellinghoff and Commissioners Spitzer, Moeller, and Norris voted to hold a closed meeting on May 20, 2010. The certification of the General Counsel explaining the action closing the meeting is available for public inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Chairman and the Commissioners, their assistants, the Commission's Secretary, the General Counsel and members of her staff, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who

[1] *Credit Reforms in Organized Wholesale Electric Markets,* 130 FERC ¶ 61,055 (2010) *(Credit Reforms NOPR).*

will advise the Commissioners in the matters discussed will also be present.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–11913 Filed 5–18–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0338; FRL–8822–9]

Notice of Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), publishes a Notice of Intent to Suspend issued by EPA pursuant to section 3(c)(2)(B) of FIFRA. The Notice of Intent to Suspend was issued following the Agency's issuance of a Data Call-In notice (DCI), which required the registrants of the affected pesticide products containing a certain pesticide active ingredient to take appropriate steps to secure certain data, and following the registrant's failure to submit these data or to take other appropriate steps to secure the required data. The subject data were determined to be required to maintain in effect the existing registrations of the affected products. Failure to comply with the data requirements of a DCI is a basis for suspension of the affected registrations under section 3(c)(2)(B) of FIFRA.

DATES: The Notice of Intent to Suspend included in this **Federal Register** notice will become a final and effective suspension order automatically by operation of law 30 days after the date of the registrant's receipt of the mailed Notice of Intent to Suspend or 30 days after the date of publication of this notice in the **Federal Register** (if the mailed Notice of Intent to Suspend is returned to the Administrator as undeliverable, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery to the registrant after making reasonable efforts to do so), unless during that time a timely and adequate request for a hearing is made by a person adversely affected by the Notice of Intent to Suspend or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the Notice of Intent to Suspend. Unit IV., explains what must be done to avoid suspension under this notice (i.e., how to request a hearing or how to comply fully with the requirements that served as a basis for the Notice of Intent to Suspend).

FOR FURTHER INFORMATION CONTACT: Terria Northern, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7093; e-mail address: *northern.terria@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0338. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. Registrants Issued Notices of Intent to Suspend Active Ingredients, Products Affected, and Dates Issued

The Notices of Intent to Suspend was sent via the U.S. Postal Service (USPS) return receipt requested to the registrants for the products listed in Table 1 of this unit.

TABLE 1. — LIST OF PRODUCTS

Registrant Affected	Active Ingredient	EPA Registration Number	Product Name	Date EPA Issued Notice of Intent to Suspend
Nufarm Limited	2,4-D	35935–16	2,4-D Sodium Salt Weed Killer	March 4, 2010
Nufarm Limited	2,4-D	35935–19	Technical Sodium Salt of 2,4-D	March 4, 2010
Nufarm Americas Inc.	2,4-D	228–123	Riverdale Sodium Salt of 2,4-D	March 4, 2010

III. Basis for Issuance of Notice of Intent to Suspend; Requirement List

The registrants failed to submit the required data or information or to take other appropriate steps to secure the required data for their pesticide products listed in Table 2 of this unit.

TABLE 2. — LIST OF REQUIREMENTS

EPA Registration Number	Guideline Number as Listed in Applicable DCI	Requirement Name	Date EPA Issued DCI	Date Registrant Received DCI	Final Data Due Date	Reason for Notice of Intent to Suspend
35935–16 35935–19 228–123	870.1100	Acute Oral Toxicity	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	870.1200	Acute Dermal Toxicity	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	870.1300	Acute Inhalation Toxicity	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	870.2400	Acute Eye Irritation	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	870.2500	Acute Dermal Irritation	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	870.2600	Skin Sensitization	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.1550	Product Identity and Composition	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.1600	Description of Materials Used to Produce the Product	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.1620	Description of Production Process	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.1650	Description of Formulation Process	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.1670	Discussion of Formation Impurities	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.1700	Preliminary Analysis	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.1750	Certified Limits	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.1800	Enforcement of Analytical Method	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.6302	Color	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.6303	Physical State	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.6304	Odor	February 28, 2007	March 16, 2007	November 7, 2008	No data received

TABLE 2. — LIST OF REQUIREMENTS—Continued

EPA Registration Number	Guideline Number as Listed in Applicable DCI	Requirement Name	Date EPA Issued DCI	Date Registrant Received DCI	Final Data Due Date	Reason for Notice of Intent to Suspend
35935–16 35935–19 228–123	830.6313	Stability to Normal and Elevated Temperatures, Metals and Metal Ions	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.6314	Oxidation/Reduction: Chemical Incompatibility	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.6315	Flammability	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.6316	Explodability	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.6319	Miscibility	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35932–28 1235–19	830.6321	Dielectric Breakdown Voltage	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7000	pH	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7050	UV/Visible Absorption	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7100	Viscosity	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7200	Melting Point/Melting Range	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7220	Boiling Point/Boiling Range	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7300	Density/Relative Density/Bulk Density	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7370	Dissociation Constants in Water	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7550	Partition Coefficient, Shake Flask Method	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7570	Partition Coefficient, Estimation by Liquid Chromatograph	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7840	Water Solubility: Column Elution Method;	February 28, 2007	March 16, 2007	November 7, 2008	No data received
35935–16 35935–19 228–123	830.7860	Water Solubility: Generator Column Method	February 28, 2007	March 16, 2007	November 7, 2008	No data received

TABLE 2. — LIST OF REQUIREMENTS—Continued

EPA Registration Number	Guideline Number as Listed in Applicable DCI	Requirement Name	Date EPA Issued DCI	Date Registrant Received DCI	Final Data Due Date	Reason for Notice of Intent to Suspend
35935–16 35935–19 228–123	830.7950	Vapor Pressure	February 28, 2007	March 16, 2007	November 7, 2008	No data received

IV. How to Avoid Suspension Under this Notice?

1. You may avoid suspension under this notice if you or another person adversely affected by this notice properly request a hearing within 30 days of your receipt of the Notice of Intent to Suspend by mail or, if you did not receive the notice that was sent to you via USPS first class mail, return receipt requested, then within 30 days from the date of publication of this **Federal Register** notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164. Section 3(c)(2)(B) of FIFRA, however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, any allegations of errors or unfairness in any proceedings before an arbitrator, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding. Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75–day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your product(s). A request for a hearing pursuant to this notice must:

• Include specific objections which pertain to the allowable issues which may be heard at the hearing.

• Identify the registrations for which a hearing is requested.

• Set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing.

If a hearing is requested by any person other than the registrant, that person must also state specifically why he/she asserts that he/she would be adversely affected by the suspension action described in this notice. Three copies of the request must be submitted to:

Hearing Clerk, 1900, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

An additional copy should be sent to the person who signed this notice. The request must be received by the Hearing Clerk by the applicable 30th day deadline as measured from your receipt of the Notice of Intent to Suspend by mail or publication of this notice, as set forth in **DATES** and in Unit IV.1., in order to be legally effective. The 30–day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30–day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business on the applicable 30th day deadline as measured from the date of the Notice of Intent to Suspend by mail or the date of publication of this notice in the **Federal Register**, as set forth in **DATES** and in Unit IV.1., and will not be subject to further administrative review. The Agency's rules of practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Environmental Appeals Board, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. Within the applicable 30 day deadline period as measured from your receipt of the Notice of Intent to Suspend by mail or publication of this notice, as set forth in **DATES** and in Unit IV.1., the Agency determines that you have taken appropriate steps to comply with the FIFRA section 3(c)(2)(B) Data Call-In notice. In order to avoid suspension under this option, you must satisfactorily comply with Table 2. — List of Requirements in Unit II., for each product by submitting all required supporting data/information described in Table 2. of Unit. II. and in the Explanatory Appendix (in the docket for this **Federal Register** notice) to the following address (preferably by certified mail):

Office of Pesticide Programs, Pesticide Re-evaluation Division, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001.

For you to avoid automatic suspension under this notice, the Agency must also determine within the applicable 30–day deadline period that you have satisfied the requirements that are the bases of this notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s). The suspension of the registration(s) of your company's product(s) pursuant to this notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this notice. Such

compliance may only be achieved by submission of the data/information described in Table 2 of Unit II.

V. Status of Products that Become Suspended

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this notice and so informs you in writing.

After the suspension becomes final and effective, the registrant(s) subject to this notice, including all supplemental registrants of product(s) listed in Table 1 of Unit II., may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Table 1 of Unit II. Persons other than the registrant(s) subject to this notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Table 1 of Unit II. Nothing in this notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Table 1 of Unit II. in any manner which would have been unlawful prior to the suspension.

If the registration(s) for your product(s) listed in Table 1 of Unit II. are currently suspended as a result of failure to comply with another FIFRA section 3(c)(2)(B) Data Call-In notice or Section 4 Data Requirements notice, this notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

It is the responsibility of the basic registrant to notify all supplementary registered distributors of a basic registered product that this suspension action also applies to their supplementary registered products. The basic registrant may be held liable for violations committed by their distributors.

Any questions about the requirements and procedures set forth in this notice or in the subject FIFRA section 3(c)(2)(B) Data Call-In notice, should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

The Agency's authority for taking this action is contained in sections 3(c)(2)(B) and 6(f)(2) of FIFRA, 7 U.S.C. 136 *et seq.*

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 7, 2010.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticides Programs.

[FR Doc. 2010–11833 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9153–1]

Science Advisory Board Staff Office; Notification To Convene Workgroups of Experts for Rapid Advice on Scientific and Technical Issues Related to the Gulf of Mexico Oil Spill

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces it's intent to convene workgroups of experts drawn from the U.S. EPA SAB to provide rapid advice on scientific and technical issues related to the Gulf of Mexico oil spill.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain information about the rapid consultative advice process and projects may contact Dr. Anthony F. Maciorowski, Deputy Director, Science Advisory Board Staff Office, by telephone at (202) 343–9983; by e-mail at *maciorowski.anthony@epa.gov;* or by mail at the U.S. EPA, Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB Staff Office anticipates that the EPA will request rapid advice on an array of scientific and technical issues from nationally recognized scientists and engineers under the auspices of the SAB. This advice will assist the Agency in developing and implementing timely and scientifically appropriate responses to oil spill contamination in the Gulf of Mexico and along the Gulf Coast.

Workgroup members will be invited to serve based on: Their scientific and technical expertise, knowledge, and experience; availability and willingness to serve; absence of financial conflicts of interest; and scientific credibility and impartiality. Due to critical mission and schedule requirements, there is insufficient time to provide the full 15 days notice in the **Federal Register** prior to advisory meetings, pursuant to the final rule on Federal Advisory Committee Management codified at 41 CFR 102–3.150. Therefore, information on the workgroup consultations will be posted on the SAB Web site at *http://www.epa.gov/sab* as they are available.

Dated: May 13, 2010.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2010–11987 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0012; FRL–8823–2]

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 June 18, 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 atypical 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 9E7650*. (EPA–HQ–OPP–2010–0186). Nissan Chemical Industries, Inc., 3-7-1, Kanda Nishiki-cho, Chiyoda-ku, Tokyo, Japan c/o Lewis & Harrison, 122 C Street, NW., Suite 740, Washington, DC 20001, proposes to establish import tolerances in 40 CFR part 180 for residues of amisulbrom, 3-[3-bromo-6-fluoro-2-methyl-H-indol-1-yl)sulfonyl]-N,N-dimethyl-1H – 1,2,4-triazole-1-sulfonamide, in or on grapes at 0.4 parts per million (ppm) and raisins at 1.0 ppm. The proposed tolerance will be a tolerance on treated grapes and its processed products treated in Western Europe and imported into the U.S. There will be no U.S. registration. Liquid chromatography/tandem mass spectrographic detection (LC/MS/MS) is used for determination and quantification of amisulbrom from grape field and grape processing (raisin, juice, and wine) data. The limit of quantitation is 0.01 ppm. A successful independent laboratory method validation was conducted for the grape data collection method. Contact: Olga Odiott, (703) 308–9369, e-mail address: *odiott.olga@epa.gov*.

2. *PP 9E7675*. (EPA–HQ–OPP–2010–0063). Interregional Research Project Number 4 (IR-4), IR-4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Rd. East, Suite 201 W, Princeton, NJ 08450, proposes to establish tolerances in 40 CFR part 180 for residues of the miticide/ovicide etoxazole, 2-(2,6-difluorophenyl)-4-[4-(1,1-dimethylethyl)-2-ethoxyphenyl]-4,5-dihydrooxazole, in or on peppers, African eggplant, eggplant, martynia, okra, pea eggplant, pepino, roselle, and scarlet eggplant at 0.20 ppm; Crop Group 9: cucurbit vegetables at 0.20 ppm; Subgroup 13-07A: Caneberry at 1.1 ppm; Subgroup 13-07F: Small fruit vine climbing subgroup except fuzzy kiwi at 0.50 ppm; Subgroup 13-07G: Low-growing berry subgroup at 0.50 ppm and avocado, papaya, star apple, black sapote, mango, sapodilla, canistel, and mamey sapote at 0.20 ppm; and tea at 15 ppm. Practical analytical methods for detecting and measuring levels of etoxazole have been developed and validated in/on all appropriate agricultural commodities and respective processing fractions. The limit of quantitation (LOQ) of etoxazole in the methods is 0.02 ppm which will allow monitoring of food with residues at the levels proposed for the tolerances. The Cumulative and Aggregate Risk Evaluation System (CARES) Version 2.0 was used to conduct these assessments. Contact: Andrew Ertman, (703) 308–9367, e-mail address: *ertman.andrew@epa.gov*.

3. *PP 0F7689*. (EPA–HQ–OPP–2010–0297). Arysta LifeScience North America, LLC. 15401 Weston Parkway, Cary, NC 27513, proposes to establish tolerances in 40 CFR part 180 for residues of kasugamycin, 3-O-[2-amino-4-[(carboxyiminomethyl)amino]-2,3,4,6-tetradeoxy-α-D-arabino-hexopyranosyl]-D-chiro-inositol, in or on fruiting vegetables (crop group 8 –fruiting vegetables – except cucumber) at 0.15 ppm; pome fruit (crop group 11- pome fruit) at 0.25 ppm; and walnuts at 0.04 ppm. A practical analytical method for detecting and measuring levels of kasugamycin has been developed and validated in all appropriate agricultural commodities. This analytical method is suitable for monitoring of food with residues at the levels proposed for the tolerances. The LOQ for this method is 0.04 ppm. An independent laboratory validation of the residue analytical method was successful. Contact: Shaunta Hill, (703) 347–8961, e-mail address: *hill.shaunta@epa.gov*.

4. *PP 0F7690*. (EPA–HQ–OPP–2010–0234). BASF Corporation, 26 Davis Dr., P.O. Box 13528, Research Triangle Park, NC 27709–3528, proposes to establish tolerances in 40 CFR part 180 for the combined residues of the insecticide alpha-cypermethrin and cypermethrin (including zeta-cypermethrin)((S)-α-cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate and (R)-α-cyano-3-phenoxybenzyl (1S,3S)-3-(2,2-dichlorovinyl)-2,2-dimethylcyclopropanecarboxylate), in or on tree nuts, Group 14; dried shelled pea and bean, except soybean, subgroup 6C; corn, grain; pop corn; sweet corn; soybeans; and sugar beet, roots at 0.05 ppm; succulent shelled pea and bean, subgroup 6B; and root and tuber vegetables, Group 1 at 0.1 ppm; cucurbit vegetables, Group 9; fruiting vegetables, Group 8; sugar beet, tops; and wheat, grain at 0.2 ppm; citrus fruit, Group 10 at 0.35 ppm; cottonseed; edible podded legume vegetable, subgroup 6A; and sorghum, grain at 0.5 ppm; and rice, grain at 1.5 ppm; citrus, dried pulp at 1.8 ppm; head and stem brassica, subgroup 5A at 2.0 ppm; citrus, oil at 4.0 ppm; leafy vegetable, except brassica, Group 4 at 10 ppm; and alfalfa, hay at 15 ppm. There is a practical analytical method for detecting and measuring levels of cypermethrin in or on food with a limit of detection (LOD) that allows monitoring food with residues at or above the levels set in these tolerances. Gas chromatography with electron capture detection (GC/ECD) and LC/MS/MS methods are available. Contact: BeWanda Alexander, (703) 305–7460, e-mail address: *alexander.bewanda@epa.gov*.

5. *PP 0F7695*. (EPA–HQ–OPP–2010–0261). BASF Corporation, 26 Davis Dr., P.O Box 13528, Research Triangle Park, NC, 27709, proposes to establish tolerances in 40 CFR part 180 for residues of ametoctradin, 5-ethyl-6-octyl[1,2,4]triazolo[1,5-a]pyrimidin-7-amine, in or on brassica, head and stem, subgroup at 12 ppm; brassica, leafy greens, subgroup at 50 ppm; grape at 5 ppm; hop, dried cones at 9 ppm; onion, bulb, subgroup at 1.2 ppm; onion, green, subgroup at 16 ppm; raisin at 8 ppm; vegetable, fruiting, group at 2 ppm; vegetable, leafy, except brassica, group at 70 ppm; vegetable, cucurbit, group at 4.5 ppm; and vegetable, tuberous and corm, subgroup at 0.05 ppm. The proposed enforcement method for ametoctradin was fully validated. Ametoctradin is extracted with a mixture of methanol/water. An aliquot of the extract is centrifuged and partitioned against dichloromethane. The final determination of ametoctradin is performed by high performance liquid chromatography-mass spectrometry (HPLC-MS/MS). This method has an LOQ of 0.01 milligrams/kilograms (mg/kg) and is suitable for enforcement purposes. Contact: Shaunta Hill, (703) 347–8961, e-mail address: *hill.shaunta@epa.gov*.

6. *PP 0F7703*. (EPA–HQ–OPP–2010–0284). Monsanto Company, 1300 I Street NW., Suite 450 East, Washington DC 2005, a member of the Acetochlor Registration Partnership (ARP), proposes to establish a tolerance in 40 CFR part 180 for indirect or inadvertent residues of the herbicide acetochlor (2-chloro-2'-methyl-6'-ethyl-N-ethoxymethylacetanilide) and its metabolites containing either the 2-ethyl-6-methylaniline (EMA) or the 2-(1-hydroxyethyl)-6- methyl-aniline (HEMA) moiety, to be expressed as

acetochlor equivalents, in or on the following raw agricultural commodity when present therein as a result of the application of acetochlor to the growing crops in paragraph (a) of 40 CFR 180.470; peanut at 0.03 ppm. An adequate enforcement method for residues of acetochlor in crops has been approved. Acetochlor and its metabolites are hydrolyzed to either EMA or HEMA, which are determined by HPLC-OCED and expressed as acetochlor equivalents. Contact: Susan Stanton, (703) 305–5218, e-mail address: *stanton.susan@epa.gov*.be determined by measuring residues of pyrasulfotole (AE0317309) (5-hydroxy-1,3-dimethyl-1H-pyrazol-4-yl)-[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl]methanone and its metabolite (5-Hydroxy-3-methyl-1H-pyrazol-4-yl)-[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl] methanone, calculated as the stoichiometric equivalent of pyrasulfotole in or on cattle, goat, hog, sheep, and horse meat at 0.04 ppm; cattle, goat, hog, sheep, and horse fat at 0.04 ppm; cattle, goat, hog, sheep, and horse, meat byproducts except liver at 2 ppm and cattle, goat, hog, sheep, and horse, liver at 8 ppm. The analytical method is an LC/MS/MS method which quantifies pyrasulfotole and its metabolite (5-Hydroxy-3-methyl-1H-pyrazol-4-yl)[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl]methanone with an LOQ of 0.01 mg/kg. Contact: Bethany Benbow, (703) 347–8072, e-mail address: *benbow.bethany@epa.gov*.

7. *PP 0G7682*. (EPA–HQ–OPP–2010–0217). Valent U.S.A. Corporation, P.O. Box 8025, Walnut Creek, CA 94596 (as Agent for Sumitomo Chemical Co., Ltd), proposes to establish a time-limited tolerance in 40 CFR part 180 for residues of the insecticide clothianidin, (E)-1-(2-chloro-1,3-thiazol-5-ylmethyl)-3-methyl-2-nitroguanidine, in or on rice, grain at 0.01 ppm. Adequate enforcement methodology LC/MS/MS analysis is available to enforce the tolerance expression. Contact: Marianne Lewis, (703) 308–8043, e-mail address: *lewis.marianne@epa.gov*.

Amended Tolerances

PP 9E7675. (EPA–HQ–OPP–2010–0063). IR-4, IR-4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Rd. East, Suite 201 W, Princeton, NJ 08450, proposes to delete the established tolerances in 40 CFR 180.593 for residues of the miticide/ovicide etoxazole, 2-(2,6-difluorophenyl)-4-[4-(1,1-dimethylethyl)-2-ethoxyphenyl]-4,5-dihydrooxazole, in or on strawberry, grape, cucumber, and vegetable, cucurbit subgroup 9A since they will be covered by the proposed new tolerances in 2. under "New Tolerances" of this Unit. Contact: Andrew Ertman, (703) 308–9367, e-mail address: *ertman.andrew@epa.gov*.

New Tolerance Exemptions

1. *PP 0E7686*. (EPA–HQ–OPP–2010–0233). Dow Agrosciences, LLC, 9330 Zionsville Rd., Indianapolis, IN 46268, proposes to establish an exemption from the requirement of a tolerance for residues of choline hydroxide (CAS No. 123–41–1) under 40 CFR 180.920 when used as a pesticide inert ingredient in pesticide formulations. A limitation for use as a neutralizing agent in herbicide-only products is proposed. Based on the proposed use, the choline cation is the species of interest for end-use products. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: Deirdre Sunderland, (703) 603–0851, e-mail address: *sunderland.deirdre@epa.gov*.

2. *PP 0E7692*. (EPA–HQ–OPP–2010–0231). Rhodia, Inc. c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192, proposes to establish an exemption from the requirement of a tolerance for residues of castor oil, ethoxylated, oleate (CAS No. 220037–02–5) with a minimum number average molecular weight (in amu) of 1,200 under 40 CFR 180.960 when used as an emulsifier and surfactant pesticide inert ingredient in pesticide formulations. Rhodia is requesting that castor oil, ethoxylated, oleate, with a minimum number average molecular weight (in amu) of 1,200 be exempt from the requirement of a tolerance based upon the definition of a low-risk polymer under 40 CFR 723.250. Therefore, Rhodia believes that an analytical method to determine residues in treated crops is not relevant. Contact: Karen Samek, (703) 347–8825, e-mail address: *samek.karen@epa.gov*.

3. *PP 9E7648*. (EPA–HQ–OPP–2010–0232). Exponent Inc., 1150 Connecticut Ave., NW., Suite 1100, Washington, DC 20036, on behalf of Plant Impact plc, 12 S. Preston Office Village, Cuerdan Way, Bamber Bridge, Preston, PR5 6BL, United Kingdom, proposes to establish a low risk polymer exemption from the requirement of a tolerance for residues of Castor oil, ethoxylated, dioleate (CAS No. 110531–96–9) under 40 CFR 180.960 when used as a pesticide inert ingredient with a surfactant function in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. Contact: Deirdre Sunderland, (703) 603–0851, e-mail address: *sunderland.deirdre@epa.gov*.

4. *PP 0F7695*. (EPA–HQ–OPP–2010–0261). BASF Corporation, P.O. Box 13528, Research Triangle Park, NC, 27709, proposes to establish an exemption from the requirement of a tolerance for the metabolites of ametoctradin, M650F03, (7-amino-5-ethyl[1,2,4]triazolo[1,5-a]pyrimidine-6-y-l)acetic acid, and M650F04, 7-amino-5-ethyl[1,2,4]triazolo[1,5-a]pyrimidine-6-carboxylic acid in or on all food crops. The proposed enforcement method for ametoctradin was fully validated. Ametoctradin is extracted with a mixture of methanol/water. An aliquot of the extract is centrifuged and partitioned against dichloromethane. The final determination of ametoctradin is performed by high performance liquid chromatography-mass spectrometry (HPLC-MS/MS). This method has an LOQ of 0.01 mg/kg and is suitable for enforcement purposes. Contact: Shaunta Hill, (703) 347–8961, e-mail address: *hill.shaunta@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 6, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–11978 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0282; FRL–8824–8]

Pesticides; Draft Guidance for Pesticide Registrants on False or Misleading Pesticide Product Brand Names

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is announcing the availability of and seeking public comment on a draft Pesticide Registration Notice (PR Notice) entitled "False or Misleading Pesticide Product Brand Names." PR Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures, and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular draft PR

Notice provides guidance to applicants, registrants and distributors concerning pesticide product brand names that may be false or misleading, either by themselves or in association with particular company names or trademarks.

DATES: Comments must be received on or before June 18, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0282, 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 docket ID number EPA–HQ–OPP–2010–0282. 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: Jeff Kempter, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5448; fax number: (703) 308–6467; e-mail address: *kempter.carlton@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me

This action is directed to the public in general although this action may be of particular interest to those persons who are required to register pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

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

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

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

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

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

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

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

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

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

II. What Guidance Does this PR Notice Provide?

This draft PR Notice provides guidance to applicants, registrants and distributors on pesticide product brand names that may be false or misleading, either by themselves or in association with particular company names or trademarks. The Agency previously announced the availability of this draft PR Notice for public comment (67 FR 14941; FRL–6809–9) on March 28, 2002 and received comments from 28 parties (EPA docket ID number EPA–HQ–OPP–2002–0084). The Agency has reviewed those comments, made appropriate changes to the draft PR Notice, and written responses to the comments (see the Responses to Comments document posted to the docket ID number EPA–HQ–OPP–2010–0282).

The revised draft PR Notice clarifies how statutory and regulatory provisions that prohibit pesticide labeling from being false or misleading apply to product brand names. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) sections 12(a)(1)(E) and 2(q)(1)(A), and 40 CFR 156.10(b)(2) and

40 CFR 156.10(a)(5), products with brand names that, in a false or misleading manner, state or imply safety, efficacy or comparative claims, or are otherwise false or misleading in any particular, are considered to be misbranded and may not be sold or distributed.

The revised, draft PR Notice explains the statutory and regulatory requirements that a pesticide product brand name, either by itself or containing or located in close proximity to a company name or trademark, not be false or misleading. The draft PR Notice provides examples of potentially false or misleading product brand names. Finally, the draft PR Notice states that the Agency will be applying these regulations as interpreted in this notice when evaluating applications for new products or brand names, reviewing notifications for alternate or changed brand names, reviewing applications for registration, or conducting registration reviews. The draft PR Notice encourages applicants and registrants to review their product names in light of its guidance, and, if warranted, take corrective action within two years of the issuance of the final PR Notice. The draft PR Notice explains that after the final implementation date, EPA may consider the guidance in the final PR Notice when determining whether a product is misbranded under FIFRA.

III. Do PR Notices Contain Binding Requirements?

The PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decisionmakers and to pesticide registrants. While the requirements in the statute and Agency regulations are binding on EPA and the applicants, this PR Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants and applicants may assert that the guidance is not appropriate categorically or not applicable to a specific pesticide or situation.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 12, 2010.

Steven Bradbury,

Acting Director, Office of Pesticide Programs.

[FR Doc. 2010–11977 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1005; FRL–8824–4]

Petitions Concerning Whether Ammonia or Urea Sold or Distributed and Used for Certain Purposes Should Be Regulated as Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice makes available for review and public comment three petitions concerning the regulatory status under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) of products containing ammonia or urea sold or distributed for use in the presence of sodium hypochlorite as a biocide or as part of a biocidal system in the production of pulp and paperboard products. The notice also makes available for review and public comment documents associated with the petitions which have also been placed in a docket created for this matter. That docket may be accessed as described in this Notice. The Agency registered as "pesticides" two products containing ammonia as the active ingredient based on applications for registration and supporting data submitted by Buckman Laboratories, Inc. (Buckman). The Agency has also registered an ammonium bromide product for a similar use in the pulp and paperboard industry. Another company, Nalco, Inc. (Nalco) is currently selling unregistered ammonia and urea products to the pulp and paperboard industry for use in a manner similar to those of the three registered products. Nalco informed EPA of its view that Buckman's ammonia products were not "pesticides" and argued therefore that EPA should not have registered them under FIFRA. Nalco petitioned the Agency to cancel Buckman's registrations for the two ammonia products. Subsequently, the Agency received two other petitions from Buckman and Ashland Hercules Water Technologies (Ashland-Hercules), which would also be affected by any Agency decision relative to the contested uses of ammonia and urea, supporting the decision to register ammonia and further requesting that the Agency find Nalco's sale and distribution of its unregistered ammonia product to be contrary to law. Ashland-Hercules also raised issues relative to the safe use and risks associated with the unregistered use of urea in chlorinated water in pulp and paper mill use scenarios and asked that the Agency find that Nalco's sale and distribution of its urea product was unlawful.

DATES: Comments must be received on or before July 19, 2010.

ADDRESSES: Submit your comments identified by the docket identification (ID) number EPA–HQ–2009–1005, 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 EPA–HQ–2009–1005. 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: For general information contact: Melba S. Morrow, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–2716; fax number: (703) 308–6467; e-mail address: *morrow.melba@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a business engaged in the manufacturing of pesticides and other agricultural chemicals. Potentially affected entities may include, but are not limited to:

- Pesticide and other agricultural and chemical manufacturing (NAICS code 325320) e.g. businesses engaged in the manufacture of pesticides.
- Pulp and paperboard industries (NAICS code 322110, 322130).
- Antimicrobial pesticides (NAICS code 32561).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected. The North American Industrial Classification System 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 please contact the person list under **FOR FURTHER INFORMATION CONTACT**.

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 with any of positions taken in the petitions; suggest alternatives and substitute language for your requested changes. Carefully consider the merits of what you are proposing.

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 details to allow it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest appropriate alternative measures when possible.

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 that has been 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 atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Legal Authority

Under FIFRA and its regulations, no person may distribute or sell any pesticide product that is not registered under the Act except as provided under 40 CFR 152.20, 152.25 and 152.30. A pesticide is any substance (or mixture of substances) intended for a pesticidal purpose i.e., use for the purpose of preventing, destroying, repelling, or mitigating any pest, among other things. The regulations in 40 CFR 152.15 contain provisions that guide the Agency's determination of whether a particular product is a "pesticide" under FIFRA.

FIFRA also provides the Agency with authority to cancel or suspend pesticides which do not comply with the Act or no longer meet the statutory standard for registration. FIFRA further authorizes the Agency to initiate enforcement action against persons who are not in compliance with the Act. Enforcement actions may, among other things, be initiated on the basis of sale or distribution of unregistered pesticide products or unlawful use of a registered pesticide product. See generally, FIFRA Sections 3, 6, 12, and 13.

III. History of Registrations for Ammonia and Urea Products for Use in the Pulp and Paper Industry

Buckman is the registrant of BCMW (EPA Reg. No. 1448–432) and Busan 1215 (EPA Reg. No.1442–433). Both products were registered in 2007, and both products contain ammonia as the active ingredient. Buckman's ammonia products are registered for use as a water treatment in combination with sodium hypochlorite to inhibit the growth of bacteria in pulp and paper mills. Ashland-Hercules is the authorized distributor of Spectrum XD3899 Ammonium Bromide Technology (EPA Reg. No. 8622–64–74655), an ammonium bromide solution sold as a FIFRA Section 3(e) supplemental distributor product under Ameribrom, Inc.'s Fuzzicide Solution (EPA Reg. No. 8622–64) that was registered in 2003. Nalco does not hold any registrations for ammonia or urea products for use in pulp and paper mills. Nalco is currently marketing and distributing their ammonia product, Nalcon 60620, that is used in combination with sodium hypochlorite. Nalco is also marketing and distributing a urea-based product, Nalcon 60615, which is also used as a water treatment for the production of biocides in pulp and paper mill settings.

IV. Summary of the Petitions and Other Documents

The Agency has received petitions and multiple related submissions from Ashland-Hercules, Buckman, and Nalco regarding the regulatory status of products containing ammonia or urea when intended for use in the presence of sodium hypochlorite as a biocide or as part of a biocidal system in the production of pulp and paperboard products. The submissions from Nalco generally argue that under FIFRA, those products are not "pesticides" when used under that circumstance. The submissions provided by Ashland-Hercules and Buckman argue that these products when intended or used for such purpose are "pesticides" requiring registration under FIFRA. The history of each petition and the principal arguments are summarized below.

A. Nalco, Inc.

Nalco filed a petition on October 30, 2007 and requested that EPA revisit the requirement to register ammonia as a pesticide under FIFRA. The petitioner acknowledged the Agency had issued registrations for products containing ammonia to be used to inhibit the growth of bacteria in water used in pulp and paper mills. In its discussion of current biocidal control practices in the manufacture of pulp and paperboard products, the petitioner explained that it is common practice to add ammonia-based products to water which has been treated with chlorine in order to generate chloramines. Nalco further contended that, by requiring registration of ammonia, all companies that currently provide unregistered ammonia products for use with chlorine in water treatment are in violation of FIFRA. The Nalco petition stated that, in requiring the registration of ammonia, the Agency had failed to assess the impact that such a requirement would have on the regulated community. According to Nalco, EPA's decision to register ammonia products intended for use as part of a biocidal system in the production of pulp and paperboard products represented a change in EPA's policy that was undertaken without an opportunity for public input. The Nalco petition further stated that requiring registration of ammonia would in essence require that all users purchase ammonia from the only EPA-registered source. The Nalco petition requested that the Agency issue an interim statement that the sale of ammonia-based compounds for use with chlorine in water systems would not result in enforcement action and that the Agency would reconsider whether companies need to register ammonia when intended for use as part of a biocidal system in the production of pulp and paperboard products. The petition also argued that the decision to require the registration of ammonia products would also have an impact on municipal water treatment facilities, as the practice of adding ammonia is necessary to produce chloramines for municipal water disinfection.

On December 4, 2007, Nalco wrote the Agency asking EPA to reconsider earlier actions requiring the registration of ammonia, which Nalco described as a "precursor" to chloramine in water treatment processes, and to assure Nalco that there would be no enforcement action taken during the transition period. The December 4 Nalco submission made the following assertions and arguments:

- As shown in the background information on the chemistry of chlorine in antimicrobial water treatment, chloramines are weak biocides. Because they are more stable than chlorine, chloramines are used in water systems to extend the period of antimicrobial activity and to minimize the production of other by-products of water disinfection by reducing the reactivity of chlorine.
- Ammonia is not a pesticide and does not contribute to the pesticidal activity of sodium hypochlorite or other chlorine-based water disinfectants. In industrial water systems such as those used by pulp and paper mills, there is high organic content in the water systems which can be controlled through the generation of chloramines. Chloramines reduce disinfection demands. The pesticidal activity of chloramine is a result of the residual activity of chlorine.
- Chlorine is the active ingredient in water treatment and the reaction with ammonia only stabilizes or sequesters ammonia. Thus, ammonia is not a precursor for *in situ* generation of a pesticide. Moreover, even if ammonia were a precursor, the Agency's decision to register ammonia is inappropriate because in the past, EPA has registered precursors when they are the only logical chemical through which the use of a pesticide can be regulated. Prior to the registration of ammonia for use as part of a biocidal system in the production of pulp and paperboard products, the Agency never required registration of ammonia compounds.
- Rather than designating ammonia as a "precursor," EPA should consider it a "stabilizer" or an "activator." The Agency's historical position has been that activators need not be registered. The Agency's decision to require the registration of ammonia is also inconsistent with the Agency's position on other chemicals, such as cyanuric acid used to stabilize chlorine in swimming pools, which performs similar functions. The submission contained an Appendix listing inert ingredients found in other pesticides that allegedly play a role similar to ammonia.
- The Agency should articulate a rule of decision regarding when registration is required and assess the impact of that rule before it is implemented. The rationale for a decision to require registration of ammonia should also be articulated. The current situation, in which one registrant of ammonia is threatening enforcement against users of similar systems in pulp and paper mills using unregistered ammonia compound, is causing confusion in the marketplace.

In follow-up to the December submission, on February 7, 2008, EPA sent Nalco a letter indicating that the December 4th communication would be treated as a petition. The letter further stated "...the Office of Pesticide Programs would regard Nalco's sale and distribution of ammonia and ammonia products for use in connection with chlorine to treat water to require registration under FIFRA Section 3 only if Nalco makes a pesticidal claim for such products." In July 2008, the Agency asked Nalco to define the term "activator" and to provide further explanation of the relationship between ammonia and the inert ingredients listed in the appendix to the December submission.

In July 2008, Nalco filed a supplement to its December 2007 submission. Nalco acknowledged that there is no regulatory definition of an activator and stated its opinion that ammonia is merely a "stabilizer" which acts to prolong the availability of chlorine, and would therefore not meet the definition of a pesticide. Nalco further characterized ammonia as a "sequestrant", and defined that term as a substance which acts by preventing or inhibiting normal ion behavior by combination with added materials. In reference to the compounds identified in an appendix to Nalco's December 2007 submission, Nalco stated that they were included as examples of available compounds that have been determined by the Agency to be inert compounds. The description of the purpose of the inert component indicates that it will modify the activity of or interact with the pesticidally active ingredient in the formulation. Nalco compared the role of the inert compounds to that of ammonia by stating that the description of the inert compounds suggests a chemical

reaction but not one that is needed to produce a pesticidally active ingredient.

B. Buckman Laboratories, Inc.

Buckman filed its petition on September 2, 2008, and responded to the concerns raised by Nalco's petition. Buckman defended the status of its ammonia products as registered pesticides and requested that the Agency immediately prohibit further distribution and sale of unregistered ammonia for water treatment. In addition, Buckman provided information on the chemical reaction which results in the formation of chloramines following the addition of ammonia to chlorinated water. Buckman stated in its petition that ammonia does not sequester or release chlorine and is not an adjuvant. Buckman further contended that ammonia reacts with sodium hypochlorite to produce an entirely new active ingredient, monochloramine (MCA), which has distinct biocidal properties. Buckman stated its opinion that the MCA, which is created by the chemical reaction, "is the main active ingredient" for biocidal water treatment in the pulp and paper process.

Buckman provided the following rationale to support its request that the Agency maintain the status quo, i.e., its position that products containing ammonia intended for use in the presence of sodium hypochlorite as a biocide or as part of a biocidal system in the production of pulp and paperboard products are pesticides requiring registration under FIFRA. Buckman repeated its request that EPA prohibit further distribution and sale of unregistered ammonia products. Buckman's main points were:

- Both Nalco and Buckman sell ammonia for use in proprietary systems in which ammonia and sodium hypochlorite react to form monochloramine, which is the active ingredient supplied by each system for water treatment. The basic chemistry involving both the Nalco and Buckman products and the production of MCA is the same.
- The registration of ammonia is necessary because monochloramine is too unstable to exist as a marketable commodity, and no EPA-approved sodium hypochlorite label has instructions for use with ammonia to result in the safe production of MCA. In addition, the continued use of unregistered ammonia to produce MCA poses a potentially unreasonable risk to human health and the environment. There is no way to ensure that the MCA produced with an unapproved product will result in acceptable residues in food packaging or not pose a risk of toxicity to aquatic organisms from the residues in the effluent.
- Ammonia does not sequester or release chlorine and is not an adjuvant. Ammonia reacts with sodium hypochlorite to produce MCA which has distinct properties (the mechanism by which it inactivates microorganisms by adversely affecting cell respiration, transport and DNA activity; a different spectrum of antimicrobial activity) from hypochlorous acid.
- The Agency should deny Nalco's petition to revoke Buckman's ammonia registrations because the Agency has acted properly in its registration of ammonia as a precursor to the formation of MCA for water treatment. As a precursor of MCA, ammonia reacts with sodium hypochlorite to produce a new active ingredient, which has distinct properties as described above.
- The Agency should prohibit further distribution and sale of unregistered ammonia for water treatment because the continued sale of unregistered ammonia presents an unreasonable risk to public health and unfairly damages the commercial value of Buckman's registrations.

C. Ashland-Hercules

Ashland-Hercules contacted the Agency in February 2009 with a petition that also included a file of correspondence to and from the Agency that dated back to June 2008. Ashland-Hercules's arguments were basically the same as those provided by Buckman with regard to Nalco's distribution and sale of unregistered ammonia for use with sodium hypochlorite as a biocide or as part of a biocidal system in the production of pulp and paperboard products. Ashland-Hercules further discussed the need for the Agency to take action against the sale or distribution of unregistered urea products as biocidal agents in the pulp and paperboard industry. Ashland-Hercules based this on arguments that urea has not been subjected to review for registration as an antimicrobial pesticide as required under FIFRA. Ashland-Hercules stated that the use of an unregistered urea-based product presents potential risks to human health and safety that EPA has not evaluated. Ashland- Hercules made the following points:

- There is a distinction between the treatment of public potable water supplies with MCA and the application of ammonia in the presence of sodium hypochlorite to prevent biofouling in the paper industry. Although the two uses are conceptually similar, the concentrations at which ammonia and chlorine are used are not the same.
- The potential hazards presented by the unregulated and uncontrolled use of ammonia-based biocides in pulp and paper mills are far greater than those associated with potable water treatment because of higher concentrations of chemicals that are used for biocidal activity in pulp and paper mills, thereby exposing workers to increased risks.
- While ammonia-based products used in treating potable water may not be registered under FIFRA, EPA has regulated chloramines produced by the addition of ammonia to chlorine under the Safe Drinking Water Act (SDWA). Thus, there is a basis for assuring the safety of potable water using the authority of the SDWA. The same can not be said for Nalco's product.
- The chemical reaction that takes place when concentrated ammonia-based compounds are combined *in situ* with concentrated sodium hypochlorite can result in the release of hazardous gases such as nitrogen trichloride and raises safety concerns when using Nalco's product.
- An unregistered product has no upper limits for feed rates. The exposure to the undesirable compounds produced during the uncontrolled mixing of concentrated solutions of ammonium sulfate and sodium hypochlorite is unlimited as well.

D. Current Status

The Agency believes that all three parties have raised matters which pose common issues and which therefore are being considered and addressed together. The Agency's Office of Pesticide Programs, which is leading this effort to consider these petitions, is also examining other issues, including any potential issues involving EPA's Office of Water and is obtaining information for use in making its decision on whether the sale and distribution of ammonia and urea products for use with chlorine-treated water in pulp and paper production are pesticidal uses that require registration under FIFRA.

EPA held a meeting on February 16, 2010 with all of the parties who either hold registrations for ammonia or who had petitioned the Agency with concerns pertaining to the status of the ammonia or urea products described above. The materials from the meeting as well as a transcript of the meeting have been placed in the docket, along with the three petitions, and correspondence associated with the petitions.

V. What Action is the Agency Taking

Through this notice, the Agency is making the petitions and other correspondence submitted by Nalco, Buckman Laboratories and Ashland Hercules available for public review and comment. Any public comments received on these petitions will be included in the electronic docket and reviewed by the Agency. Following review of the petitions and any comments received in response to this notice, EPA will issue its decision and response to the petitions.

In reviewing the materials in the docket and submitting any comments to the Agency, the Agency requests that, in addition to providing comments regarding any other issues raised by the materials in the docket, commenters respond to the following specific questions:

- When the ingredients in a product do not provide any pesticidal activity unless they react with other chemicals, should the product be treated as a pesticide? Are there any other factors which could or should lead to a different outcome in different settings? If so, what are they and what would the different outcome be?
- When a product is marketed as an essential part of a system or as a co-ingredient in a treatment regime that provides a pesticidal function, should the product be registered as a pesticide? Should the system be registered as a pesticide product? Are there any other factors which could or should lead to a different outcome in different settings? If so, what are they and what would the different outcome be?
- If a system is registered as a pesticide, how should requirements governing labeling and compositions apply to the system and to individual products comprising the system?
- What are the implications for other products containing ammonia or urea that are used in conjunction with chlorine-treated water in settings other than the production of pulp and paperboard?
- What substances, other than ammonia or urea, are sold for uses similar to the Ashland, Buckman, and Nalco products, and might require registration or might currently be registered?

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 3, 2010.

Joan Harrigan-Farrelly,

Director, Antimicrobial Division, Office of Pesticide Programs.

[FR Doc. 2010–11445 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9153–2]

Science Advisory Board Staff Office; Notification of a Public Teleconference of the Science Advisory Board Integrated Nitrogen Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Integrated Nitrogen Committee to discuss the Committee's draft report.

DATES: The public teleconference will be held on Tuesday, June 8, 2010 from 1 to 5 p.m. (Eastern Time).

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain further information concerning this public teleconference should contact Dr. Thomas Armitage, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail (202) 343–9995; fax (202) 233–0643; or e-mail at *armitage.thomas@epa.gov.* General information concerning the EPA Science Advisory Board can be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2, notice is hereby given that the SAB Integrated Nitrogen Committee will hold a public teleconference to discuss its draft report. The SAB was established pursuant to 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee under FACA. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background: The SAB Integrated Nitrogen Committee is conducting a study to evaluate the need for integrated research and management strategies to reduce reactive nitrogen in the environment. At the global scale, reactive nitrogen from human activities now exceeds that produced by natural terrestrial ecosystems. Reactive nitrogen both benefits and impacts the health and welfare of people and ecosystems. Scientific information suggests that reactive nitrogen is accumulating in the environment and that nitrogen cycling through biogeochemical pathways has a variety of consequences. Background information on the work of the Integrated Nitrogen Committee can be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Nitrogen%20Project?OpenDocument.* The purpose of the teleconference is for the SAB Integrated Nitrogen Committee to discuss its draft report addressing the environmental problems presented by reactive nitrogen and providing recommendations related to an integrated nitrogen management strategy.

Availability of Meeting Materials: The agenda and other materials in support of the teleconference will be placed on the SAB Web site at *http://www.epa.gov/sab* in advance of the teleconference.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. They should send their comments directly to the Designated Federal Officer for the relevant advisory committee. *Oral Statements:* In general, individuals or groups requesting time to make an oral presentation at a public SAB teleconference will be limited to three minutes, with no more than a total of 30 minutes for all speakers. Interested parties should contact Dr. Armitage, DFO at the contact information provided above by June 1, 2010 to be placed on the list of public speakers for the teleconference.

Written Statements: Written statements should be supplied to the DFO via email at the contact information noted above by June 1, 2010 so that the information may be made available to the Committee members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe

Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. Submitters are requested to provide versions of signed documents, submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Thomas Armitage at (202) 343–9995 or *armitage.thomas@epa.gov.* To request accommodation of a disability, please contact Dr. Armitage preferably at least 10 days prior to the teleconference, to give EPA as much time as possible to process your request.

Dated: May 14, 2010.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2010–11986 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0306; FRL–8825–7]

Resmethrin; Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by the registrants to voluntarily cancel their registrations of certain products containing the pesticide resmethrin. The requests would terminate resmethrin products registered for use as a wide area mosquito abatement adulticide in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order. Resmethrin users or anyone else that desires the retention of a resmethrin registration should contact the applicable registrants during the comment period.

DATES: Comments must be received on or before November 15, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0306, 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 docket ID number EPA–HQ–OPP–2010–0306. 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: Tom Myers, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8589; fax number: (703) 308–7070; e-mail address: *myers.tom@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a

copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

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

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

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

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

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

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

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

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

II. Background on the Receipt of Requests to Cancel Registrations

This notice announces receipt by EPA of requests from registrants to cancel certain resmethrin product registrations. Resmethrin is a member of the pyrethroid class of pesticides. It is a broad spectrum, non-systemic, synthetic pyrethroid insecticide. Resmethrin is registered for use as a wide area mosquito abatement insecticide for use in industrial, recreational, and residential areas to control flying and crawling insects. All remaining resmethrin end use products not listed in this notice will be proposed for cancellation in a subsequent **Federal Register** notice.

The registrants have requested voluntary cancellation of these resmethrin containing products based on the fact that the costs to fulfill the data call-in requirements from the 2006 Resmethirn Reregistration Eligibility Decision (RED), coupled with the costs to satisfy the recently issued Endocrine Disrupter Screening Program (EDSP) testing orders are not justified by the market opportunity in the vector control business segment. Resmethrin users or anyone else that desires the retention of a resmethrin registration should contact the applicable registrants during the comment period. The data required to support the resmethrin wide area mosquito abatement use are identified in Table 1.

TABLE 1.—DATA REQUIRED TO SUPPORT FOR THE MOSQUITO ABATEMENT USE OF RESMETHRIN

2006 Resmethrin RED Data Call-In	
810.3400	Mosquito, black fly, and biting midge (sand fly) treatments
830.7050	UV/Visible absorption
835.2410	Photodegradation of parent and degradates in soil
850.1300	Daphnid chronic toxicity test
850.1350	Mysid chronic toxicity test
Non-guideline	Chronic freshwater sediment testing - special study
Non-guideline	Chronic estuarine/marine sediment testing - special study
870.6200	Neurotoxicity screening battery
870.6300	Developmental neurotoxicity study

TABLE 1.—DATA REQUIRED TO SUPPORT FOR THE MOSQUITO ABATEMENT USE OF RESMETHRIN—Continued

EDSP testing orders	
2.1.1	Amphibian metamorphosis (frog)
2.1.2	Androgen receptor binding (rat prostate)
2.1.3	Aromatase (human recombinant)
2.1.4	Estrogen receptor binding
2.1.5	Estrogen receptor transcriptional activation (human cell line - HeLa-9903)
2.1.6	Fish short-term reproduction
2.1.7	Hershberger (rat)
2.1.8	Female Pubertal (rat)
2.1.9	Male pubertal (rat)
2.1.10	Steroidogenesis (human cell line - H295R)
2.1.11	Uterotrophic

In letters received by the Agency, the registrants requested EPA to cancel certain pesticide product registrations identified in this notice in Table 2. This action would terminate the use of resmethrin products registered in the United States as a wide area mosquito abatement insecticide.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from registrants to cancel certain resmethrin product registrations. The affected products and the registrants making the requests are identified in Tables 2 and 3 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order canceling the affected registrations.

TABLE 2.—RESMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration Number	Product Name	Chemical
432-595	SBP-1382 Insecticide Concentrate 40% Formula I	Resmethrin
432-596	SBP-1382 Insecticide 40 MF Solvent Dilutable Concentrate Formula I	Resmethrin
432-667	SCOURGE Insecticide w/ SBP-1382/PBO 18%+54% MF Formula II	Resmethrin Piperonyl butoxide

TABLE 2.—RESMETHRIN PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration Number	Product Name	Chemical
432-716	SCOURGE Insecticide w/ SBP-1382/PBO 4%+12% MF Formula II	Resmethrin Piperonyl butoxide
432-1246	Aqua-SCOURGE	Resmethrin Piperonyl butoxide
73049-78	SBP-1382 Concentrate 40	Resmethrin
73049-79	SBP-1382 Insecticide Concentrate 15%	Resmethrin
73049-80	SBP-1382 Pressurized Wasp and Hornet Spray 0.15%	Resmethrin
73049-86	SBP-1382 Technical with Antioxidant	Resmethrin
73049-95	SBP-1382 Bioallethrin/Insecticide Concentrate 10%-6.25% Formula I	Resmethrin S-Bioallethrin
73049-101	SBP-1382 T.E.C. 6%	Resmethrin
73049-134	SBP-1382 Insecticide Concentrate 40% Formula II	Resmethrin
73049-372	Synthrin Technical with Antioxidant Insecticide	Resmethrin

Table 3 of this unit includes the names and addresses of record for the registrants of the products listed in Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed above.

TABLE 3.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company Number	Company Name and Address
000432	Bayer Environmental Science P.O. Box 12014 Research Triangle Park, NC 27709
073049	Valent BioSciences Corporation 870 Technology Way Libertyville, IL 60048

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

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The resmethrin registrants have not requested that EPA waive the 180–day comment period. Accordingly, EPA will provide a 180–day comment period on the proposed requests.

V. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for voluntary cancellation are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 2.

After December 31, 2012, registrants are prohibited from selling or distributing existing stocks of products containing resmethrin for all uses, including the use of resmethrin as a wide area mosquito abatement insecticide.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 7, 2010.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2010–11697 Filed 5–18–10; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application for a $400 million long-term

guarantee to support the export of approximately $450 million worth of mining equipment and services to Mexico. The U.S. exports will enable the Mexican company to produce, on average, 50,900 metric tons of copper, 1,500 metric tons of cobalt, and 25,200 metric tons of zinc sulfate monohydrate (ZSM) per year during the 12-year repayment term of the guarantee. Available information indicates that new Mexican production of copper and cobalt will be sold in South Korea and international markets. New Mexican production of ZSM will be sold in the U.S., Canada, Mexico, and Brazil. Interested parties may submit comments on this transaction by e-mail to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 947, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register.**

Jonathan J. Cordone,

Senior Vice President and General Counsel.

[FR Doc. 2010–11954 Filed 5–18–10; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

May 12, 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, as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 – 3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 18, 2010. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via email to Nicholas_A._Fraser@omb.eop.gov and to the Federal Communications Commission via email to PRA@fcc.gov and Cathy.Williams@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page http://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 list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0647.

Title: Annual Survey of Cable Industry Prices.

Form Number: FCC Form 333.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities; State, local or Tribal Government.

Number of Respondents and Responses: 732 respondents and 732 responses.

Estimated Time per Response: 6 hours.

Frequency of Response: Annual Reporting Requirement.

Total Annual Burden: 4,392 hours.

Total Annual Cost: None.

Obligation to Respond: Mandatory. The statutory authority for this information collection is in Sections 4(i) and 623(k) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: If individual respondents to this survey wish to request confidential treatment of any data provided in connection with this survey, they can do so upon written request, in accordance with Sections 0.457 and 0.459 of the Commission's rules. To receive confidential treatment of their data, respondents need only describe the specific information they wish to protect and provide an explanation of why such confidential treatment is appropriate.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act") requires the Commission to publish annually a report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to effective competition and those that are not subject to effective competition. The Annual Cable Industry Price Survey is intended to collect the data needed to prepare that report. The data from these questions are needed to complete this report.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–11896 Filed 5–18–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank

indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 11, 2010.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Connemara Bancorp, Inc., Dallas, Texas; to become a bank holding company by acquiring 100 percent of First Amherst Bancshares, Inc., Amherst, Texas, and indirectly acquire First National Bank, Amherst, Texas.

Board of Governors of the Federal Reserve System, May 13, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–11891 Filed 5–18–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*http://www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 011848–003.

Title: WWL/"K" Line Transatlantic Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. ("K" Line) and Wallenius Wilhelmsen Logistics AS ("WWL").

Filing Party: John P. Meade, Esq.; Vice President-Law; "K" Line America, Inc.; 6009 Bethlehem Road; Preston, MD 21655.

Synopsis: The amendment revises the agreement to now provide for the reciprocal chartering of space between the parties for vehicles in the trade between the U.S. Atlantic Coast and Europe.

Agreement No.: 201162–005.

Title: NYSA–ILA Assessment Agreement.

Parties: International Longshoremen's Association and New York Shipping Association.

Filing Parties: Donato Caruso, Esq.; The Lambos Firm; 29 Broadway, 9th Floor; New York, NY 10006 and Andre Mazzola, Esq.; Marrinan & Mazzola Mardon, P.C.; 26 Broadway, 17th Floor; New York, NY 10004.

Synopsis: The amendment reduces the assessment per container of bananas during the period from May 1, 2010 through September 30, 2010.

By Order of the Federal Maritime Commission.

Dated: May 14, 2010.

Karen V. Gregory,

Secretary.

[FR Doc. 2010–12013 Filed 5–18–10; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Written Comments on Draft HHS Strategic Framework on Multiple Chronic Conditions

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: The Office of Public Health and Science is soliciting public comment on the HHS Interagency Workgroup on Multiple Chronic Conditions draft "HHS Strategic Framework on Multiple Chronic Conditions."

DATES: Comments on the HHS Interagency Workgroup on Multiple Chronic Conditions draft strategic framework should be received no later than 5:30 p.m. on June 18, 2010.

ADDRESSES: The draft strategic framework can be found at *http://www.hhs.gov/ophs/initiatives/mcc/index.html*. Comments are preferred electronically and may be addressed to *MCC@hhs.gov*. Written responses should be addressed to Department of Health and Human Services, 200 Independence Avenue, SW., Room 736–E, Washington, DC 20201, Attention: MCC Strategic Framework.

FOR FURTHER INFORMATION CONTACT: Monica L. Stevenson, (202) 401–6998 or *MCC@hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Approximately 75 million Americans have multiple (2 or more) concurrent chronic conditions, including problems such as hypertension, heart disease, arthritis, diabetes, mental health conditions, and chronic respiratory infections. As the number of chronic conditions in an individual increases, the risks of the following outcomes also increase: Mortality, poor functional status, unnecessary hospitalizations, adverse drug events, duplicative tests, and conflicting medical advice. Sixty-six percent of total health care spending is directed toward care for the approximately 27 percent of Americans with multiple chronic conditions (MCC). MCC can contribute to frailty and disability; conversely, most older persons who are frail or disabled have MCC. It is the confluence of MCC and functional limitations, especially the need for assistance with activities of daily living, that produces high levels of spending.

Developing and implementing the HHS Initiative on Multiple Chronic Conditions is the responsibility of the Office of Public Health and Science (OPHS), located within the Office of the Secretary, Department of Health and Human Services (HHS). OPHS advises the Secretary on matters involving the nation's public health, serves as the focal point for leadership and coordination across the Department in public health and science, and leads the U.S. Public Health Service (USPHS) Commissioned Corps.

As part of the HHS Initiative on Multiple Chronic Conditions, OPHS is responsible for convening the HHS Interagency Workgroup on Multiple Chronic Conditions. The Workgroup has drafted a "Strategic Framework on Multiple Chronic Conditions" that addresses approaches to improving the health of individuals with concurrent multiple chronic conditions by providing options for HHS to strengthen coordination of its efforts internally and collaboration with stakeholders externally. The intent of the strategic framework is to improve the foundation for realizing optimum health and quality of life for individuals with multiple chronic conditions. To assist the Workgroup in obtaining broad input in the development of the strategic framework, HHS, through this request for information (RFI), is seeking comments from stakeholders and the public on the draft strategic framework. The draft strategic framework can be found at *http://www.hhs.gov/ophs/initiatives/mcc/index.html*.

II. Information Request

The OPHS, on behalf of the HHS Interagency Workgroup on Multiple Chronic Conditions, requests input on the draft "HHS Strategic Framework on Multiple Chronic Conditions." In addition to general comments, the Workgroup is seeking input on any additional gaps not addressed in the draft document.

III. Potential Responders

HHS invites input from a broad range of individuals and organizations that have interests in MCC and persons with such conditions. Some examples of these organizations include, but are not limited to, the following:

—General public

—Health care, professional, and educational organizations

—Physicians, nurses, hospitals, and other health-care system providers

—State and local public health agencies

—Public health organizations

—Foundations

—Disease groups

—Chronic care and advocacy groups

—Aging-related organizations

—Medicaid- and Medicare-related organizations

—Pharmacy groups

—Insurers and business groups

—Collaboratives and consortia.

When responding, please self-identify with any of the above or other categories (include all that apply) and your name. Anonymous submissions will not be considered.

The submission of written materials in response to the RFI should not exceed 5 pages, not including appendices and supplemental documents. Responders may submit other forms of electronic materials to demonstrate or exhibit concepts of their written responses.

Dated: May 13, 2010.

Anand Parekh,

Deputy Assistant Secretary for Health (Science and Medicine).

[FR Doc. 2010–11956 Filed 5–18–10; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Registration for Behavioral Health Web Site and Resources—NEW

SAMHSA is authorized under section 501(d)(16) of the Public Health Service Act (42 U.S.C. 290aa(d)(16)) to develop and distribute materials for the prevention, treatment, and recovery from substance abuse and mental health disorders. To improve the way the public locates and obtains these materials, SAMHSA uses its Web site as an online resource for behavioral health information. A part of this Web site is SAMHSA's development of a voluntary registration process that will allow customers to create accounts that will save their order histories and shipping addresses. During the Web site registration process, SAMHSA will also ask customers for optional demographic information that will include organization affiliation, SAMHSA grantee identification information, and reasons for interest in behavioral health information. SAMHSA will use this information to conduct customer analyses that will inform materials development, assist in forecasting inventory needs, and identify ways that SAMHSA can improve its customer service. SAMHSA will request the same optional demographic information and state of residency when customers subscribe to its email update service, for the purpose of assessing information needs and better targeting email messages to appropriate audiences.

SAMHSA is employing a Web-based form for information collection to avoid duplication and unnecessary burden on customers who register both for an account on the Web site and for email updates. The Web technology allows SAMHSA to integrate the email update subscription process into the Web site account registration process. Customers who register for an account on the Web site will be given the option of being enrolled automatically to receive SAMHSA email updates. Any optional questions answered by the customer during the Web site registration process will automatically be mapped to the profile generated for the email update system, thereby reducing the collection of duplicate information.

SAMHSA will collect all customer information submitted for Web site registration and email update subscriptions electronically via a series of Web forms on the samhsa.gov domain. Customers can submit the Web forms at their leisure, or call SAMHSA's toll-free Call Center and an information specialist will submit the forms on their behalf. The electronic collection of information will reduce the burden on the respondent and streamline the data-capturing process. SAMHSA will place Web site registration information into a Knowledge Management database and will place email subscription information into a database maintained by a third-party vendor that serves multiple Federal agencies and the White House. Customers can change, add, or delete their information from either system at any time.

The respondents will be behavioral health professionals, researchers, parents, caregivers, and the general public.

SAMHSA estimates the burden of this information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Web Site Registration	41,200	1	41,200	.033 (2 min.)	1,360
E-mail Update Subscription	24,000	1	24,000	.017 (1 min.)	480
Total	65,200		65,200		1,840

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 *and* e-mail a copy to *summer.king@samhsa.hhs.gov.* Written comments should be received within 60 days of this notice.

Dated: April 28, 2010.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. 2010–11963 Filed 5–18–10; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Substance Abuse Prevention and Treatment (SAPT) Block Grant Uniform Application Guidance and Instructions FY 2011–2013 and Regulations (OMB No. 0930–0080)—Revision

Sections 1921 through 1935 of the Public Health Service Act (U.S.C. 300x–21 to 300x–35) provide for annual allotments to assist States to plan, carry out and evaluate activities to prevent and treat substance abuse and for related activities. Under the provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary, DHHS. For the Federal fiscal years (FY) 2011–FY 2013 Substance Abuse Prevention and Treatment (SAPT) Block Grant application cycles, SAMHSA will provide States with revised application guidance and instructions to implement changes made in accordance with recommendations from the National Association of State Alcohol and Drug Abuse Directors (NASADAD) and their member States in the revisions and clarification of data reporting requirements and instructions.

During negotiations with the States resulting in agreement on the National Outcome Measures (NOMs) for substance abuse treatment and prevention, SAMHSA pledged to the States to:

1. Reduce respondent burden;
2. Work with the States to improve performance management of the SAPT Block Grant;
3. Improve the availability, timeliness, and quality of data available to Federal, State, and provider administrators of block grant funded programs.

This revision of the Uniform Application and Regulation for the SAPT Block Grant takes additional steps toward implementing these commitments. SAMHSA, in consultation with NASADAD, has provided States the ability to reduce their application burden by consolidating the FY 2011–FY 2013 State Plan into a 3-year plan. With the exception of the projected annual budget form, States only would be expected to submit any proposed revisions to its approved three year plan but would otherwise not have to resubmit a State Plan during FY 2012 and FY 2013. Individual States may reduce their respondent burden further by selecting the option of using SAMHSA pre-populated tables for Section IVa and IVb. The data for these tables would be drawn from SAMHSA data sets known as Drug and Alcohol Services Information System (DASIS) Treatment Episode Data Set (TEDS) and National Survey on Drug Use and Health (NSDUH) by SAMHSA and provided to the States. In addition, the web-based Block Grant Application System now facilitates completion of the provider entity table through added pre-populated data items. The data for this table would be drawn from SAMHSA data set known as DASIS National Survey of Substance Abuse Treatment Services (N–SSATS) SAMHSA will continue to work with NASADAD and the States to assess the feasibility and usefulness of pre-populating additional sections of the application with data extracted from SAMHSA data sets to further reduce respondent burden.

SAMHSA continues to provide the States with the option of reporting on prevention expenditures utilizing the six primary prevention strategies or utilizing the Institute of Medicine classification of Universal, Selective or Indicated. SAMHSA has designed the State Prevention Framework State Incentive Grant (SPF SIG) competitive program and funded contracts in States without a SPF SIG to support data driven prevention planning by the Single State Agencies for Substance Abuse. States are expected to use the State level data collected with support from these programs in the planning in section II of the Uniform Application.

The Uniform Application has been modified to move needs assessment, planning narrative and future year budget forms into Section II, the FY 2011–FY 2013 Plan section.

In December 2004, SAMHSA and the States agreed on the goal of having all States reporting the NOMs measures as defined at the meeting by the end of a 3-year implementation period starting in FY 2005 and concluding at the end of FY 2007. By January 2006, supportive technical assistance on information technology design and payment for data submitted became available by the State Outcomes Measurement and Management System (SOMMS) program. States who have participated in the SOMMS/NOMs subcontracts may choose to have their data pre-populated which would significantly reduce their reporting burden for this application. During the subsequent three years, SAMHSA in partnership with the States and all other SAPT Block Grant stakeholders have continued to work towards improving standards for

analyzing and responding to the results of NOMs data appropriate to each level of block grant funded administration including Federal, State, and Provider roles and responsibilities.

SAMHSA realigned resources to address the need for technical assistance in information technology (IT) and software purchasing to implement and maintain NOMs data standards. This technical assistance first became available in September 2006 and IT support continues.

Revisions to the previously-approved Uniform Application resulting from such stakeholder input reflect the following changes: (1) Section I, *Form 2,* "Table of Contents," was revised to appropriately enumerate the specific items within each section; (2) In Section II, the former single year "Intended Use Plan" is aggregated into a "*Three Year State Plan*" to reduce the States' annual plan reporting burden. The first "*Three Year Plan*" will cover FYs 2011–2013. In the next two subsequent years, only revisions or updates to the 3-year plan will be required in the States' FY 2012 and FY 2013 Uniform Applications. Planned expenditures of each Federal Fiscal Year award will still be collected annually; (3) In Section II, the Form formerly specified as Form 12 has been removed; (4) In Section III, Narratives covering the Federal requirements, financial expenditure reports and services utilization reports are consolidated into the "Annual Report Section"; (5) In Section IV subparts IVa and IVb, Treatment and Prevention Performance Reporting Forms are maintained and are to be completed annually.

The total annual reporting burden estimate is shown below:

FY 2011

	Number of respondents	Responses per respondent	Number of hours per response	Total hours
Sections I–III—States and Territories	60	1	*480	28,800
Section IV–A	60	1	40	2,400
Section IV–B	60	1	42.75	2,565
Recordkeeping	60	1	16	960
Total	60			34,725

* (Additional 10 hours per completion of Section II per State due to addition of FYs 2012 and 2013 in "*Three Year Plan.*")

FY 2012 AND FY 2013

[Due to the reduction in section II]

	Number of respondents	Responses per respondent	Number of hours per response	Total hours
Sections I–III—States and Territories	60	1	440	26,400
Section IVa	60	1	40	2,400
Section IVb	60	1	42.75	2,565
Recordkeeping	60	1	16	960
Total	60			32,325

* (Reduction of approximately 40 hours per respondent due to reductions in response burden for Section II, "*Three Year Plan.*")

SAMHSA received comments from ten separate State agencies representing ten States.

In response to State comments, (1) SAMHSA clarified all form labeling to provide a clear reference to the form number in the new application as well as a reference to the former form number used in previous applications. In addition, form references in the instructions also provide reference to the former number of the form; (2) SAMHSA also provided similar references to narrative requirements that had been previously contained in separate attachments labeling these sections in order to facilitate respondent understanding where this data had been collected in previous applications; (3) In Section II, instructions for the new form (Form 7) intended to summarize State planning priorities, was modified to allow State to identify up to twelve priorities as opposed to requiring twelve to be identified; (4) Instructions were added to the section IVb; Prevention Forms P12a–P15, to facilitate understanding of the time periods for which data were being reported on these forms.

At least half of the respondents, albeit a small minority of the overall set of grantees, objected to the timing of these changes indicating that economic conditions and staffing affect their ability to undertake such changes. SAMHSA contends that the transition to a three year plan will reduce burden by an estimated total across all 60 applicants of about 800 hours and requires only an additional two pages of narrative in the first year of the three-year Plan. The addition of Form 7 requiring articulation of up to twelve State priorities is offset by deleting the previous requirement to project future period utilization data (Form 12) and its instructions entirely.

Average Annual Total Burden is projected to be 33,125 or a decrease of about 800 hours.

Written comments and recommendations concerning the proposed information collection should be sent by June 18, 2010 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–5806.

Dated: May 12, 2010.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. 2010–11962 Filed 5–18–10; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Tobacco Products Scientific Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Tobacco Products Scientific Advisory Committee.

Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 15, 2010, from 8:30 a.m. to 5 p.m. and on July 16, 2010, from 8 a.m. to 5 p.m.

Location: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Blvd., Gaithersburg, MD. The hotel phone number is 301–590–0044.

Contact Person: Cristi Stark, Office of Science, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373 (choose Option 4), e-mail: *TPSAC@fda.hhs.gov* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 8732110002. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice to the public. Therefore, you should always check the agency's Web site and call the advisory committee information line to learn about possible modifications of this meeting's schedule before coming to the meeting.

Agenda: On July 15, 2010, the committee will (1) hear and discuss a presentation on dissolvable tobacco products in order to prepare for the Tobacco Products Scientific Advisory Committee's required report to the Secretary of Health and Human Services regarding the impact of the use of dissolvable tobacco products on the public health; (2) receive updates on upcoming committee business related to menthol, including agency requests for information from industry on menthol cigarettes in order to prepare for the Tobacco Products Scientific Advisory Committee's required report to the Secretary of Health and Human Services regarding the impact of use of menthol in cigarettes on the public health; and (3) hear and discuss industry presentations on menthol in cigarettes as they relate to five topics: Characterization of menthol, clinical effects of menthol, biomarkers of disease risk, marketing data, and population effects. Specific areas of interest identified by the committee for industry presentations include the following:

Characterization of menthol

1. Trends in quantities of menthol present in the cigarette rod and smoke over time for various brands/subbrands of menthol and nonmenthol products as determined by the Cambridge Filter/ISO test method using standard parameters as well as the intense smoking conditions set forth in Canadian regulations.

2. Information regarding the manufacturing of menthol and nonmenthol cigarettes, including (a) the source and type of menthol used, (b) the presence or use of any menthol analogs, and (c) the types of manufacturing processes through which menthol is introduced into the tobacco product, as well as the considerations in selecting a particular method.

3. The threshold (menthol content) at which a product is identified and marketed as a menthol cigarette and how that threshold is established.

4. The rationale for adding menthol to cigarettes not marketed as menthol cigarettes, and the criteria for determining the quantity of menthol to be added.

5. For international brands of menthol cigarettes, the quantities of menthol in both menthol and nonmenthol cigarettes sold internationally, and the factors considered in determining the quantity of menthol to be added.

Clinical effects of menthol

6. Studies of dose-response relationships for the physiologic effects of mentholated tobacco smoke.

7. Mechanistic studies of menthol effects including (a) chemosensory effects of menthol compounds in tobacco smoke, including effects at thermal and trigeminal receptors; (b) the effect of menthol on the neurobiology of tobacco dependence; and (c) the effect of menthol on clinical and behavioral measures.

8. Studies addressing the dosing relationship and the metabolic interactions between nicotine and menthol, including resulting perceptions of nicotine strength and the interaction between menthol delivery and nicotine/tar levels, for both low-menthol and high-menthol products.

9. Information on correlations between menthol content and consumer perceptions regarding (a) taste, (b) nicotine strength, and (c) product harm.

Biomarkers

10. Analyses of laboratory and populations studies using biomarkers to assess the effect of menthol content on disease risk for cigarette smokers, based on cigarette consumption (e.g., cigarettes per day), including data related to menthol among population subgroups.

Marketing data

11. Data on consumer preferences for menthol cigarettes.

12. Consumer perception studies of advertising, packaging, and labeling of menthol cigarettes.

13. Marketing strategies for various brands/subbrands of menthol cigarettes, including strategies targeted to particular demographic groups.

14. Marketing strategies for various brands/subbrands of menthol cigarettes sold internationally.

Population effects

15. Among cigarette smokers, rates of switching from menthol to nonmenthol cigarettes and vice versa.

16. Comparative rates of initiation by youth and young adults with menthol and nonmenthol cigarettes.

17. Comparative rates of cessation for users of menthol and nonmenthol cigarettes.

Information regarding menthol derived from both natural and synthetic sources, as well as menthol analogs and functional equivalents will be important to the committee in evaluating the impact of the use of menthol in cigarettes on the public health. Furthermore, FDA asks that to the extent possible and where relevant, data prepared for the presentations be stratified by gender, race/ethnicity, and age.

On July 16, 2010, the committee will continue discussion on topic 3.

The FDA will work with representatives of the tobacco industry who wish to make presentations to ensure that adequate time, separate from the time slots for the general Open Public Hearing, is provided. Companies interested in making formal presentations to the Committee should respond by June 10, 2010, to *TPSAC@fda.hhs.gov* with the following information: (1) Confirmation of your availability to present at the July 15 and 16, 2010, TPSAC meeting, (2) specific topics for which you have relevant information and which you intend to present during the July 15 and 16, 2010, TPSAC meeting, and (3) whether you

are planning to provide background materials for the committee before the meeting. Each of the five broad categories listed in the *Agenda* portion of this notice will be allotted approximately 1 hour of presentation time during the meeting. Companies with common interest are urged to coordinate their oral presentations.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before June 30, 2010. Oral presentations from the public (excluding the tobacco industry) will be scheduled between approximately 9 a.m. and 9:15 a.m. on July 15, 2010, for dissolvable tobacco products, and 12:30 p.m. and 1:30 p.m. on July 16, 2010, for menthol. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 21, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 23, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Cristi Stark at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 13, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–11907 Filed 5–18–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

Date: July 14, 2010.

Time: 8 a.m. to 4 p.m.

Agenda: Update on the progress of the implementation of the Clinical Trials Working Group and the Translational Research Working Group reports.

Place: National Institutes of Health, Building 31, 6th Floor, C–Wing, Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Sheila A. Prindiville, MD, MPH, Director, Coordinating Center for Clinical Trials, Office of the Director, National Cancer Institute, National Institutes of Health, 6120 Executive Blvd., 3rd Floor Suite, Bethesda, MD 20892, 301–451–5048, *prindivs@mail.nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 17, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12006 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; PAR DE–09–182.

Date: June 15, 2010.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lynn M. King, PhD, Chief, Scientific Review Branch, National Institute of Dental and Craniofacial Research/NIH, 6701 Democracy Blvd., Bethesda, MD 20892–6402, 301–594–5006, *lynn.king@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12008 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee.

Date: June 10, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gary S. Madonna, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID, National Institutes of Health, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–496–3528, *gm12w@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Bone Marrow Transplantation and Therapy.

Date: June 15, 2010.

Time: 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Maryam Feili-Hariri, PhD, Scientific Review Officer, Immunology Review Branch, Scientific Review Program, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–5658, *haririmf@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12011 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Recombinant DNA Advisory Committee.

Date: June 16–17, 2010.

Time: June 16, 2010, 8 a.m. to 5:30 p.m.

Agenda: The Recombinant DNA Advisory Committee will review and discuss selected human gene transfer protocols, a proposed Major Action under Section III–A–1 of the NIH Guidelines, as well as related data management activities. Please check the meeting agenda at *http://oba.od.nih.gov/rdna_rac/rac_meetings.html* for more information.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Time: June 17, 2010, 8 a.m. to 4 p.m.

Agenda: The Recombinant DNA Advisory Committee will review and discuss selected human gene transfer protocols, and proposed changes to the NIH Guidelines regarding the use of synthetic nucleic acids in human gene transfer, as well as related data management activities. Please check the meeting agenda at *http://oba.od.nih.gov/rdna_rac/rac_meetings.html* for more information.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Chezelle George, Office of Biotechnology Activities, Office of Science Policy/OD, National Institutes of Health, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892, 301–496–9838, *georgec@od.nih.gov.*

Information is also available on the Institute's/Center's home page: http://oba.od.nih.gov/rdna/rdna.html, where an agenda and any additional information for the meeting will be posted when available.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–11988 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Obesity, Hypertension and Diabetes.

Date: July 6, 2010.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael W. Edwards, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–5452 (301) 594–8886, *edwardsm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Cellular Signaling and Kidney Function.

Date: July 7, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications,

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael W. Edwards, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8886, *edwardsm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Kidney Disease Ancillary Applications.

Date: July 7, 2010.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications,

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Atul Sahai, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–2242, *sahaia@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Type 2 Diabetes Mellitus.

Date: July 9, 2010.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael W. Edwards, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8886, *edwardsm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PKD Research and Translation Core Centers (P30).

Date: July 13–14, 2010.

Time: 5 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications,

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Atul Sahai, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–2242, *sahaia@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pathways of Kidney Repair.

Date: July 20, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael W. Edwards, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 750, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8886, *edwardsm@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12021 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. The NIDDK KUH K–Application Review.

Date: June 25, 2010.

Time: 10:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12019 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of 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 open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Digestive Diseases and Nutrition C Subcommittee.

Date: June 15–16, 2010.

Open: June 15, 2010, 8 a.m. to 8:30 a.m.

Agenda: To review procedures and discuss policies.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 15, 2010, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 16, 2010, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Dan E. Matsumoto, PhD, Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. (301) 594–8894. *matsumotod@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: June 16–18, 2010.

Open: June 16, 2010, 5 p.m. to 5:30 p.m.

Agenda: To review procedures and discuss policies.

Place: Sheraton Suites San Diego at Symphony Hall, 701 A Street, San Diego, CA 92101.

Closed: June 16, 2010, 5 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Suites San Diego at Symphony Hall, 701 A Street, San Diego, CA 92101.

Closed: June 17, 2010, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Suites San Diego at Symphony Hall, 701 A Street, San Diego, CA 92101.

Closed: June 18, 2010, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Suites San Diego at Symphony Hall, 701 A Street, San Diego, CA 92101.

Contact Person: John F. Connaughton, PhD, Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. (301) 594–7797. *connaughtonj@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: June 23–24, 2010.

Open: June 23, 2010, 8 a.m. to 8:30 a.m.

Agenda: To review procedures and discuss policies.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 23, 2010, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 24, 2010, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barbara A. Woynarowska, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452. (301) 402–7172. *woynarowskab@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12018 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Teleconference Review of R03 Applications for Mechanisms, Models, Measurements, and Management in Pain Research.

Date: June 17, 2010.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:*Victor Henriquez, PhD, Scientific Review Officer, DEA/SRB/NIDCR, 6701 Democracy Blvd., Room 668, Bethesda, MD 20892–4878, 301–451–2405, *henriquv@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Teleconference Review of Small Research Grants for Data Analysis and Statistical Methodology (R03) Applications.

Date: June 18, 2010.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Victor Henriquez, PhD, Scientific Review Officer, DEA/SRB/NIDCR, 6701 Democracy Blvd., Room 668, Bethesda, MD 20892–4878, 301–451–2405, *henriquv@nidcr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Review R13s.

Date: June 29, 2010.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mary Kelly, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, NIH 6701 Democracy Blvd, room 672, MSC 4878, Bethesda, MD 20892–4878, 301–594–4809, *mary_kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS).

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12009 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group; Behavior and Social Science of Aging Review Committee.
Date: June 23–24, 2010.
Time: 3 p.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: Jeannette L. Johnson, PhD, Scientific Review Officer, National Institutes On Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C–212, Bethesda, MD 20892, 301–402–7705, *johnsonj9@nia.nih.gov*.

Name of Committee: National Institute on Aging Initial Review Group; Biological Aging Review Committee.
Date: June 23–24, 2010.
Time: 3 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: Bita Nakhai, PhD, Scientific Review Officer, Scientific Review Branch, National Institute On Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov*.

Name of Committee: National Institute on Aging Initial Review Group; Clinical Aging Review Committee.
Date: June 24–25, 2010.
Time: 7 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: Alicja L. Markowska, PhD, DSC, Naional Institute On Aging, National Institutes of Health, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov*.

Name of Committee: National Institute on Aging Initial Review Group; Neuroscience of Aging Review Committee.
Date: June 24–25, 2010.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.
Contact Person: William Cruce, PhD, Scientific Review Administrator, National Institute On Aging, Scientific Review Office, Gateway Building 2c–212, 7201 Wisconsin Ave., Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 17, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12007 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and 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 Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI DNA Resequencing and Genotyping (RS&G) Service: Administrative Coordinating Center.
Date: June 4, 2010.
Time: 1 p.m. to 2 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)
Contact Person: Youngsuk Oh, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892–7924. 301–435–0277. *yoh@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI DNA Resequencing and Genotyping (RS&G) Service: Laboratory Center(s).
Date: June 4, 2010.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)
Contact Person: Youngsuk Oh, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892–7924. 301–435–0277. *yoh@mail.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Patient Oriented Research Career Enhancement Awards.
Date: June 8–9, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard Crystal City Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Stephanie J. Webb, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892. 301–435–0291. *stephanie.webb@nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Pathway to Independence Awards.
Date: June 10, 2010.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Holly K. Krull, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924. 301–435–0280. *krullh@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Recipient Epidemiology and Donor Evaluations Study (REDS–III)—Central Laboratory.
Date: June 10, 2010.
Time: 8:30 a.m. to 9:30 a.m.
Agenda: To review and evaluate contract proposals.
Place: Hilton Crystal City, Reagan National Airport, 2399 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Robert Blaine Moore, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7213, Bethesda, MD 20892. 301–594–8394. *mooreb@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Recipient Epidemiology and Donor Evaluations Study (REDS–III)—Domestic Sites.
Date: June 10, 2010.
Time: 9:30 a.m. to 5 p.m.
Agenda: To review and evaluate contract proposals.
Place: Hilton Crystal City, Reagan National Airport, 2399 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Robert Blaine Moore, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7213, Bethesda, MD 20892. 301–594–8394. *mooreb@nhlbi.nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Recipient Epidemiology and Donor Evaluations Study (REDS–III)—International Sites.
Date: June 11, 2010.
Time: 8:30 a.m. to 1 p.m.
Agenda: To review and evaluate contract proposals.
Place: Hilton Crystal City, Reagan National Airport, 2399 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Robert Blaine Moore, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7213, Bethesda, MD 20892. 301–594–8394. *mooreb@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12004 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurodifferentiation, Plasticity, and Regeneration Study Section.

Date: June 7–8, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The DuPont Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Joanne T. Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ARRA: Neurodifferentiation Plasticity and Regeneration Competitive Revisions.

Date: June 8, 2010.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The DuPont Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Joanne T. Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Host Interactions with Bacterial Pathogens Study Section.

Date: June 11, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Avenue Hotel, 160 E. Huron Street, Chicago, IL 60611.

Contact Person: Fouad A. El-Zaatari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.

Date: June 11, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites Santa Monica Hotel, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Fungai Chanetsa, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Electrical Signaling, Ion Transport, and Arrhythmias Study Section.

Date: June 11, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Rajiv Kumar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Orthopedic and Skeletal Biology.

Date: June 11, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Courtyard Gaithersburg Washingtonian Ctr, 204 Boardwalk *Place,* Gaithersburg, MD 20878.

Contact Person: Kan Ma, PhD, Scientific Review Officer, National Institute of Arthritis, Musculoskeletal, Scientific Review Branch, One Democracy Plaza Suite 800, Bethesda, MD 20892–4872, 301–451–4838, *mak2@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ARRA Revision Applications for NAME.

Date: June 11, 2010.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Heidi B. Friedman, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–379–5632, *hfriedman@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurotechnology 2 Overflow.

Date: June 11, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Robert C. Elliott, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ARRA: Molecular Neuropharmacology and Signaling Competitive Revisions.

Date: June 11, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Amalfi Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: Deborah L. Lewis, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–408–9129, *lewisdeb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Pilot Clinical Nephrology and Urology.

Date: June 11, 2010.

Time: 8 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ryan G. Morris, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ARRA: Biobehavioral Mechanisms of Emotion, Stress, Health Competitive Revisions.

Date: June 11, 2010.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont San Francisco Hotel, 950 Mason Street, San Francisco, CA 94108.

Contact Person: Maribeth Champoux, PhD, Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biomedical Imaging and Bioengineering.

Date: June 11, 2010.

Time: 11 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ARRA: Neurotechnology-4 Competitive Revisions.

Date: June 11, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: Robert C. Elliott, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Brain Injury.

Date: June 11, 2010.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jerry L. Taylor, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301–435–1175, *taylorje@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Review Meeting.

Date: June 11, 2010.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: J. Scott Osborne, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782, *osbornes@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 13, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–12001 Filed 5–18–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2010–0018]

National Protection and Programs Directorate; Agency Information Collection Activities: United States Visitor and Immigrant Status Indicator Technology (US–VISIT) Biometric Data Collection at the Ports of Entry

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 30-Day notice and request for comments; Revision of existing information collection request: 1600–0006.

SUMMARY: The Department of Homeland Security, National Protection and Programs Directorate (NPPD), US–VISIT, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). NPPD is soliciting comments concerning this biometric data collection at the ports of entry. DHS previously published this information collection request (ICR) in the **Federal Register** on March 9, 2010, at 75 FR 10809, for a 60-day public comment period. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until June 18, 2010. This process is conducted in accordance with 5 CFR 1320.10.

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 OMB Desk Officer, Department of Homeland Security, Office of Civil Rights and Civil Liberties. Comments must be identified by DHS–2010–0018 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*.
- *E-mail: oira_submission@omb.eop.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 395–5806.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

SUPPLEMENTARY INFORMATION: DHS established US–VISIT to meet specific legislative mandates intended to strengthen border security, provide decision-makers with critical information, and demonstrate progress toward national security performance goals, therefore expediting trade and travel and supporting immigration system improvements. US–VISIT collects and disseminates biometric information (digital fingerprint images and facial photos) from individuals during their entry into the United States. This information is disseminated to specific DHS components; other Federal agencies; Federal, State and local law enforcement agencies; and the Federal intelligence community to assist in the decisions they make related to, and in support of, the homeland security mission. Beginning on December 10, 2007, US–VISIT expanded the collection of fingerprints from two prints to 10. The new collection time of 35 seconds, an increase from the previous 15 seconds, is a result of this change, and includes officer instructions. Additionally, on December 19, 2008, DHS published a final rule, entitled "United States Visitor and Immigrant Status Indicator Technology Program (US–VISIT); Enrollment of Additional Aliens in US–VISIT; Authority to Collect Biometric Data from Additional Travelers and Expansion to the 50 Most Highly Trafficked Land Border Ports of Entry" 73 FR 77473. That rule became effective on January 18, 2009, and expanded the population of aliens subject to US–VISIT requirements.

DHS received three comments in response to the 60-day notice published on March 9, 2010.

Comment: One commenter reported that he had taken manual fingerprints for years and stated that it was better to take an extra 20 seconds to capture all 10 digits in order to better validate an individual's identity.

Response: US–VISIT relies on the collection and use of inkless fingerscans to establish and verify identity in support of homeland security decision-makers. US–VISIT continues to refine the fingerscan technology capability to accurately capture biometric data to enhance security while expediting legitimate travel and trade.

Comment: One commenter stated that the fingerprint technology is accurate and effective, that a 35 second delay in entering the United States to capture fingerprints is a very small amount of time to ensure the safety of United States citizens and praised DHS for "great work."

Response: US–VISIT is pleased to receive this positive appraisal. By providing decision-makers with the information they need—where and when they need it—US–VISIT is helping to make U.S. immigration and border management efforts more collaborative, streamlined, and effective.

Comment: One commenter stated that because violence on the U.S. border is on the rise and the situation will most likely become worse over the coming years, it is essential that law enforcement officials be given access to the US–VISIT program to ensure the security of Americans domestically.

Response: Under US–VISIT, information systems associated with border inspections and security are being linked. Biometric and other information are available to appropriate staff in U.S. Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), U.S. Citizenship and Immigration Services (CIS), Department of State consular officers, and other staff involved with the adjudication of visa applications at overseas posts; other DHS officers; and appropriate officers of the United States intelligence and law enforcement community when needed for the performance of their duties. US–VISIT also supports other Federal agencies, State and local law enforcement, and the intelligence community in their screening and enforcement missions by sharing biometrics of individuals deemed a threat by DHS and by receiving data from other agencies for individuals deemed to be a threat to national security. US–VISIT will continue to integrate appropriate additional databases and ensure interoperability with other databases as appropriate. In so doing, US–VISIT directly supports the DHS strategic goal of protecting our Nation from dangerous people.

OMB is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, NPPD, US–VISIT.

Title: US–VISIT Program.

Form: N/A.

OMB Number: 1600–0006.

Frequency: One-time collection.

Affected Public: Foreign visitors and immigrants into the United States.

Number of Respondents: 156,732,422.

Estimated Time per Respondent: 35 seconds.

Total Burden Hours: 1,520,304 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $53,211,000.

Thomas Chase Garwood, III,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2010–11915 Filed 5–18–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2010–0038]

Privacy Act of 1974; Department of Homeland Security/U.S. Citizenship and Immigration Services—011 E-Verify Program System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new Department of Homeland Security system of records notice titled, "Department of Homeland Security/U.S. Citizenship and Immigration Services—011 E-Verify Program System of Records." The U.S. Citizenship and Immigration Services E-Verify Program allows employers to check citizenship status and verify employment eligibility of newly hired employees. Previously, these records were covered under Department of Homeland Security/U.S. Citizenship and Immigration Services—004 Verification Information System of Records, December 11, 2008, along with records from the U.S. Citizenship and Immigration Services Systematic Alien Verification for Entitlements (SAVE) Program. In order to provide clearer transparency and enable public understanding, the Department is publishing two separate systems of records for U.S. Citizenship and Immigration Services E-Verify and SAVE Programs. This newly established system will be included in the Department of Homeland Security's inventory of record systems. The U.S. Citizenship and Immigration Services SAVE Program system of records notice can be found elsewhere in the **Federal Register**.

DATES: Submit comments on or before June 18, 2010. This new system will be effective June 18, 2010.

ADDRESSES: You may submit comments, identified by docket number DHS–2010–0038 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Claire Stapleton, Privacy Branch Chief, Verification Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, Washington, DC 20529. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services (USCIS) proposes to establish a new

DHS system of records titled, "DHS/USCIS—011 E-Verify Program System of Records."

E-Verify was mandated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law (Pub. L.) 104–208, September 30, 1996. The program is a free, and in most cases voluntary, DHS program implemented by USCIS and operated in collaboration with the Social Security Administration (SSA). The program compares information provided by employees on the Employment Eligibility Verification Form I–9 (Form I–9) against information in SSA and DHS databases in order to verify an employee's employment eligibility. All U.S. employers are responsible for the completion and retention of Form I–9 for each individual, whether citizen or non-citizen, they hire for employment in the United States. On Form I–9, the employer must verify the employment eligibility and identity documents presented by the employee and record the document information on Form I–9.

Previously, USCIS addressed E-Verify Program and the Systematic Alien Verification for Entitlements (SAVE) Program in the same Privacy Impact Assessment (PIA) and System of Records Notice (SORN) titled, DHS/USCIS—004 Verification Information System (VIS) of Records, December 11, 2008. VIS was and continues to be the underlying technology of both systems. This SORN, which describes E-Verify independently from SAVE, is written to provide clearer transparency and enable public understanding of these programs. USCIS has prepared a separate SORN to discuss the SAVE Program and can be found elsewhere in the **Federal Register**.

The Immigration and Naturalization Service (INS) initially developed the predecessor to E-Verify, the Basic Pilot Program, as a voluntary pilot program as required by IIRIRA. When Congress created DHS, it incorporated INS programs under DHS and USCIS was charged with operating the Basic Pilot Program. In addition to changing the name of the Basic Pilot Program, USCIS has continued to develop the program as the requirements for employment verification have changed over time. For example, some states require that all employers must use E-Verify, while other states require that all state job services must use E-Verify. Additionally, the federal government requires E-Verify checks for all government employees and federal contractors.

E-Verify is a fully operational web based program that allows any employer to enroll and begin to verify employees' employment eligibility. The following describes the complete E-Verify process.

Enrollment

E-Verify participants may be one of two different classes of user types: (1) Employers who use E-Verify for their own employees; or (2) designated agents who use E-Verify for the employees of other companies. Designated agents usually query E-Verify as a commercial service for other employers that cannot, or choose not, to conduct the E-Verify queries but who want the benefit of the program. To use E-Verify, employers and designated agents must first enroll their company online at *http://www.dhs.gov/E-Verify.* They complete a registration application that collects basic contact information including: Company Name, Company Street Address, Employer Identification Number, North American Industry Classification System (NAICS) Code, Number of Employees, Number of Employment Sites, Parent Company or Corporate Company, Name of Company Point of Contact (POC) for E-Verify Usage, POC Phone Number, POC Fax Number, and POC E-Mail Address.

Participants, whether an employer or designated agent, can then create user accounts for the employees who will have access to E-Verify. A user may be one of three user types:

- *General User:* This user type performs verification queries, views reports, and has the capability to update their personal user account.
- *Program Administrator:* This user type is responsible for creating user accounts at their site for other Program Administrators and General Users. They have the responsibility to view reports, perform queries, update account information, and unlock user accounts if a user has locked the account by entering the wrong password.
- *Corporate Administrator:* This user type can view reports for all companies associated with the E-Verify corporate account. This allows them to see the activities associated with each general user. They can also update user accounts, register new locations and users, terminate access for existing locations, and perform site and user maintenance activities for all sites and users associated with the corporate account. Each company can have a single corporate administrator.

E-Verify collects information about the user so that the program can review and identify the use of the system by employers, and allows the program to see more detailed information about user system usage. The information collected specifically on users includes: Name (last, first, middle initial), Phone Number, Fax Number, E-Mail Address, and User ID.

Every E-Verify participating employer is required to read and sign a Memorandum of Understanding (MOU) that explains the responsibilities of DHS, SSA, and the participant. Once the E-Verify participant has completed the enrollment form, E-Verify e-mails a unique user login and password to the user. The employer must conspicuously display E-Verify posters (posters are found on the Web site and are printed out by each employer) at the hiring site that indicate the employer's participation in E-Verify and describe the employees' rights regarding the employer's participation in the program.

E-Verify Verification Process

Once employers enroll in E-Verify, they must verify the employment eligibility of all new employees hired thereafter by entering the employee's name, date of birth, Social Security Number (SSN), and information from the documents provided on Form I–9, into the E-Verify online user interface tool. Form I–9 has a field for the SSN but the employee is not required to provide this number unless the employer is participating in E-Verify. All employers in the U.S. are required to use this form regardless of whether they are enrolled in E-Verify.

Processing Non-United States Citizens

For non-USCs, including immigrants, non-immigrants, and lawful permanent residents, the vast majority of queries are completed when E-Verify verifies the name, SSN, and birth date against SSA's Numident system, followed by the name, date of birth, and Form I–9 document information against certain DHS databases. The specific DHS database against which the information will be verified depends on the document provided by the employee. For example, if the employee uses an Employment Authorization Document (EAD), the A-Number will be queried against the USCIS Central Index System (CIS), and the EAD photograph, as described below against the USCIS Image Storage and Retrieval System (ISRS). If the employee is a non-immigrant, E-Verify queries the Form I–94 number against the CBP Non Immigrant Information System (NIIS) and Border Crossing Information System (BCI). If both SSA and DHS are able to verify the employee's employment eligibility the employer receives an Employment Authorized notification. E-Verify generates a case verification number and the employer may either print and retain the Case Details page

from E-Verify or write the case verification number on Form I–9.

If the automated query does not immediately result in an Employment Authorized response from E-Verify, the employer receives Verification in Process response, which means that the query has been automatically sent to the USCIS Status Verifiers. The USCIS Status Verifiers have one day to verify the employee's employment eligibility by manually reviewing the information submitted by the employer with information in DHS databases. USCIS Status Verifiers are trained to evaluate the information provided by the employee against the various DHS databases. This could not be done as an automated process because of the complexities of the various types of data. If the USCIS Status Verifiers are able to confirm employment eligibility with the information available to them, they indicate the response in E-Verify and the employer will receive the Employment Authorized notification.

If the USCIS Status Verifiers are unable to confirm employment eligibility, E-Verify will display a DHS Tentative Non-Confirmation (TNC) response and generate a TNC Notice for the employer to print and give to the employee, which explains that the employee has received a TNC without going into detail as to specifically what caused the TNC. The letter also explains the employee's rights, and gives him the opportunity to decide if he will contest the result with DHS. If the employee wishes to contest the TNC, the employee must notify his employer, who indicates so in E-Verify and DHS E-Verify generates a Referral Letter. This letter instructs the employee that he has 8 days to contact USCIS Status Verifiers to resolve the discrepancy. Once the employee contacts the USCIS Status Verifiers, the USCIS Status Verifiers will attempt to resolve the discrepancy by either requesting that the employee submit copies of the employee's immigration documents or by researching a number of DHS databases to determine whether there is any other information pertaining to that individual that would confirm the employment eligibility status. To conduct these databases searches, USCIS Status Verifiers may use a Person Centric Query System to facilitate the information search. If the USCIS Status Verifier determines that the employee is eligible to work, the USCIS Status Verifier will indicate this in E-Verify, which will then notify the employer that the employee is Employment Authorized. If the Status Verifier determines that an employee is not eligible to work, the Status Verifier will update E-Verify with an Final Non-Confirmation (FNC) disposition and E-Verify will notify the employer of this resolution. At this point, the employer may legally terminate the individual's employment and the employer must update the system to acknowledge the action taken. If an employer retains an employee who has received final confirmation that he is not eligible to work, and fails to notify DHS, the employer may be liable for failure to notify and knowingly employing an individual who is not eligible to work.

Photo Screening Tool

In addition to the normal verification process, if the employee has used certain DHS-issued documents, such as the Permanent Resident Card (Form I–551) or the Employment Authorization Card (Form I–766), or if the employee is a U.S. citizen (USC) who used a U.S. passport for completing Form I–9, the E–Verify tool will present to the employer the photo on record for the applicable document. The DHS photos come from DHS's ISRS database, and the passport photos come from a copy of the Department of State passport data contained in TECS. This feature is known as the Photo Screening Tool. The employer will visually compare the photo presented by E–Verify with the photo on the employee's card. The two photos should be an exact match. (This is not a check between the individual and the photo on the card, since the employer compares the individual to their photo ID during the Form I–9 process.) The employer must then indicate in E–Verify whether the pictures match or not. Depending on the employer's input, this may result in an Employment Authorized response, or a DHS TNC for the employee based on a photo mismatch, which the employee will need to resolve by contacting a USCIS Status Verifier. If the employer reports that there is a mismatch that results in a TNC, the employee will be notified that they need to provide a photocopy of their document to a USCIS Status Verifier. The USCIS Status Verifier will do various searches to try to confirm the information supplied by the employee. In cases where the information cannot be matched because the employee is asserting that there is a mistake in the document, the employee will be sent to the USCIS Application Support Center for resolution. E–Verify requires that employers photocopy and retain a copy of the employee's Form I–9 documentation if it is Form I–766 or I–551.

E-Verify User Rules and Restrictions

E-Verify provides extensive guidance for the employer to operate the E-Verify program through the user manual and training. One of the requirements for using E-Verify is that the employer must only submit an E-Verify query after an employee has been hired. Further, the employer must perform E-Verify queries for newly hired employees no later than the third (3rd) business day after they start work for pay. These requirements help to prevent employers from misusing the system.

While E-Verify primarily uses the information it collects for verification of employment eligibility, the information may also be used for law enforcement (to prevent fraud and misuse of E-Verify, and to prevent discrimination and identity theft), program analysis, monitoring and compliance, program outreach, and prevention of fraud or discrimination. On a case-by-case basis, E-Verify may give law enforcement agencies extracts of information indicating potential fraud, discrimination, or other illegal activities. The USCIS Verification Division uses information contained in E-Verify for several purposes: (1) Program management, which may include documentary repositories of business information, internal and external audits, congressional requests, and program reports; (2) Data analysis for program improvement efforts and system enhancement planning, which may include conducting surveys, user interviews, responding to public comments received during rulemakings or from call center contacts which may make outgoing or receive incoming calls regarding E-Verify, including using information for testing purposes; (3) Monitoring and compliance, as well as quality assurance efforts, which may include analysis of customer use, data quality, or possible fraud, discrimination or misuse or abuse of the E-Verify system. This may originate directly from E-Verify or from its monitoring and compliance activities or call center contacts, including but not limited to records of interviews, employment and E-Verify-related documents and other records obtained in the course of carrying out its monitoring and compliance activities, especially in connection with determining the existence of fraud or discrimination in connection with the use of the E-Verify system. Data generated from this effort is stored in the CTMS system; (4) Outreach activities to ensure adequate resources are available to current and prospective program participants, which may

include call lists and other correspondence. USCIS may also permit designated agents and employers to use the E-Verify logo if they have agreed to certain licensing restrictions; and (5) Activities in support of law enforcement to prevent fraud and misuse of E-Verify, and to prevent discrimination and identity theft.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/USCIS—011 E–Verify Program System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

DHS/USCIS—011

SYSTEM NAME:

DHS/USCIS—011 E–Verify Program System of Records.

SECURITY CLASSIFICATION:

Unclassified, for official use only.

SYSTEM LOCATION:

Records are maintained at the USCIS Headquarters in Washington, D.C. and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

- Employees, both U.S. citizens and non-U.S. citizens, whose employers have submitted to E–Verify their identification information;
- Employers who enroll in E–Verify;
- Designated agents who enroll in E–Verify;
- Individuals employed or retained by employers or designated agents who have accounts to use E–Verify;
- Individuals who contact E–Verify with information on the use of E–Verify;
- Individuals who provide their names and contact information to E–Verify for notification or contact purposes;
- USCIS employees and contractors who have access to E–Verify for operation, maintenance, monitoring, and compliance purposes including, USCIS Status Verifiers, managers, and administrators; and
- Individuals who may have been victims of identity theft and have chosen to lock their social security number from further use in the E–Verify program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment eligibility information collected from the E–Verify employer about the employee to be verified.

- All Employees:
  - Name (last, first, middle initial, maiden);
  - Date of Birth;
  - Social Security Number;
  - Date of Hire;
  - Three day hire date expiration:
    - Awaiting SSN;
    - Technical Problems;
    - Audit Revealed New Hire Was Not Run;
    - Federal Contractor With E–Verify Clause Verifying Existing Employees; and
    - Other.
  - Claimed Citizenship Status;
  - Type of Document Used for Acceptable Form I–9 Verification;
  - Acceptable Form I–9 Document Expiration Date;
  - Photographs, if required by secondary verification;
  - Disposition data from the employer. The following codes are entered by the employer based on what the employer does as a result of the employment verification information:
    - *The employee continues to work for the employer after receiving and Employment Authorized result:* Employer selects this option based on receiving an Employment Authorized response from E–Verify;
    - *The employee continues to work for the employer after receiving a Final Nonconfirmation result:* Employer selects this option based on the employee getting an FNC despite the employee contesting the TNC and the employer retains the employee;
    - *The employee continues to work for the employer after receiving a No Show result:* Employer selects this option based on the employee getting a TNC but the employee did not try to resolve the issue with SSA or DHS and the employer retains the employee;
    - *The employee continues to work for the employer after choosing not to contest a Tentative Nonconfirmation:* Employer selects this option when the employee does not contest the TNC but the employer retains the employee;
    - *The employee was terminated by the employer for receiving a Final Nonconfirmation result:* Employer selects this option when employee receives FNC and is terminated;
    - *The employee was terminated by the employer for receiving a No Show result:* Employer selects this option when employee did not take an action to resolve and is terminated;
    - *The employee was terminated by the employer for choosing not to contest a Tentative Nonconfirmationt:* Employer selects this option when employee does not contest the TNC and is terminated;
    - *The employee voluntarily quit working for the employer:* Employer selects this option when employee voluntarily quits job without regard to E–Verify;
    - *The employee was terminated by the employer for reasons other than E–Verify:* Employer selects this option when employee is terminated for reasons other than E–Verify;
    - *The case is invalid because another case with the same data already exists:* Employer selects this option when the employer ran an invalid query because the information had already been submitted; and
    - *The case is invalid because the data entered is incorrect:* Employer selects this option when the employer ran an invalid query because the information was incorrect.
- Non-USCs:
  - A–Number; and
  - I–94 Number.
- Information about the Employer or Designated Agent:
  - Company Name;
  - Street Address;
  - Employer Identification Number;
  - North American Industry Classification System (NAICS) Code;

○ Number of Employees;
○ Number of Sites;
○ Parent Company or Corporate Company;
○ Name of Company Point of Contact;
○ Phone Number;
○ Fax Number;
○ E-Mail Address.

• Information about the Individual Employer User of E-Verify: (e.g., Human Resource employee conducting E-Verify queries)
○ Last Name;
○ First Name;
○ Middle Initial;
○ Phone Number;
○ Fax Number;
○ E-mail Address; and
○ User ID.

• Employment Eligibility Information created by E-Verify:
○ Case Verification Number;
○ VIS Response:
■ Employment Authorized;
■ SSA TNC;
■ DHS TNC;
■ SSA Case in Continuance (In rare cases SSA needs more than 10 federal government workdays to confirm employment eligibility);
■ DHS Case in Continuance (In rare cases DHS needs more than 10 federal government workdays to confirm employment eligibility);
■ SSA FNC;
■ DHS Verification in Process;
■ DHS Employment Unauthorized;
■ DHS No Show; and
■ DHS FNC.

• Monitoring and Compliance Information created as part of E-Verify (USCIS The Verification Division monitors E-Verify to minimize and prevent misuse and fraud of the system. This monitoring information, and the accompanying compliance information, may in some cases be placed in the electronic or paper files that make up E-Verify.) The information may include:
○ Analytic or other information derived from monitoring and compliance activities, including information placed in CTMS;
○ Complaint or hotline reports;
○ Records of communication;
○ Other employment and E-Verify related records, documents, or reports derived from compliance activities, especially in connection with determining the existence of fraud or discrimination in connection with the use of the E-Verify system; and
○ Information derived from telephone calls, e-mails, letters, desk audits or site visits, as well as information from media reports or tips from law enforcement agencies.

• Information used to verify employment eligibility. (E-Verify uses VIS as the transactional database to verify the information provided by the employee. VIS contains the E-Verify transaction information. If E-Verify is unable to verify employment eligibility through VIS, additional manual verification may be required. These automated and manual verifications may include other DHS databases.)

• Social Security Administration Numident System:
○ Confirmation of Employment Eligibility;
○ TNC of Employment Eligibility and Justification; and
○ FNC of Employment Eligibility.

• USCIS Central Index System:
○ Alien Number;
○ Last Name;
○ First Name;
○ Middle Name;
○ Date of Birth;
○ Date Entered United States;
○ Country of Birth;
○ Class of Admission;
○ File Control Office Code;
○ Social Security Number;
○ Form I–94 Number;
○ Provision of Law Cited for Employment Authorization;
○ Office Code Where the Authorization Was Granted;
○ Date Employment Authorization Decision Issued;
○ Date Employment Authorization Begins;
○ Date Employment Authorization Expires;
○ Date Employment Authorization Denied;
○ Naturalization Certificate Number; and
○ EOIR Information, if in Proceedings.

• CBP Nonimmigrant Information System (NIIS) and Border Crossing Information (BCI):
○ Alien Number;
○ Last Name;
○ First Name;
○ Maiden Name;
○ Date Alien's Status Changed;
○ Date of Birth;
○ Class of Admission Code;
○ Date Admitted Until;
○ Country of Citizenship;
○ Port of Entry;
○ Date Entered United States;
○ Departure Date;
○ I–94 Number;
○ Visa Number;
○ Passport Number;
○ Passport Information; and
○ Passport Card Number.

• USCIS Image Storage and Retrieval System (ISRS):
○ Receipt Number;
○ Alien Number;
○ Last Name;
○ First Name;
○ Middle Name;
○ Date of Birth;
○ Country of Birth;
○ Form Number, for example Form I–551 (Lawful Permanent Resident card) or Form I–766 (Employment Authorization Document);
○ Expiration Date; and
○ Photograph.

• USCIS Computer-Linked Application Information Management System Version 3 (CLAIMS 3):
○ Receipt Number;
○ Alien Number;
○ Last Name;
○ First Name;
○ Middle Name;
○ Address;
○ Social Security Number;
○ Date of Birth;
○ Country of Birth;
○ Class of Admission;
○ I–94 Number;
○ Employment Authorization Card Information;
○ Lawful Permanent Resident Card Information;
○ Date of Entry;
○ Valid To Date;
○ Petitioner Internal Revenue Service Number;
○ Attorney Name; and
○ Attorney Address.

• ICE Student and Exchange Visitor Identification System (SEVIS):
○ Student and Exchange Visitor Identification Number;
○ Last Name;
○ First Name;
○ Middle Name;
○ Date of Birth;
○ Country of Birth;
○ Class of Admission;
○ I–94 Number;
○ Date of Entry;
○ Valid To Date;
○ Social Security Number;
○ Nationality;
○ Gender;
○ Student Status;
○ Visa Code;
○ Status Change Date;
○ Port of Entry Code;
○ Non Citizen Entry Date;
○ Status Code; and
○ Program End Date.

• USCIS Computer-Linked Application Information Management System Version 4 (CLAIMS 4):
○ Alien Number;
○ Social Security Number;
○ Last Name;
○ First Name;
○ Middle Name;
○ Birth Date;
○ Birth Country;
○ Nationality;
○ Gender;

○ Naturalization Verification (Citizenship Certificate Identification ID);
○ Naturalization Verification (Citizenship Naturalization Date/Time); and
○ Address.
• USCIS Reengineered Naturalization Applications Casework System (RNACS):
○ Alien Number;
○ Last Name;
○ First Name;
○ Middle Name;
○ Birth Date;
○ Birth Country;
○ Gender;
○ Nationality;
○ Naturalization Verification (Citizenship Naturalization Date/Time);
○ Naturalization Verification (Citizenship Certificate Identification ID);
○ Immigration Status (Immigration Status Code); and
○ Address.
• USCIS Aliens Change of Address System (AR–11):
○ Name;
○ Current Address;
○ Date of Birth;
○ Previous Address;
○ Alien Number;
○ Federal Bureau of Investigation Number;
○ Admission Number; and
○ Previous Address.
• USCIS Citizenship and Immigration Services Centralized Operational Repository (CISCOR):
○ Receipt Number;
○ Beneficiary Alien Number;
○ Beneficiary Date of Birth;
○ Beneficiary Country of Birth;
○ Beneficiary Social Security Number;
○ Beneficiary Last Name;
○ Beneficiary First Name;
○ Beneficiary Middle Name;
○ Petitioner Alien Number;
○ Petitioner Social Security Number;
○ Petitioner Naturalization Certificate Number;
○ Petitioner First Name;
○ Petitioner Last Name;
○ Petitioner Firm Name; and
○ Petitioner Tax Number.
• USCIS National File Tracking System (NFTS):
○ Alien Number; and
○ File Location.
• USCIS Microfilm Digitization Application System (MiDAS):
○ Name;
○ Alien Number;
○ Date of Birth; and
○ Citizenship Number.
• USCIS Marriage Fraud Amendment System (MFAS):
○ Individual:
■ Name (Last, First, Middle);
■ Date of Birth;
■ Country of Birth;
■ Country of Citizenship;
■ Class of Admission;
■ Date of Admission;
■ Alien Number;
■ Receipt Number;
■ Phone Number; and
■ Marriage Date and Place.
○ Spouse:
■ Name (Last, First, Middle);
■ Date of Birth;
■ Country of Birth;
■ Country of Citizenship;
■ Class of Admission;
■ Date of Admission;
■ Alien Number;
■ Receipt Number;
■ Phone Number;
■ Marriage Date and Place; and
■ Naturalization Date and Place.
○ Children:
■ Names (Last, First, Middle);
■ Date of Birth;
■ Country of Birth;
■ Class of Admission; and
■ Alien Number.
○ Employer:
■ Name;
■ Address;
■ Supervisor's Name; and
■ Supervisor's Phone Number.
• USCIS Enterprise Document Management System (EDMS):
○ All information contained in an individual's A–File, including, but not limited to:
■ Alien Number;
■ Last Name;
■ First Name;
■ Middle Name;
■ Date of Birth;
■ Date Entered United States;
■ Country of Birth;
■ Class of Admission;
■ Social Security Number;
■ Form I–94 Number;
■ Naturalization Information and Certificate;
■ Photograph; and
■ Marriage Information and Certificate.
• Department of State Consular Consolidated Database (CCD):
○ Name;
○ Date of Birth;
○ Passport Number;
○ Visa Control Number;
○ FOIL Number;
○ Alien Number; and
○ Photograph.
• ICE ENFORCE Integrated Database (EID) Enforcement Alien Removal Module (EARM) Alien Number:
○ Name;
○ Marital Status;
○ Date of Birth;
○ Age;
○ Sex;
○ Country of Birth;
○ Country of Citizenship;
○ Date of Entry;
○ Class of Admission;
○ Social Security Number;
○ Federal Bureau of Investigation Number;
○ Case History;
○ Alerts;
○ Case Summary Comments;
○ Case Category;

○ Date of Encounter;
○ Encounter Information;
○ Custody Actions & Decisions;
○ Case Actions & Decisions;
○ Bonds; and
○ Photograph.
• USCIS Refugees, Asylum, and Parole System (RAPS):
○ Class of Admission;
○ Country of Birth;
○ Date of Birth;
○ Date of Entry;
○ Current Status; and
○ Asylum Applicant Receipt Date.
• US–VISIT Arrival Departure Information System (ADIS):
○ Last Name;
○ First Name;
○ Date of Birth;
○ Country of Citizenship;
○ Sex;
○ Passport Number;
○ Airline and Flight Number;
○ Country of Residence;
○ City Where Boarded;
○ City Where Visa was Issued;
○ Date Visa Issued;
○ Address While in United States; and
○ Port of Entry.
• Department of Justice Executive Office Immigration Review System (EOIR):
○ Name;
○ File Number;
○ Address;
○ Nationality; and
○ Decision memoranda, investigatory reports and materials compiled for the purpose of enforcing immigration laws, exhibits, transcripts, and other case-related papers concerning aliens, alleged aliens or lawful permanent residents brought into the administrative adjudication process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, dated September 30, 1996.

PURPOSE(S):

The purpose of this system is to provide employment authorization

information to employers participating in E-Verify. It may also be used to support monitoring and compliance activities for obtaining information in order to prevent the commission of fraud, discrimination, or other misuse or abuse of the E-Verify system, including violation of privacy laws or other illegal activity related to misuse of E-Verify, including:

- Investigating duplicate registrations by employers;
- Inappropriate registration by individuals posing as employers;
- Verifications that are not performed within the required time limits; and
- Cases referred by and between E-Verify and the Department of Justice Office of Special Counsel for Immigration-Related Unfair Employment Practices, or other law enforcement entities.

Additionally, the information in E-Verify may be used for program management and analysis, program outreach, and preventing or deterring further use of stolen identities in E-Verify.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (including United States Attorney Offices) or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee of DHS in his/her official capacity;
3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and
3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of the E-Verify program, which includes potential fraud, discrimination, or employment based identity theft and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To employers participating in the E-Verify Program in order to verify the employment eligibility of their employees working in the United States.

I. To the DOJ, Civil Rights Division, for the purpose of responding to matters within the DOJ's jurisdiction of the E-Verify Program, especially with respect to discrimination.

J. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by name, verification number, Alien Number, I–94 Number, Receipt Number, Passport (U.S. or Foreign) Number, or Social Security Number of the employee, employee user, or by the submitting company name.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

The retention and disposal schedule, N1–566–08–7, has been approved by the National Archives and Records Administration. Records collected in the process of enrolling in E-Verify and in verifying employment eligibility are stored and retained in E-Verify for ten (10) years, from the date of the completion of the last transaction unless

the records are part of an on-going investigation in which case they may be retained until completion of the investigation. This period is based on the statute of limitations for most types of misuse or fraud possible using E-Verify (under 18 U.S.C. 3291, the statute of limitations for false statements or misuse regarding passports, citizenship, or naturalization documents).

SYSTEM MANAGER AND ADDRESS:

Chief, Verification Division, U.S. Citizenship and Immigration Services, Washington, DC 20529.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the USCIS Verification Division FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under "contacts." If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See "Notification procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification procedure" above.

RECORD SOURCE CATEGORIES:

Records are obtained from several sources including: (A) Information collected from employers about their employees relating to employment eligibility verification; (B) Information collected from E-Verify users used to provide account access and monitoring; (C) Information collected from federal databases as listed in the Category of Records section above; and (D) Information created by E-Verify, including its monitoring and compliance activities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–11972 Filed 5–18–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2010–0013]

Privacy Act of 1974: System of Records; Department of Homeland Security Transportation Security Administration—001, Transportation Security Enforcement Record System, System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice to alter an existing Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of Homeland Security proposes to update and reissue an existing Department of Homeland Security system of records notice titled, Transportation Security Administration 001 Transportation Security Enforcement Record System previously published on December 10, 2004. As a result of the biennial review of this system, modifications are being made to the system of records' categories of individuals, categories of records, routine uses, record source categories, retention and disposal, notification procedures, and system manager and address. The Department of Homeland Security Transportation Security Administration—001 Transportation Security Enforcement Record System covers records related to the Transportation Security Administration's screening of passengers and property and enforcement actions involving all modes of transportation regulated by the Transportation Security Administration. Information in this system also includes records related to the investigation or enforcement of transportation security laws, regulations, directives, or Federal, State, local, or international law. For example, records relating to an investigation of a security incident that occurred during passenger or property screening would be covered by this system.

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2). Portions of the system pertaining to investigations or prosecutions of violations of criminal law are exempt under 5 U.S.C. 552a(j)(2). These exemptions are reflected in the final rule published on August 4, 2006.

This system will continue to be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before June 18, 2010. The system will be effective June 18, 2010.

ADDRESSES: You may submit comments, identified by docket number DHS–2010–0013 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Peter Pietra, Privacy Officer, Transportation

Security Administration, TSA–36, 601 South 12th Street, Arlington, VA 20598–6036 or *TSAprivacy@dhs.gov.* For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with this requirement and the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) Transportation Security Administration (TSA) proposes to update and reissue a DHS/TSA system of records notice titled, DHS/TSA–001 Transportation Security Enforcement Record System (69 FR 71828, December 10, 2004.)

TSA's mission is to protect the nation's transportation systems to ensure freedom of movement for people and commerce. To achieve this mission, TSA is required to develop and adapt its security programs to respond to evolving threats to transportation security. In accordance with the biennial review of this system, the following modifications are being made:

- The categories of individuals section is updated from "passengers undergoing screening" to "individuals undergoing screening." This change clarifies that individuals other than passengers may be subject to screening, such as individuals who escort minors or the elderly into the sterile area.
- The categories of records section has been updated to State that records may relate to any individual, not just to a passenger, who undergoes screening and to an individual whose identity must be verified against the Federal watch lists.
- DHS/TSA is updating the system of records to incorporate five DHS standard routines uses. One routine use will allow release of information to appropriate agencies, entities, and persons when DHS/TSA suspects or has confirmed that the security or confidentiality of an information system of records has been compromised. Another routine use permits the release of information to the media when there exists a legitimate public interest in disclosing information. Release under this routine use will require the approval of the DHS Chief Privacy Officer in consultation with counsel. Another routine use allows the release of information to a court, magistrate, administrative tribunal or opposing counsel or parties where a Federal agency is a party or has an interest in the litigation or administrative proceeding. The fourth routine use allows DHS/TSA to release information to a former employee when it is necessary to consult with the former employee regarding a matter that is within that person's former area of responsibility. The fifth routine use allows DHS/TSA to release information to appropriate entities where it would assist in the enforcement of civil or criminal laws.
- Additionally, DHS/TSA is revising a current routine use adding indirect air carriers and other facility operators as a potential recipient of information from these systems when appropriate to address a threat or potential threat to transportation security or national security, or when required for administrative purposes related to the effective and efficient administration of transportation security laws.
- DHS/TSA is also revising a current routine use by adding indirect air carriers and other facility operators as potential recipients of information about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, training or the issuance of such credentials or clearances.
- Finally, DHS/TSA is adding a routine use to allow DHS/TSA to publish final agency and Administrative Law Judge decisions in civil enforcement and other administrative matters.
- The record source categories are updated to reflect the use of commercial and public record databases and Web sites to obtain information regarding the identity of individuals who attempt to gain access to the sterile areas of the airport and for whom identity needs to be verified or individuals who are being vetted to qualify as Federal flight deck officers.
- The retention and disposal sections are updated to reflect the records retention schedules approved by the National Archives and Records Administration (NARA).
- The notification section was changed to reflect that inquiries regarding whether the applicable system contains records about an individual should be directed to TSA's Freedom of Information Act (FOIA) Office.
- The system manager was revised to reflect the current system manager of the system.

Consistent with the Privacy Act, information stored in TSERS may be shared with other DHS components, as well as appropriate Federal, State, local, tribal, foreign, or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2). Portions of the system pertaining to investigations or prosecutions of violations of criminal law are exempt under 5 U.S.C. 552a(j)(2). These exemptions are reflected in the final rule published on August 4, 2006 in 71 FR 44223.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the Transportation Security Administration 001 Transportation Security Enforcement Record System, system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of

Management and Budget and to Congress.

System of Records

DHS/TSA—001

SYSTEM NAME:

Transportation Security Administration Transportation Security Enforcement Record System (TSERS).

SECURITY CLASSIFICATION:

Classified, sensitive.

SYSTEM LOCATION:

Records are maintained at the Transportation Security Administration (TSA) Headquarters, 601 South 12th Street, Arlington, VA 20598 and TSA field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Owners, operators, and employees in all modes of transportation for which DHS/TSA has security-related duties; witnesses and other third parties who provide information; individuals undergoing screening of their person (including identity verification) or property; individuals against whom investigative, administrative, or civil or criminal enforcement action has been initiated for violation of certain TSA regulations or security directives, relevant provisions of 49 U.S.C. Chapter 449, or other laws; individuals being investigated or prosecuted for violations of law; and individuals who communicate security incidents, potential security incidents, or otherwise suspicious activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information related to the screening of property and the security screening and identity verification of individuals, including identification media and identifying information such as name, address, gender, date of birth, contact information, fingerprints and/or other biometric identifiers, photographs or video, or travel information or boarding passes; the investigation or prosecution of any alleged violation; place of violation; Enforcement Investigative Reports (EIRs); security incident reports, screening reports, suspicious-activity reports and other incident or investigative reports; statements of alleged violators and witnesses and other third parties who provide information; proposed penalty; investigators' analyses and work papers; enforcement actions taken; findings; documentation of physical evidence; correspondence of TSA employees and others in enforcement cases; pleadings and other court filings; legal opinions and attorney work papers; and information obtained from various law enforcement or prosecuting authorities relating to the enforcement of laws or regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114(d), 44901, 44903, 44916, 46101, 46301.

PURPOSE(S):

The records are created in order to maintain an enforcement and inspections system for all modes of transportation for which TSA has security related duties and to maintain records related to the investigation or prosecution of violations or potential violations of Federal, State, local, or international criminal law. They may be used, generally, to identify, review, analyze, investigate, and prosecute violations or potential violations of transportation security laws, regulations and directives or other laws as well as to identify and address potential threats to transportation security. They may also be used to record the details of TSA security-related activity, such as passenger or property screening.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ) (including United States Attorney Offices) or other Federal agency in anticipation of, or conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS, or any component thereof;

2. Any current or former employee of DHS in his/her official capacity, or

3. Any current or former employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee, or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS/TSA collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration, or other Federal government agencies, pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information;

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant cooperative agreement or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provide information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign agency, including law enforcement, or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the United States Department of Transportation, its operating administrations, or the appropriate State

or local agency, when relevant or necessary to:

1. Ensure safety and security in any mode of transportation;

2. Enforce safety- and security-related regulations and requirements;

3. Assess and distribute intelligence or law enforcement information related to transportation security;

4. Assess and respond to threats to transportation;

5. Oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities;

6. Plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or

7. The issuance, maintenance, or renewal of a license, certificate, contract, grant, or other benefit.

I. To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency, regarding individuals who pose, or are suspected of posing, a risk to transportation or national security.

J. To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual, or the issuance of a security clearance, license, contract, grant, or other benefit.

K. To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a DHS/TSA decision concerning the hiring or retention of an employee, the issuance of a security clearance, license, contract, grant, or other benefit.

L. To international and foreign governmental authorities in accordance with law and formal or informal international agreement.

M. To third parties during the course of an investigation into any matter before DHS/TSA to the extent necessary to obtain information pertinent to the investigation.

N. To airport operators, aircraft operators, and maritime and surface transportation operators, indirect air carriers, and other facility operators about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, or the issuance of such credentials or clearances.

O. To any agency or instrumentality charged under applicable law with the protection of the public health or safety under circumstances where the public health or safety is at risk.

P. With respect to members of the armed forces who may have violated transportation security or safety requirements and laws, disclose the individual's identifying information and details of their travel on the date of the incident in question to the appropriate branch of the armed forces to the extent necessary to determine whether the individual was performing official duties at the time of the incident. Members of the armed forces include active duty and reserve members, and members of the National Guard. This routine use is intended to permit TSA to determine whether the potential violation must be referred to the appropriate branch of the armed forces for action pursuant to 40 U.S.C. 610101(b).

Q. To the DOJ, U.S. Attorney's Office, or other Federal agencies for further collection action on any delinquent debt when circumstances warrant.

R. To a debt collection agency for the purpose of debt collection.

S. To airport operators, aircraft operators, air carriers, maritime and surface transportation operators, indirect air carriers, or other facility operators when appropriate to address a threat or potential threat to transportation security or national security, or when required for administrative purposes related to the effective and efficient administration of transportation security laws.

T. To a former employee of DHS, in accordance with applicable regulations, for purposes of responding to an official inquiry by a Federal, State, or local government entity or professional licensing authority; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

U. To a court, magistrate, or administrative tribunal where a Federal agency is a party to the litigation or administrative proceeding in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

V. To the public, on the TSA Web site at *www.tsa.gov,* final agency and Administrative Law Judge decisions in criminal enforcement and other administrative matters, except that personal information about individuals will be deleted if release of that information would constitute an unwarranted invasion of privacy, including but not limited to medical information.

W. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, where there exists a legitimate public interest in the disclosure of the information, or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy or a risk to transportation or national security.

X. To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, license, or treaty, where DHS/TSA determines that the information would assist in the enforcement of a civil or criminal law.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies collecting on behalf of the United States Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and in computer-accessible storage media. Records are also stored on microfiche and roll microfilm.

RETRIEVABILITY:

Records are retrieved by name, address, Social Security number, administrative action or legal enforcement numbers, or other assigned identifier of the individual on whom the records are maintained.

SAFEGUARDS:

Information in this system is safeguarded in accordance with applicable laws, rules and policies. All records are protected from unauthorized access through appropriate administrative, physical, and technical safeguards. These safeguards include restricting access to authorized personnel who also have a need-to-know; using locks, alarm devices, and passwords; and encrypting data

communications. Strict control measures are enforced to ensure that access to classified and/or sensitive information in these records is also based on "need to know." Electronic access is limited by computer security measures that are strictly enforced. TSA file areas are locked after normal duty hours and the facilities are protected from the outside by security personnel.

RETENTION AND DISPOSAL:

National Archives and Records Administration approval is pending for the records in this system. Paper records and information stored on electronic storage media are maintained within TSA for five years and then forwarded to Federal Records Center. Records are destroyed after ten years.

SYSTEM MANAGER AND ADDRESS:

Information Systems Program Manager, Office of the Chief Counsel, TSA Headquarters, West Tower, 8th Floor, TSA–2, 601 S. 12th Street, Arlington, VA 22202–4220.

NOTIFICATION PROCEDURE:

To determine whether this system contains records relating to you, write to the System Manager identified above.

RECORD ACCESS PROCEDURE:

Same as "Notification Procedures" above. Provide your full name and a description of information that you seek, including the time frame during which the record(s) may have been generated. Individuals requesting access must comply with the Department of Homeland Security Privacy Act regulations on verification of identity (6 CFR 5.21(d)).

CONTESTING RECORD PROCEDURES:

Same as "Notification Procedure," and "Record Access Procedures" above.

RECORD SOURCE CATEGORIES:

Information contained in this system is obtained from the alleged violator, TSA employees or contractors, witnesses to the alleged violation or events surrounding the alleged violation, other third parties who provided information regarding the alleged violation, State and local agencies, and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2). Portions of the system pertaining to investigations or prosecutions of violations of criminal law are exempt under 5 U.S.C. 552a(j)(2). These exemptions are reflected in the final rule published on August 4, 2006 in 71 FR 44223.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–11917 Filed 5–18–10; 8:45 am]

BILLING CODE 4410–62–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2010–0014]

Privacy Act of 1974; Department of Homeland Security Transportation Security Administration—002 Transportation Security Threat Assessment System System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice to alter an existing Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974 the Department of Homeland Security proposes to update and reissue the Department of Homeland Security Transportation Security Administration—002 Transportation Security Threat Assessment System of Records, November 8, 2005, to reflect necessary programmatic changes. As a result of the biennial review of this system, modifications are being made to the system of records' categories of individuals, categories of records, routine uses, data retention and disposal, and notification procedures. The Department of Homeland Security Transportation Security Administration—002 Transportation Security Threat Assessment System System of Records contains records related to security threat assessments, employment investigations, and evaluations Transportation Security Administration conducts on certain individuals for security purposes. For example, individuals who apply for a Transportation Worker Identification Credential or a Hazardous Materials Endorsement must undergo a security threat assessment and records associated with the assessment are covered by this system.

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2) as reflected in the final rule published in the **Federal Register** on June 25, 2004.

This updated system will continue to be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before June 18, 2010. This amended system will be effective June 18, 2010.

ADDRESSES: You may submit comments, identified by docket number DHS–2010–0014 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Peter Pietra (*TSAprivacy@dhs.gov*), Privacy Officer, Transportation Security Administration, TSA–36, 601 South 12th Street, Arlington, VA 20598–6036 or *TSAprivacy@dhs.gov.* For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) Transportation Security Administration (TSA) proposes to update and reissue a DHS/TSA system of records notice titled, DHS/TSA—002 Transportation Security Threat Assessment System of Records (70 FR 33383, November 8, 2005).

TSA's mission is to protect the nation's transportation systems to ensure freedom of movement for people and commerce. To achieve this mission, TSA is required to develop and adapt its security programs to respond to evolving threats to transportation security. In accordance with the biennial review of this system, the following modifications are being made:

- The categories of individuals section is updated to expressly include individuals who seek maritime or surface transportation facility access badges or credentials as well as individuals who undergo a security threat assessment unassociated with a

badge or credential. DHS/TSA is also adding individuals seeking to become, or qualified as, Certified Cargo Screening Program validators; individuals who are owners, operators, or directors of any mode of transportation; individuals who undergo security threat assessments or evaluations in order to obtain access to facilities over which DHS exercises authority to this system of records. Information regarding an individual's level of access at transportation facilities other than airports over which DHS exercises authority, including information on the termination or expiration of the individual's access is now also included in the categories of records. The categories of individuals also includes individuals who have been or seek to be distinguished from individuals on a watch list through a redress process or other means.

• The routine uses section is updated to incorporate five Department of Homeland Security (DHS) standard routine uses. One routine use will allow release of information to appropriate agencies, entities, and persons when DHS/TSA suspects or has confirmed that the security or confidentiality of an information system of records has been compromised. Another routine use permits the release of information to the media when there exists a legitimate public interest in disclosing information. Release under this routine use will require the approval of the DHS Chief Privacy Officer in consultation with counsel. Another routine use allows the release of information to a court, magistrate, administrative tribunal or opposing counsel or parties where a federal agency is a party or has an interest in the litigation or administrative proceeding. The fourth routine use allows DHS/TSA to release information to a former employee when it is necessary to consult with the former employee regarding a matter that is within that person's former area of responsibility. The fifth routine use allows DHS/TSA to release information to appropriate entities where it would assist in the enforcement of civil or criminal laws.

• Additionally, DHS/TSA is revising a routine use by adding indirect air carriers and other facility operators as potential recipients of information about individuals who are their employees, job applicants, or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, training or the issuance of such credentials or clearances.

• The retention and disposal section is updated to reflect the records retention schedule approved by the National Archives and Records Administration (NARA).

• The notification section was changed to reflect that inquiries regarding whether the applicable system contains records about an individual should be directed to The Transportation Security Administration Freedom of Information Act Office.

The Security Threat Assessment System contains records related to security threat assessments, employment investigations, and evaluations DHS/TSA conducts on certain individuals for security purposes. For example, individuals who apply for a Transportation Worker Identification Credential or a Hazardous Materials Endorsement must undergo a security threat assessment and are covered by this system.

Portions of this system are exempt under 5 U.S.C. 552a(k)(1) and (k)(2). In addition, to the extent a record contains information from other exempt systems of records, DHS/TSA will rely on the exemptions claimed for those systems as reflected in the final rule published on June 25, 2004 in 69 FR 35536. The information is collected to conduct security threat assessments on individuals to ensure they do not pose, and are not suspected of posing, a threat to transportation or national security. Consistent with the Privacy Act, information stored in the Transportation Security Threat Assessment System may be shared with other DHS components, as well as appropriate federal, state, local, tribal, foreign, or international government agencies. This sharing will only take place after DHS determines that the receiving component or agency has a need to know the information to carry out national security, law enforcement, immigration, intelligence, or other functions consistent with the routine uses set forth in this system of records notice.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to their records are put, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/TSA–002 Transportation Security Threat Assessment System system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

DHS/TSA–002

SYSTEM NAME:

Transportation Security Administration Transportation Security Threat Assessment System (T–STAS).

SECURITY CLASSIFICATION:

Classified, Sensitive.

SYSTEM LOCATION:

Records are maintained at the Transportation Security Administration (TSA) Headquarters, 601 South 12th Street, Arlington, VA 20598 and TSA field offices. Records may also be maintained at the offices of TSA contractors.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who undergo a security threat assessment, employment investigation, or other evaluation performed for security purposes, or in order to obtain access to the following: transportation infrastructure or assets, such as terminals, facilities, pipelines, railways, mass transit, vessels, aircraft, or vehicles; restricted airspace; passenger baggage; cargo; shipping venues; or other facilities or critical infrastructure over which the DHS exercises authority; Sensitive Security

Information or Classified information provided in connection with transportation security matters; or transportation-related instruction or training (such as flight training). This includes, but is not limited to, the following individuals:

(a) Individuals who require or seek access to airports, or maritime or surface transportation facilities, or facilities over which DHS exercises authority.

(b) Individuals who have or are seeking responsibility for screening individuals or carry-on baggage, and those persons serving as immediate supervisors and the next supervisory level to those individuals, other than employees of the DHS/TSA who perform or seek to perform these functions.

(c) Individuals who have or are seeking responsibility for screening checked baggage or cargo, and their immediate supervisors, and the next supervisory level to those individuals, other than employees of the DHS/TSA who perform or seek to perform these functions.

(d) Individuals who have or are seeking the authority to accept checked baggage for transport on behalf of an aircraft operator that is required to screen passengers.

(e) Pilots, copilots, flight engineers, flight navigators, and airline personnel authorized to fly in the cockpit, relief or deadheading crewmembers, cabin crew, and other flight crew for an aircraft operator or foreign air carrier that is required to adopt and carry out a security program.

(f) Flight crews and passengers who request waivers of temporary flight restrictions (TFRs) or other restrictions pertaining to airspace.

(g) Other individuals who are connected to the transportation industry for whom DHS/TSA conducts security threat assessments to ensure transportation security.

(h) Individuals who have or are seeking unescorted access to cargo in the transportation system.

(i) Individuals who are owners, officers, or directors of an indirect air carrier or a business seeking to become an indirect air carrier.

(j) Aliens or other individuals designated by DHS/TSA who apply for flight training or recurrent training.

(k) Individuals transported on all-cargo aircraft, including aircraft operator or foreign air carrier employees and their family members and persons transported for the flight.

(l) Individuals seeking to become, or qualified as, known shippers or Certified Cargo Screening Program validators.

(m) Known or suspected terrorists identified in the Terrorist Screening Database (TSDB) of the Federal Bureau of Investigation's (FBI) Terrorist Screening Center (TSC); individuals identified by DHS/TSA to the TSDB because they pose a threat to civil aviation or national security; and individuals on classified and unclassified governmental terrorist, law enforcement, immigration, or intelligence databases, including databases maintained by the Department of Defense, National Counterterrorism Center, or Federal Bureau of Investigation.

(n) Individuals who have been or seek to be distinguished from individuals on a watch list through a redress process or other means.

(o) Individuals who are owners, operators or directors of any transportation mode facilities, services, or assets.

CATEGORIES OF RECORDS IN THE SYSTEM:

DHS/TSA's system may contain any, or all, of the following information regarding individuals covered by this system:

(a) Name (including aliases or variations of spelling).

(b) Gender.

(c) Current and historical contact information (including, but not limited to, address information, telephone number, and e-mail).

(d) Government-issued licensing or identification information (including, but not limited to, Social security number; pilot certificate information, including number and country of issuance; current and past citizenship information; immigration status; alien registration numbers; visa information; and other licensing information for modes of transportation).

(e) Date and place of birth.

(f) Name and information, including contact information and identifying number (if any) of the airport, aircraft operator, indirect air carrier, maritime or land transportation operator, or other employer or entity that is employing the individual, or submitting the individual's information, or sponsoring the individual's background check/threat assessment.

(g) Physical description, fingerprint and/or other biometric identifier, and photograph.

(h) Date, place, and type of flight training or other instruction.

(i) Control number or other unique identification number assigned to an individual or credential.

(j) Information necessary to assist in tracking submissions, payments, and transmission of records.

(k) Results of any analysis performed for security threat assessments and adjudications.

(l) Other data as required by Form FD 258 (fingerprint card) or other standard fingerprint cards used by the federal government.

(m) Information provided by individuals covered by this system in support of their application for an appeal or waiver.

(n) Flight information, including crew status on board.

(o) Travel document information (including, but not limited to, passport information, including number and country of issuance; and current and past citizenship information and immigration status, any alien registration numbers, and any visa information).

(p) Criminal history records.

(q) Data gathered from foreign governments or entities that is necessary to address security concerns in the aviation, maritime, or land transportation systems.

(r) Other information provided by federal, state, and local government agencies or private entities relevant to the assessment, investigation, or evaluation.

(s) The individual's level of access at an airport or other transportation facility, including termination or expiration of access.

(t) Military service history.

(u) Suitability testing and results of such testing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 114, 5103a, 40103(b)(3), 40113(a), 44903(b), 44936, 44939, and 46105.

PURPOSE(S):

(a) Performance of security threat assessments, employment investigations, and evaluations performed for security purposes that Federal statutes and/or DHS/TSA regulations authorize for the individuals identified in "Categories of individuals covered by the system," above.

(b) To assist in the management and tracking of the status of security threat assessments, employment investigations, and evaluations performed for security purposes.

(c) To permit the retrieval of the results of security threat assessments, employment investigations, and evaluations performed for security purposes; including criminal history records checks and searches in other governmental, commercial, and private data systems, performed on the individuals covered by this system.

(d) To permit the retrieval of information from other terrorist-related,

law enforcement, immigration and intelligence databases on the individuals covered by this system.

(e) To track the fees incurred, and payment of those fees, by the airport operators, aircraft operators, maritime and land transportation operators, flight students, and others, where appropriate, for services related to security threat assessments, employment investigations, and evaluations performed for security purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 522a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed as a routine use pursuant to 5 U.S.C. 522a(b)(3) as follows;

A. To the Department of Justice (DOJ) (including United States Attorney Offices) or other federal agency in anticipation of, or conducting litigation, or in proceedings, before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity, where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation, or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration, or other federal government agencies, pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information;

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, volunteers, or others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are required to comply with the Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign agency, including law enforcement, or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To the U.S. Department of Transportation, its operating administrations, or the appropriate state or local agency, when relevant or necessary to:

1. Ensure safety and security in any mode of transportation;

2. Enforce safety- and security-related regulations and requirements;

3. Assess and distribute intelligence or law enforcement information related to transportation security;

4. Assess and respond to threats to transportation;

5. Oversee the implementation and ensure the adequacy of security measures at airports and other transportation facilities;

6. Plan and coordinate any actions or activities that may affect transportation safety and security or the operations of transportation operators; or

7. The issuance, maintenance, or renewal of a license, endorsement, certificate, contract, grant, or other benefit.

I. To the appropriate Federal, State, local, tribal, territorial, foreign, or international agency regarding individuals who pose, or are suspected of posing, a risk to transportation or national security.

J. To a Federal, State, local, tribal, territorial, foreign, or international agency, where such agency has requested information relevant or necessary for the hiring or retention of an individual; or the issuance of a security clearance, license, endorsement, contract, grant, waiver, credential, or other benefit.

K. To a Federal, State, local, tribal, territorial, foreign, or international agency, if necessary to obtain information relevant to a DHS/TSA decision concerning initial or recurrent security threat assessment, the hiring or retention of an employee; the issuance of a security clearance, license, endorsement, contract, grant, waiver, credential, or other benefit and to facilitate any associated payment and accounting.

L. To international and foreign governmental authorities, in accordance with law and formal or informal international agreement.

M. To third parties during the course of a security threat assessment, employment investigation, or adjudication of a waiver or appeal request, to the extent necessary to obtain information pertinent to the assessment, investigation, or adjudication.

N. To airport operators, aircraft operators, maritime and surface transportation operators, indirect air carriers and other facility operators about individuals who are their employees, job applicants or contractors, or persons to whom they issue identification credentials or grant clearances to secured areas in transportation facilities when relevant to such employment, application, contract, training or the issuance of such credentials or clearances.

O. To a former employee of DHS, in accordance with applicable regulations, for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

P. To a court, magistrate, or administrative tribunal where a federal agency is a party to the litigation or administrative proceeding in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

Q. To the appropriate federal, state, local, tribal, territorial, foreign, or international agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, license, or treaty, where DHS/TSA determines that the information would assist in the enforcement of a civil or criminal laws.

R. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy or a risk to transportation or national security.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be maintained on paper and in computer-accessible storage media. Records may also be stored on microfiche and roll microfilm. Records that are sensitive or classified are safeguarded in accordance with agency procedures, and applicable Executive Orders and statutes.

RETRIEVABILITY:

Records may be retrieved by name, social security number, identifying number of the submitting or sponsoring entity, other case number assigned by DHS/TSA or other entity/agency, biometric, or a unique identification number, or any other identifying particular assigned or belonging to the individual.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

In accordance with National Archives and Records Administration approved retention and disposal policy N1–560–06, individuals who were not identified as possible security threat, records will be destroyed one year after DHS/TSA is notified that access based on security threat assessment is no longer valid; where an individual was identified as a possible security threat and subsequently cleared, records will be destroyed seven years after completion of the security threat assessment or one year after being notified that access based on the security threat assessment is no longer valid, whichever is longer; and where the individual is an actual match to a watchlist, records will be destroyed 99 years after the security threat assessment or seven years after DHS/TSA is notified the individual is deceased, whichever is shorter.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Compliance, Transportation Threat Assessment & Credentialing Office, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, DHS/TSA will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification and access to any record contained in the system of records, or seeking to contest its content, may submit a request in writing to the DHS/TSA's FOIA Officer. DHS/TSA's FOIA Officer is located at; Freedom of Information Act Office, TSA–20, 601 S. 12th Street, 11th Floor, East Tower, Arlington, VA 20598–6020, 1–866–FOIA–TSA or 571–227–2300, Fax: 571–227–1406, E-mail: *foia.tsa@dhs.gov.*

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created;
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURE:

Same as "Notification Procedure," above.

CONTESTING RECORD PROCEDURE:

Same as "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Records are obtained from individuals subject to a security threat assessment, employment investigation, or other security analysis; from aviation, maritime, and land transportation operators, flight schools, or other persons sponsoring the individual; and any other persons, including commercial entities that may have information that is relevant or necessary to the assessment or investigation. Information about individuals is also used or collected from domestic and international intelligence sources and other governmental, private, and public databases. The sources of information in the criminal history records obtained from the Federal Bureau of Investigation are set forth in the Privacy Act system of records notice Department of Justice Federal Bureau of Investigation—009 Fingerprint Identification Records System (72 FR 3410, January 1, 2007).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security has exempted portions of this system from subsections (c)(3); (d); (e)(1), (e)(4)(G); (H); (I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2) as reflected in the final rule published on June 25, 2004 in 69 FR 35536. In addition, to the extent a record contains information from other exempt systems of records, DHS/TSA will rely on the exemptions claimed for those systems.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–11919 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Public Workshop: Pieces of Privacy

AGENCY: Privacy Office, DHS.

ACTION: Notice announcing public workshop.

SUMMARY: The Department of Homeland Security Privacy Office will host a public workshop, "Pieces of Privacy."

DATES: The workshop will be held on June 10, 2010, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The workshop will be held in the auditorium at the DHS Offices at the GSA Regional Headquarters Building located at 7th and D Streets, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Tamara Baker, Privacy Office, Department of Homeland Security, Washington, DC 20528; by telephone 703–235–0780; by facsimile 703–235–0442; or by e-mail at *privacyworkshop@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Department of Homeland Security (DHS) Privacy Office is holding a public workshop that will provide in-depth training on the privacy compliance process at DHS, and specifically what triggers the need for privacy compliance documentation, Privacy Act requirements, and Computer Matching Agreements. A case study will be used to illustrate a step-by-step approach to researching, preparing, and writing these documents. The workshop will highlight Official Guidance for the Privacy Impact Assessments and Systems of Records Notices.

The workshop is open to the public and there is no fee for attendance.

Registration and Security: In order to facilitate security requirements of the GSA facility, attendees must register in advance for this workshop. Registration closes at 9 a.m., Monday, June 7, 2010. To register, please send an e-mail to *privacyworkshop@dhs.gov,* with the name of the workshop ("Pieces of Privacy") in the subject line, and your full name and organizational affiliation in the body of the email. Alternatively, you may call 703–235–0780 to register and to provide the Privacy Office with your full name and organizational affiliation.

All attendees who are employed by a federal agency will be required to show their Federal agency employee photo identification badge to enter the building. Attendees who do not possess a Federal agency employee photo identification badge will need to show a form of government-issued photo identification, such as a driver's license, in order to verify their previously-provided registration information. This is a security requirement of the facility.

The Privacy Office will only use your name for the security purposes of this specific workshop and to contact you in the event of a change to the workshop.

Special Assistance: Persons with disabilities who require special assistance should indicate this in their admittance request and are encouraged to identify anticipated special needs as early as possible.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2010–11925 Filed 5–18–10; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Renewal From OMB of One Current Public Collection of Information: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0044, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of identifying and travel experience information by individuals requesting redress through the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP).

DATES: Send your comments by July 19, 2010.

ADDRESSES: Comments may be e-mailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson at the above address, or by telephone (571) 227–3651.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0044; Department of Homeland Security (DHS) Traveler Redress Inquiry Program (DHS TRIP). DHS TRIP was developed as a voluntary program by DHS to provide a one-stop mechanism for individuals to request redress who believe they have been: (1) Denied or delayed boarding; (2) denied or delayed entry into or departure from the United States at a port of entry; or (3) identified for additional (secondary) screening at our Nation's transportation facilities, including airports, seaports, train

stations and land borders. The DHS TRIP office is managed by TSA on behalf of DHS. In order for individuals to request redress, they are asked to provide identifying information as well as details of their travel experience.

The Traveler Inquiry Form (TIF) is an online form that is used to collect requests for redress by the DHS TRIP office, which serves as a centralized intake office for traveler requests to have their personal information reviewed. DHS TRIP then passes the information to the relevant DHS component to process the request, as appropriate (*e.g.,* DHS TRIP passes the form to the appropriate DHS office to initiate the Watch List Clearance Procedure). This collection serves to distinguish misidentified individuals from an actual individual on any watch list used by DHS, and this program helps streamline and expedite future check-in or border crossing experiences.

DHS estimates completing the form, and gathering and submitting the information will take approximately one hour. The annual respondent population was derived from data compiled across all participating components (Transportation Security Administration (TSA), U.S. Customs and Border Protection (CBP), U.S. Citizenship and Immigration Services (CIS), U.S. Immigration and Customs Enforcement (ICE), U.S. Visitor and Immigration Status Indicator Technology (US–VISIT), DHS Office of Civil Rights and Civil Liberties (CRCL), DHS Privacy Office, along with the U.S. Department of State, Bureau of Consular Affairs (DoS)). Thus, the total estimated annual number of burden hours for passengers seeking redress, based on an estimated 32,495 annual respondents, is 32,495 hours (32,495 × 1).

Issued in Arlington, Virginia, on May 14, 2010.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2010–12010 Filed 5–18–10; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Approval of SGS North America, Inc., as a Commercial Gauger

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

ACTION: Notice of approval of SGS North America, Inc., as a commercial gauger.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.13, SGS North America, Inc., 2301 Brazosport Blvd., Suite A 915, Freeport, TX 77541, has been approved to gauge petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories:

http://cbp.gov/xp/cgov/import/operations_support/labs_scientific_svcs/commercial_gaugers/.

DATES: The approval of SGS North America, Inc., as commercial gauger became effective on February 17, 2010. The next triennial inspection date will be scheduled for February 2013.

FOR FURTHER INFORMATION CONTACT: Anthony Malana, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., Suite 1500N, Washington, DC 20229, 202–344–1060.

Dated: May 12, 2010.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2010–12020 Filed 5–18–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

[Docket No. MMS–2009–OMM–0015]

MMS Information Collection Activity: 1010–0051, Oil and Gas Production Measurement, Extension of a Collection; Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0051).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR 250, subpart L, "Oil and Gas Production Measurement," and related documents. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by June 18, 2010.

ADDRESSES: You should submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0051), either by fax (202) 395–5806 or e-mail (*OIRA_DOCKET@omb.eop.gov*).

Please also send a copy to MMS by either of the following methods:

- Electronically go to: *http://www.regulations.gov.* In the entry titled "Enter Keyword or ID," enter docket ID MMS–2009–OMM–0015 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection of information. Include your name and address. Submit comments to *regulations.gov* no later than June 18, 2010. The MMS will post all comments.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference "Information Collection 1010–0051" in your comment and include your name and address.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch, (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, subpart L, Oil and Gas Production Measurement.

OMB Control Number: 1010–0051.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable

return on the resources of the OCS; and to preserve and maintain free enterprise competition. The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701, *et seq.*) at section 1712(b)(2) prescribes that an operator will "develop and comply with such minimum site security measures as the Secretary deems appropriate, to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft." Regulations at 30 CFR part 250, subpart L, implement these statutory requirements. We use the information to ensure that the volumes of hydrocarbons produced are measured accurately, and royalties are paid on the proper volumes. Specifically, MMS needs the information to:

- Determine if measurement equipment is properly installed, provides accurate measurement of production on which royalty is due, and is operating properly;
- Obtain rates of production data in allocating the volumes of production measured at royalty sales meters, which can be examined during field inspections;
- Ascertain if all removals of oil and condensate from the lease are reported;
- Determine the amount of oil that was shipped when measurements are taken by gauging the tanks rather than being measured by a meter;
- Ensure that the sales location is secure and production cannot be removed without the volumes being recorded; and
- Review proving reports to verify that data on run tickets are calculated and reported accurately.

The MMS will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 250.197, Data and information to be made available to the public or for limited inspection, and 30 CFR part 252, OCS Oil and Gas Information Program. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: Varies by section, but primarily monthly, or on occasion.

Description of Respondents: Respondents comprise Federal oil, gas and sulphur lessees and/or operators.

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this information collection is a total of 32,957 hours. The following chart details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 Subpart L	Reporting or recordkeeping requirement	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
Liquid Hydrocarbon Measurement				
1202(a)(1), (b)(1); 1203(b)(1); 1204(a)(1).	Submit application for liquid hydrocarbon or gas measurement procedures or changes; or for commingling of production or changes.	24.5	196 applications.	4,802
Simple		$1,271 simple fee × 55 applications = $69,905.		
Complex		$3,760 complex fee × 141 applications = $530,160.		
No fee	Submit meter status and replacement notifications	5	412 notifications.	2,060
1202(a)(4)	Copy & send pipeline (retrograde) condensate volumes upon request.	1.2	40 volumes	48
1202(c)(1), (2); 1202(e)(4); 1202(h)(1), (2), (3), (4); 1202(i)(1)(iv), (2)(iii); 1202(j).	Record observed data, correction factors & net standard volume on royalty meter and tank run tickets. Record master meter calibration runs Record mechanical-displacement prover, master meter, or tank prover proof runs. Record liquid hydrocarbon royalty meter malfunction and repair or adjustment on proving report; record unregistered production on run ticket. List Cpl and Ctl factors on run tickets	Respondents record these items as part of normal business records & practices to verify accuracy of production measured for sale purposes		0
1202(c)(4)*	Copy & send all liquid hydrocarbon run tickets monthly	10 minutes	20,034 tickets.	3,339
1202(d)(4); 1204(b)(1)	Request approval for proving on a schedule other than monthly; request approval for well testing on a schedule other than every 60 days.	2	550 requests	1,100
1202(d)(5)*	Copy & submit liquid hydrocarbon royalty meter proving reports monthly & request waiver as needed.	15 minutes	8,867 reports/requests.	2,217
1202(f)(2)*	Copy & submit mechanical-displacement prover & tank prover calibration reports.	16.5 minutes	74 reports	20

Citation 30 CFR 250 Subpart L	Reporting or recordkeeping requirement	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
1202(l)(2)*	Copy & submit royalty tank calibration charts before using for royalty measurement.	45 minutes	8 charts	6
1202(l)(3)*	Copy & submit inventory tank calibration charts upon request; retain charts for as long as tanks are in use.	45 minutes	5 charts	4
		10 minutes	82 charts	14
Subtotal			30,268 responses.	13,610 hours.
			$600,065 non-hour cost burdens.	
Gas Measurement				
1203(b)(6), (8), (9)*	Copy & submit gas quality and volume statements monthly or as requested (most will be routine; few will take longer).	15 minutes	21,792 Statements.	5,448
		36 minutes	48	29
1203(c)(1)	Request approval for proving on a schedule other than monthly.	1.2	546 requests	655
1203(c)(4)*	Copy & submit gas meter calibration reports upon request; retain for 2 years.	13 minutes	44 reports	10
		7.5 minutes	19,290 reports.	2,411
1203(e)(1)*	Copy & submit gas processing plant records upon request	1.2	4 records	5
1203(f)(5)	Copy & submit measuring records of gas lost or used on lease upon request.	42 minutes	24 records	17
Subtotal			41,748 responses.	8,575 hours.
Surface Commingling				
1204(a)(2)	Provide state production volumetric and/or fractional analysis data upon request.	6	1 report	6
1205(a)(2)	Post signs at royalty or inventory tank used in royalty determination process.	2	85 signs	170
1205(a)(4)	Report security problems (telephone)	18 minutes	2 calls	1
Subtotal			88 responses	177 hours.
Miscellaneous and Recordkeeping				
1200 thru 1205	General departure and alternative compliance requests not specifically covered elsewhere in subpart L.	1.3	60 requests	78
1202(e)(6)	Retain master meter calibration reports for 2 years	23 minutes	1,420	544
1202(k)(5)	Retain liquid hydrocarbon allocation meter proving reports for 2 years.	10 minutes	10,875	1,813
1203(f)(4)	Document & retain measurement records on gas lost or used on lease for 2 years at field location and minimum 7 years at location of respondent's choice.	15 minutes	4,045	1,011
1204(b)(3)	Retain well test data for 2 years	6.7 minutes	57,400	6,410
1205(b)(3), (4)	Retain seal number lists for 2 years	5 minutes	8,870	739
Subtotal			82,670 responses.	10,595 hours.
Total Burden			154,774 responses.	32,957 hours.

Citation 30 CFR 250 Subpart L	Reporting or recordkeeping requirement	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours (rounded)
			$600,065 Non-Hour Cost Burdens.	

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified two non-hour cost burdens, both of which are cost recovery fees. Note that the actual fee amounts are specified in 30 CFR 250.125, which provide a consolidated table of all the fees required under the 30 CFR part 250 regulations. The non-hour cost burden total in this collection of information is an estimated $600,065. The cost burdens are for: (1) Filing fees associated with submitting requests for approval of simple applications (applications to temporarily reroute production (for a duration not to exceed 6 months); production tests prior to pipeline construction; departures related to meter proving, well testing, or sampling frequency ($1,271 per application)) or, (2) submitting a request for approval of a complex application (creation of new facility measurement points (FMPs); association of leases or units with existing FMPs; inclusion of production from additional structures; meter updates which add buyback gas meters or pigging meters; other applications which request deviations from the approved allocation procedures ($3,760 per application)).

We have not identified any other non-hour paperwork cost burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *" Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on November 3, 2009, we published a **Federal Register** notice (74 FR 56858) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 provides the OMB control number for the information collection requirements imposed by the 30 CFR 250 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by June 18, 2010.

Public Availability of Comments: Before including your address, phone number, email 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.

MMS Information Collection Clearance Officer: Arlene Bajusz, (202) 208–7744.

Dated: April 1, 2010.

Doug Slitor,

Acting Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2010–11921 Filed 5–18–10; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan; Joshua Tree National Park; San Bernardino and Riverside Counties, CA; Notice of Intent To Prepare Environmental Impact Statement

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(C), the National Park Service is updating the General Management Plan (GMP) for Joshua Tree National Park, California. The new GMP will update the overall direction for the park approved in 1995, refining goals and objectives for managing the park over the next 15 to 20 years. The GMP will prescribe desired resource conditions and visitor experiences that are to be achieved and maintained throughout the park based on such factors as the park's purpose, significance, special mandates and the body of laws and policies directing park management and resource analysis, other designations such as establishment of 594,502 acres by Congress as Wilderness, and the spectrum of public expectations and concerns. The GMP also will outline the kinds of resource management activities, visitor activities, and developments that would be appropriate and sustainable in the park in the future.

SUPPLEMENTARY INFORMATION: A range of reasonable alternatives for managing the park will be developed by the National Park Service (NPS) through this conservation planning and environmental impact analysis process, and which will include, at a minimum, no-action and agency-preferred alternatives. Major issues the GMP will address include changes in visitor use patterns, adequacy and sustainability of existing visitor facilities and park operations, management of natural and cultural resources, collaboration and partnership opportunities, Wilderness stewardship goals, evaluation of park boundaries, and pro-active planning in response to climate change. The environmental impact statement (EIS) will evaluate the potential environmental consequences of the

alternative management approaches and identify all possible measures to avoid or minimize harm; an "environmentally preferred" alternative will also be identified.

Early in this scoping period the NPS will distribute a GMP newsletter to neighboring communities, state and federal agencies, associated American Indian tribes, County commissioners, local organizations, researchers and institutions, the Congressional delegation, and other interested members of the public. In addition, five public scoping meetings will be hosted during May 17–21, 2010, to provide opportunities for interested persons to learn about the proposed update of the GMP. Specific times and locations will be announced in the local and regional media, and details will be included in the GMP newsletter and also posted on the project Web site *http://www.nps.gov/jotr* (details may also be obtained by telephone, as noted below).

Scoping Comments and Dates: General park information requests or requests to be added to the GMP mailing list should be directed to Karin Messaros, Management Assistant, Joshua Tree National Park, Joshua, 74485 National Park Drive, Twentynine Palms, California 92277. Telephone: (706) 367–5512. General information about Joshua Tree National Park is also available on the internet at *http://www.nps.gov/jotr.* If you wish to provide relevant information or suggest any issues to be considered in updating the GMP, you may submit your comments by any one of several methods: (1) Mail comments to Management Assistant Karen Messaros (address as noted above); (2) transmit via the internet to *karin_messaros@nps.gov* or *http://parkplanning.nps.gov/jotr;* (3) hand-deliver comments to park headquarters at Joshua Tree National Park, 74485 National Park Drive, Twentynine Palms, California 92277, or deliver at any of the public meetings. All written comments must be postmarked or transmitted not later than August 31, 2010. 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.

Decision Process: Following due consideration of all public and agency comments as may be forthcoming; a draft EIS/GMP will be prepared. Availability would be announced through the Federal Register as well as via direct mailing, Web site postings, and through local and regional press media. After an opportunity for public review, a final EIS/GMP would be prepared. As a delegated EIS, the official responsible for the final decision on the plan update is the Regional Director, Pacific West Region; subsequently the official responsible for implementation of the updated GMP would be the Superintendent, Joshua Tree National Park.

Dated: April 5, 2010.

Cicely A. Muldoon,

Acting Regional Director, Pacific West Region.

[FR Doc. 2010–11955 Filed 5–18–10; 8:45 am]

BILLING CODE 4310–EK–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Cachuma Lake Resource Management Plan, Santa Barbara County, CA

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement (EIS).

SUMMARY: Pursuant to the National Environmental Policy Act, the Bureau of Reclamation (Reclamation) has made available the Final EIS for the Cachuma Lake Resource Management Plan (RMP). The RMP involves alternatives for future use of the project area for recreation and resource protection and management.

A Notice of Availability of the Draft EIS was published in the **Federal Register** on July 25, 2008 (73 FR 43472). The written comment period on the Draft EIS ended on September 23, 2008. On October 9, 2008 a notice was published in the **Federal Register** (73 FR 59669) extending the comment period on the Draft EIS until October 31, 2008. The Final EIS contains responses to all comments received and reflects comments and any additional information received during the Draft EIS review period.

DATES: Reclamation will not make a decision on the proposed action until at least 30 days after release of the Final EIS. After the 30-day wait period, Reclamation will complete a Record of Decision (ROD). The ROD will state the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: Send requests for a compact disc copy of the Final EIS to Mr. Jack Collins, Bureau of Reclamation, 1243 N Street, Fresno, CA 93721.

Copies of the Final RMP/EIS will be available at: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=283.* See the **SUPPLEMENTARY INFORMATION** section for locations where copies of the Final EIS are available.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Collins, Bureau of Reclamation, Monday through Friday, 7 a.m. to 1 p.m., at (559) 349–4544 (TDD (559) 487–5933) or *jwcollins@usbr.gov.*

SUPPLEMENTARY INFORMATION: Cachuma Lake is an existing reservoir formed by Bradbury Dam, and located in Santa Barbara County, California. The dam, which provides irrigation, domestic, and municipal and industrial water supplies to the City of Santa Barbara, Goleta Water District, Montecito Water District, Carpinteria Valley Water District, and Santa Ynez River Water Conservation District, was constructed in the 1950s. The Cachuma Project has delivered an average of 25,000 acre-feet per year over the past 45 years and encompasses approximately 9,250 acres. In 1956, operation and maintenance of the Cachuma project was transferred from Reclamation to the Cachuma Operation and Maintenance Board. Reclamation still retains ownership of all project facilities and is responsible for the operation of the dam. The RMP will have a planning horizon of 20 years.

The new RMP would: (1) Ensure safe storage and timely delivery of high-quality water to users while enhancing natural resources and recreational opportunities; (2) protect natural resources while educating the public about the value of good stewardship; (3) provide recreational opportunities to meet the demands of a growing, diverse population; (4) ensure recreational diversity and the quality of the experience; and (5) provide the updated management considerations for establishing a new management agreement with the managing partner.

The Final EIS is a program-level analysis of the potential environmental impacts associated with adoption of the RMP. The Final EIS outlines the formulation and evaluation of alternatives designed to address these issues by representing the varied interests present at the Plan Area and identifies Alternative 2 (Enhancement) as the Preferred Alternative. The RMP is intended to be predominately self-mitigating through implementation of RMP management actions and strategies, and the EIS also includes

measures intended to reduce the adverse effects of the RMP.

Copies of the Final EIS are available at the following locations:

- Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 94825.
- Bureau of Reclamation, South-Central California Area Office, 1243 N. Street, Fresno, CA 93721.
- Cachuma Lake State Recreation Area, Highway 154, Santa Barbara, CA 93454.
- Santa Maria Public Library, Central Location, 420 South Broadway Avenue, Santa Maria, CA 93454.
- Santa Barbara Public Library, 40 East Anapamu Street, Santa Barbara, CA 93101.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW., Main Interior Building, Washington, DC 20240–0001.

Before including your name, address, phone number, e-mail address, or other personal identifying information in any correspondence, you should be aware that your entire correspondence—including your personal identifying information—may be made publicly available at any time. While you ask us in your correspondence to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 21, 2010.

David W. Gore,

Assistant Regional Director, Mid-Pacific Region.

[FR Doc. 2010–11994 Filed 5–18–10; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW179009]

Notice of Invitation To Participate; Coal Exploration License Application WYW179009, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation to Participate in Coal Exploration License.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Bridger Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America.

DATES: This notice of invitation will be published in the Rock Springs Daily Rocket-Miner once each week for 2 consecutive weeks beginning the week of May 17, 2010, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the BLM and Bridger Coal Company, as provided in the **ADDRESSES** section below, no later than 30 days after publication of this invitation in the **Federal Register**.

ADDRESSES: Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW179009): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901. The written notice to participate should be sent to the following addresses: Bridger Coal Company, c/o Interwest Mining Company, Attn: Scott Child, 1407 West North Temple, Suite 310, Salt Lake City, UT 84116, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, at 307–775–6258.

SUPPLEMENTARY INFORMATION: The purpose of the exploration program is to obtain structural and quality information of the coal. The Federal coal resources included in the exploration license application are located in the following described lands:

T. 22 N., R. 101 W., 6th P.M., Wyoming

Sec. 34: W½.

Containing 320 acres, more or less, in Sweetwater County, WY.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM.

Authority: 43 CFR 3410.2–1(c)(1).

Larry Claypool,

Deputy State Director, Minerals and Lands.

[FR Doc. 2010–11995 Filed 5–18–10; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLIDB00000 L17110000.PH0000 LXSS024D0000]

Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U.S. Department of the Interior

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC), will hold a meeting as indicated below.

DATES: The meeting will be held June 9, 2010 at the Boise District Offices beginning at 9 a.m. and adjourning at 4:30 p.m. Members of the public are invited to attend. A comment period will be held following the Field Office Updates.

FOR FURTHER INFORMATION CONTACT: MJ Byrne, Public Affairs Officer and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho. Items on the agenda will include reports by the RAC's Resource Management Plan, Off Highway Vehicle and Transportation Management, and Permit Renewal/Litigation subgroups. Updates on the status of Economic Recovery and Reinvestment Act of 2009 (ARRA) projects in the Boise District, and on actions related to the implementation of the Owyhee Public Lands Management Act (OMA) will be provided. Field Office managers will provide highlights for discussion on activities in their offices. Agenda items and location may change due to changing circumstances. All RAC meetings are open to the public. The public may present written or oral comments to members of the Council. At each full RAC meeting, time is provided in the agenda for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, should

contact the BLM Coordinator as provided above.

David Wolf,

Associate District Manager.

[FR Doc. 2010–11964 Filed 5–18–10; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1159 (Final)]

Certain Oil Country Tubular Goods From China; Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from China of certain oil country tubular goods ("OCTG"), primarily provided for in subheadings 7304.29, 7305.20, and 7306.29 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold at less than fair value.[2] [3]

Background

The Commission instituted this investigation effective April 8, 2009, following receipt of a petition filed with the Commission and Commerce by Maverick Tube Corporation, Houston, TX; United States Steel Corporation, Pittsburgh, PA; V&M Star LP, Houston, TX; V&M Tubular Corporation of America, Houston, TX; TMK IPSCO, Camanche, IA; Evraz Rocky Mountain Steel, Pueblo, CO; Wheatland Tube Corp., Wheatland, PA; and the United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC, Pittsburgh, PA. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of certain OCTG from China were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 30, 2009 (74 FR 50242). Following notification of a preliminary determination by Commerce that imports of OCTG from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)) (74 FR 59117, November 17, 2009), the Commission issued additional scheduling dates with respect to the antidumping duty investigation (74 FR 67248, December 18, 2009). The hearing was held in Washington, DC, on December 1, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 14, 2010. The views of the Commission are contained in USITC Publication 4152 (May 2010), entitled *Certain Oil Country Tubular Goods From China: Investigation No. 731–TA–1159 (Final).*

By order of the Commission.

Issued: May 14, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–11968 Filed 5–18–10; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Charlotte R. Lane and Irving A. Williamson determine that the domestic OCTG industry is materially injured by reason of imports of the subject merchandise from China. They make a negative finding with respect to critical circumstances.

[3] Chairman Shara L. Aranoff, Vice Chairman Daniel R. Pearson, Commissioner Deanna Tanner Okun, and Commissioner Dean A. Pinkert determine that they would not have found material injury but for the suspension of liquidation.

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–717]

In the Matter of Certain Digital Imaging Devices and Related Software; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 15, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Apple Inc., f/k/a Apple Computer, Inc. of Cupertino, California. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain digital imaging devices and related software by reason of infringement of certain claims of U.S. Patent Nos. 6,031,964 and RE38,911. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Vu Q. Bui, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2571.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2010).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 12, 2010, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain digital imaging devices and related software that infringe one or more of claim 1–3 and 5–8 of U.S. Patent No. 6,031,964 and claims 15–22, 27, 30–32, 38, and 39 of U.S. Patent No. RE 38,911, and whether an industry in the United States exists

as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Apple Inc., f/k/a Apple Computer, Inc., 1 Infinite Loop, Cupertino, CA 95014.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Eastman Kodak Company, 343 State Street, Rochester, NY 14650.

(c) The Commission investigative attorney, party to this investigation, is Vu Q. Bui, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: May 14, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–11969 Filed 5–18–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–515]

Actual Effects of the Free Trade Agreements With Chile, Australia, and Singapore

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

SUMMARY: Following receipt of a request on April 13, 2010 from the United States Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332 (g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332–515, *Actual Effects of the Free Trade Agreements with Chile, Australia, and Singapore.*

DATES: July 15, 2010: Deadline for filing written submissions. December 13, 2010: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov/edis3-internal/app.*

FOR FURTHER INFORMATION CONTACT: Project Leader Jennifer Baumert Powell (202–205–3450 or *jennifer.powell@usitc.gov*) or Deputy Project Leader Linda White (202–205–3427 or *linda.white@usitc.gov*) for information specific to this investigation. 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: As requested by the USTR, the Commission will conduct an investigation and provide a report on the actual effects of the free trade agreements (FTAs) concluded with Chile, Singapore, and Australia. In its report the Commission will—

(1) With respect to each of the FTAs, and for certain goods for which the United States agreed to phase out its tariffs and other market barriers over an extended period of time, examine U.S. imports of these goods, identify any apparent anomalies in U.S. import levels, and discuss the possible causes for these anomalies; in identifying whether an import level is anomalous, the Commission will consider factors affecting such levels, such as tariff changes, trade changes in similar products, changes in trade of the same product with other trading partners, or other relevant indicators of trade flows;

(2) With respect to each of the FTAs, and for certain goods for which the other party agreed to phase out its tariffs and other market access barriers over an extended period of time, examine U.S. exports of these goods, identify any apparent anomalies in U.S. export levels, and indicate the possible causes for these anomalies, taking into account the factors identified above;

(3) Consider the existence of other apparently anomalous levels of U.S. exports to the other FTA party, e.g., where the immediate elimination of tariffs and significant market access barriers to trade in a particular product resulted in little or no increase in U.S. exports, or where U.S. exports increased significantly in tariff lines where little or no reduction in tariffs occurred as the result of the FTA; the Commission will identify such apparently anomalous situations and indicate the possible causes, to the extent possible, and if possible, will identify and examine unexpected results in the performance of U.S. services exports.

The USTR asked that the Commission deliver its report within eight months of receipt of the request (by December 13, 2010). The USTR indicated that the portions of the Commission's report and working papers that relate to the identification and possible causes of the apparent anomalies and anomalous situations will be classified as "confidential." The USTR also stated that he considers the Commission's report to be an inter-agency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

Written Submissions: In lieu of a hearing, interested parties are invited to submit written statements concerning this investigation. All written

submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., July 15, 2010. All written submissions must conform with the provisions of section 201.8 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (*see* the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook on Electronic Filing Procedures, *http://www.usitc.gov/docket_services/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information (CBI) 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.

Some or all of the CBI that the Commission receives in this investigation may be included in the report that the Commission sends to the USTR. However, any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

Issued: May 13, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–11971 Filed 5–18–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–669]

In the Matter of Certain Optoelectronic Devices, Components Thereof, and Products Containing the Same; Notice of Commission Decision Not To Review a Final Initial Determination Finding a Violation of Section 337; Request for Written Submissions Regarding Remedy, Bonding, and the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review a final initial determination ("ID") of the presiding administrative law judge ("ALJ") finding a violation of section 337 in the above-captioned investigation, and is requesting written submissions regarding remedy, bonding, and the public interest.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2310. 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 at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* 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 this investigation on March 10, 2009 based on a complaint filed on February 3, 2009, by Avago Technologies Fiber IP (Singapore) Pte. Ltd. of Singapore; Avago Technologies General IP (Singapore) Pte. Ltd. of Singapore; and Avago Technologies Ltd. of San Jose, California. 74 FR 10278–79 (March 10, 2009). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain optoelectronic devices, components thereof, or products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 5,359,447 ("the '447 patent") and 5,761,229 ("the '229 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337. The complaint names a single respondent, Emcore Corporation ("Emcore") of Albuquerque, New Mexico.

On December 7, 2009, the Commission issued notice of its determination not to review the ALJ's ID granting complainants' motion for summary determination on ownership of the asserted patents.

On March 12, 2010, the ALJ issued his final ID finding a violation of section 337 by Emcore by reason of infringement of one or more of claims 1, 2, 3, and 5 of the '447 patent. The ALJ found no violation of section 337 with respect to the '229 patent. He also issued his recommendation on remedy and bonding during the period of Presidential review. On March 29, 2010, Emcore and the Commission investigative attorney ("IA") filed petitions for review of the final ID. The IA and complainants filed responses to the petitions on April 6, 2010. The Commission has determined not to review the subject ID.

In connection with the final disposition of this investigation, the Commission may issue an order that results in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see In the Matter of Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles

that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

When the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* section 337(j), 19 U.S.C. 1337(j) and the Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding, and such submissions should address the recommended determination by the ALJ on remedy and bonding. The complainant and the IA are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the dates that the patents at issue expire and the HTSUS numbers under which the accused articles are imported. The written submissions and proposed remedial orders must be filed no later than close of business on May 24, 2010. Reply submissions must be filed no later than the close of business on June 1, 2010. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

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: May 13, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–11973 Filed 5–18–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1070B (Review)]

Certain Tissue Paper Products From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on certain tissue paper products from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on certain tissue paper products from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: Effective Date: May 7, 2010.

FOR FURTHER INFORMATION CONTACT: Keysha Martinez (202–205–2136), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: *Background.*—On May 7, 2010, the Commission determined that the domestic interested party group response to its notice of institution (75 FR 5115, February 1, 2010) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on June 3, 2010, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before June 8, 2010 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by June 8, 2010. However, should the Department of Commerce extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has found the responses submitted by Eagle Tissue LLC, Flower City Tissue Mills Co., Garlock Printing & Converting, Inc., Putney Paper Co., Ltd., and Seaman Paper Co. of Massachusetts, Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.
Issued: May 13, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–11970 Filed 5–18–10; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (a portion of which will be open to the public) in Washington, DC at the Office of Professional Responsibility on June 28 and June 29, 2010.

DATES: Monday, June 28, 2010, from 9 a.m. to 5 p.m., and Tuesday, June 29, 2010, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 202–622–8225.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in at the Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC on Monday, June 28, 2010, from 9 a.m. to 5 p.m. and Tuesday, June 29, 2010, from 8:30 a.m. to 5 p.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to review the May 2010 Basic (EA–1) and Pension (EA–2B) Joint Board Examinations in order to make recommendations relative thereto, including the minimum acceptable pass score. Topics for inclusion on the syllabus for the Joint Board's examination program for the November 2010 Pension (EA–2A) Examination will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the portions of the meeting dealing with the discussion of questions that may appear on the Joint Board's examinations and the review of the May 2010 Joint Board examinations fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the other topics will commence at 1 p.m. on June 29 and will continue for as long as necessary to complete the discussion, but not beyond 3 p.m. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements must notify the Executive Director in writing prior to the meeting in order to aid in scheduling the time available and must submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All other persons planning to attend the public session must also notify the Executive Director in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be faxed, no later than June 19, 2010, to 202–622–8300, *Attn:* Executive Director. Any interested person also may file a written statement for consideration by the Joint Board and the Committee by sending it to the Executive Director: Joint Board for the Enrollment of Actuaries, c/o Internal Revenue Service, *Attn:* Executive Director SE:OPR, Room 7238, 1111 Constitution Avenue, NW., Washington, DC 20224.

Dated: May 6, 2010.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2010–11922 Filed 5–18–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on May 3, 2010, a proposed consent decree in *United States* v. *T. Frank Flippo & Sons, LLC,* Civil Action No. 3:10–cv–292 was lodged with the United States District Court for the Eastern District of Virginia.

In this action the United States sought the implementation of land use restrictions at the HH Burn Pit Superfund Site located in Hanover, Virginia. The consent decree would resolve the litigation in exchange for implementation of land use restrictions at the site, the filing of a notice to successors in title, and a commitment by the defendant to retain a restrictive easement in the event that defendant conveys the property.

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. *T. Frank Flippo & Sons, LLC* D.J. Ref. 90–11–3–1408/3.

The consent decree may be examined at the Office of the United States Attorney, 600 East Main Street, Richmond, Virginia, and at U.S. EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania. 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 $10.00 (25 cents per

page reproduction cost) payable to the U.S. Treasury or, if by email 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. 2010–11947 Filed 5–18–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Proposed Consent Decree and Proposed Order on Consent Under The Clean Water Act

Notice is hereby given that, on May 12, 2010, a proposed Consent Decree in *United States and State of New York* v. *City of Oswego, New York,* Civil Action No. 5:10–cv–554, was lodged with the United States District Court for the Northern District of New York.

The proposed Consent Decree will settle the United States' claims on behalf of the U.S. Environmental Protection Agency ("EPA") for violations of Section 301(a) of the CWA, 33 U.S.C. 1311(a), in connection with unpermitted discharges from the City's west side sewer system and failure to comply with a National Pollutant Discharge Elimination System ("NPDES") permit. The State of New York joined the United States as co-plaintiff, pursuant to Section 309(e) of the CWA, 33 U.S.C. 1319(e), and the New York State Environmental Conservation Law ("ECL"), Sections 17–0701 and 17–0803. The Consent Decree resolves all claims in the Complaint, in return for payment by the City of a civil penalty of $99,000, to be split evenly between the United States and the State, and performance by the City of corrective actions valued at $87 million.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication. Comments on the Consent Decree 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 and State of New York* v. *City of Oswego, New York,* Civil Action No. 5:10–cv–554 (N.D.N.Y.), D.J. Ref. No. 90–5–1–1–08609.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Northern District of New York, 100 South Clinton Street, Syracuse, New York 13261, and at EPA, Region 2, 290 Broadway, New York, New York 10007–1866. During the public comment period, the proposed 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 Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone number (202) 514–1547. If requesting a copy by mail from the Consent Decree Library, please enclose a check in the amount of $18.50 ($0.25 per page reproduction cost) payable to the United States Treasury or, if requesting by e-mail or fax, forward the check in that amount to the Consent Decree Library at the address stated above. If requesting a copy exclusive of appendices, please enclose a check in the amount of $16.00 ($0.25 per page reproduction cost) payable to the United States Treasury.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–11948 Filed 5–18–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 06–55]

M & N Distributors; Dismissal of Proceeding

On March 16, 2006, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to M & N Distributors (Respondent), of Springfield, Tennessee. The Order to Show Cause proposed the revocation of Respondent's DEA Certificate of Registration as a distributor of list I chemicals on the ground that its continued registration "is inconsistent with the public interest, as that term is used in 21 U.S.C. 823(h)." Order to Show Cause at 1.

More specifically, the Show Cause Order made three major allegations against Respondent. First, it alleged that on November 22, 2005, Agency Investigators performed an accountability audit of Respondent's handling of three listed-chemical products and found an overage of "732 bottles (more than five cases) of one 36-count combination ephedrine product." *Id.* at 2. Next, the Show Cause Order alleged that in June 2003, Respondent "reported a loss of a case of 144 bottles of ephedrine, which [Respondent] indicated fell out the back door of his truck" and that "this product was never recovered." *Id.*

Finally, the Show Cause Order alleged that between 2001 and 2005, DEA retained an expert "in the field of retail marketing and statistics" "to analyze national sales data for over-the-counter non-prescription drugs" and that based on his "study of hundreds of Tennessee retailers," the expert had concluded "that these retail stores had made purchases of listed chemical products far in excess of amounts of product that could be reasonably sold for legitimate purposes in stores of these [sic] kind in Tennessee." *Id.* at 3. The Order further alleged that "DEA has observed that many smaller or non-traditional stores, such as * * * gas stations [ ] and some small markets, purchase inordinate amounts of these products and become conduits for the diversion of listed chemical[s] into illicit drug manufacturing." *Id.* Because Respondent's owner "told investigators that he had approximately 120 convenience store and gas station customers located in Tennessee and Kentucky," *id.* at 2, the Order implied, without ever expressly alleging, that Respondent sold listed chemical products "far in excess of amounts of product that could be reasonably sold for legitimate purposes." *Id.* at 3.[1]

On April 5, 2006, Respondent's owner, Charles Ramsey, requested a hearing on the allegations and the matter was placed on the docket of the Agency's Administrative Law Judges (ALJ). ALJ Ex. 2. Thereafter, on June 5, 2006, Counsel for Respondent entered his appearance, ALJ Ex. 3, and following pre-hearing procedures, a hearing was held before an ALJ in Nashville, Tennessee on August 23 and 24, 2006. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, both parties filed briefs containing their proposed findings, conclusions of law, and argument.

On December 16, 2008, the ALJ issued her Recommended Decision. Therein, the ALJ concluded that the Government had not proved that the continuation of

[1] In her Decision, the Administrative Law Judge (ALJ) formulated the issue as "whether the Respondent sold quantities of listed chemical product which it knew, or should have known, exceeded quantities that could be sold by its customers for legitimate use." ALJ at 31 (citing Gov't Br. at 9).

Respondent's registration would be inconsistent with the public interest. ALJ at 42. With respect to factor one—the maintenance of effective controls against diversion—the ALJ found that Respondent provided adequate security for the listed chemical products it distributed, and that while Respondent had once lost a case of a product (three years earlier), he had reported the loss and taken corrective action to prevent a reoccurrence. *Id.* at 29. With respect to Respondent's recordkeeping, the ALJ found unproven the Government's contention that its audit of Respondent's handling of three products had found that it had an overage of 732 bottles of one product. *Id.* at 30. The ALJ further found, however, that Respondent's "perpetual inventory logs * * * are difficult to decipher" and "that at least one of the log pages does not include the name of the product it purports to track." *Id.* at 29–30. The ALJ nonetheless concluded that Respondent maintains effective controls against diversion and that this factor supported its continued registration. *Id.* at 30.

As to factor two—Respondent's compliance with applicable Federal, State and local law—the ALJ noted that the record contained no direct evidence of violations of such laws. *Id.* Similarly, as to factor three—Respondent's record of convictions for offenses related to controlled substance or listed chemicals—the ALJ noted that neither Respondent, nor its owner, has been convicted of a crime related to the handling of listed chemical products. *Id.* at 31. The ALJ thus found that both factors two and three supported Respondent's continued registration. *Id.*

As to factor four—Respondent's past experience in the distribution of listed chemicals—the ALJ framed the issue as whether Respondent had sold "quantities of listed chemical products which it knew, or should have known, exceeded quantities that could be sold by its customers for legitimate use." *Id.* Noting that the Government's proof was based on two affidavits of an expert witness whose methodology was subsequently founding wanting (at least with respect to combination ephedrine products) in a subsequent case (*Novelty Distributors,* 73 FR 52689 (2008)), ALJ at 33–34, and that these affidavits contained "numerous opinions without stating the bases for those opinions," *id.* at 35, as well as inconsistencies between their conclusions, *id.* at 35–36, the ALJ found that the Government had not established a valid baseline for average monthly sales per store and therefore had not shown that "Respondent sold listed chemical products in amounts sufficient to support an inference of diversion." *Id.* at 38. The ALJ thus concluded that "this factor does not weigh against the continuation of * * * Respondent's registration." *Id.* at 39.

As to the final factor—other factors relevant to, and consistent with, the public health and safety—the ALJ noted that "the Government has failed to prove by a preponderance of the evidence that Respondent engaged in excessive sales or created a serious risk of diversion in its handling of listed chemical products." *Id.* at 41. The ALJ further explained that "Respondent's sales alone do not lead to the conclusion that continuing * * * Respondent's registration would create a substantial risk to the public health and safety." *Id.*

The ALJ thus concluded that the Government had failed to meet "its burden of proof in showing that the Respondent's continued registration would be against the public interest." *Id.* at 42. Nonetheless, while acknowledging that Respondent's perpetual inventory log "exceeded the DEA's recordkeeping practices," because "the incomplete and illegible nature of some of its logs render an accurate assessment of its accountability extremely difficult," the ALJ recommended that I "admonish * * * Respondent to improve its recordkeeping." *Id.* at 42–43. The ALJ further recommended that Respondent's registration be continued subject to three conditions: (1) That it is only authorized to distribute soft gel products; (2) that it improve its recordkeeping so that its sales records are "clearly legible," and that both "the product sold" and the customer are "clearly identified"; and (3) that for a period of one year, Respondent consent to inspections "based on a Notice of Inspection rather than an Administrative Inspection Warrant." *Id.* at 43.

Neither party filed exceptions to the ALJ's decision. Thereafter, the record was forwarded to me for final agency action.

Having considered the entire record in this matter, I adopt the ALJ's conclusions of law with respect to each of the statutory factors except for the following: The final paragraph of her discussion of factor four, which suggests that a registrant cannot be charged with knowledge that its products were being diverted based on its sales levels unless the Agency publishes a regulation or provides "other information" to the registrant, as well as her discussion to the effect that the Government must show, through "direct evidence * * * that methamphetamine has *actually* been made in an illicit methamphetamine laboratory from soft gel listed chemical products" to sustain a finding that the continuation of a registration is inconsistent with the public interest. ALJ at 42. Finally, while I agree with the ALJ that the Government has not established that Respondent's continued registration is inconsistent with the public interest, *id.* at 43, I further conclude that the conditions she recommended are not supported by the record. *Id.* I make the following findings.

Findings

Both pseudoephedrine and ephedrine are lawfully marketed as non-prescription drug products under the Food, Drug and Cosmetic Act. GX 13, at 3–4. Pseudoephedrine is approved for marketing as a decongestant; ephedrine (in combination with guaifenesin) is approved for marketing as a bronchodilator. *Id.* Both chemicals are, however, regulated as list I chemicals under the Controlled Substances Act (CSA) because they are precursor chemicals that are extractable from non-prescription drug products and used in the illicit manufacture of methamphetamine, a schedule II controlled substance. *Id.* at 7–8; *see also* 21 U.S.C. 802(34)(C) & (K); 21 CFR 1308.12(d).

Respondent is a wholesale distributor of items such as lighters, tobacco products, toys, sunglasses, hats, and list I chemical products which include pseudoephedrine and ephedrine. Tr. 310. Mr. Charles Ramsey has owned the business since 1980 and is its sole owner and employee.[2] *Id.* at 309. Mr. Ramsey operates Respondent from his residence in Springfield, Tennessee, which is also its DEA-registered location. *Id.* at 316; GXs 23 & 24.

Respondent has held a DEA registration to distribute list I chemicals since June 17, 1999. ALJ Ex. 12. Respondent's current certificate of registration was to expire on January 31, 2007. RX 6. However, on December 12, 2006, Respondent filed a renewal application. ALJ Ex. 12. In accordance with the Administrative Procedure Act and DEA regulations, I find that Respondent's registration has remained in effect pending the issuance of this Final Order. 5 U.S.C. 558(c); 21 CFR 1309.45.

As of the hearing, Respondent had approximately 120 customers, the majority of which were convenience stores and grocery stores. Tr. 311–12, 398. Respondent carried single-dosage

[2] Mr. Ramsey has never been convicted of a crime under State or Federal law related to the handling of listed chemical products or controlled substances; nor has anyone residing in his residence been convicted of such a crime. Tr. 320.

packages of Dayquil Sinus, which contains pseudoephedrine, and six-count and twelve-count boxes of Rapid Action, a product which combines 25 milligrams of ephedrine with guaifenesin. *Id.* at 310–11. However, prior to passage of the Tennessee Meth Free Act ("the Act") in 2005, Respondent distributed 36-count bottles of Rapid Action. *Id.* at 311. In addition, Respondent previously carried the ephedrine products BronchEze and Twin Tab. *Id.* Since the passage of the Act, Respondent has sold list I gel-cap, or "liquid," products to its Tennessee customers in a twelve-count blister box or a six-counter blister pack. *Id.* at 311–12, 351–53; RX 1.

List I chemical products represented less than ten percent of Respondent's gross sales in 2004; of its estimated gross sales of $300,000, approximately $20,000 to $25,000 came from sales of list I chemical products. *Id.* at 399. Subsequent to passage of the Act, Respondent's sales of ephedrine products decreased but remained its single largest selling product. *Id.* at 399–400.[3]

On May 24, 2003, Respondent reported to DEA that three days earlier, he had lost a case (144 bottles) of sixty-count Max Brand Two Way, a combination ephedrine product. GX 24. Respondent submitted the report on the appropriate form and attached a separate letter which explained the circumstances of the loss,[4] how he discovered it, and the efforts he had undertaken to find the lost product. *Id.* at 3. Respondent further explained the corrective action he had taken to prevent a reoccurrence. *Id.* at 1. Respondent also explained that he did not report the incident to the local sheriff because he did not believe that the products had been stolen.[5] *Id.* at 3. Respondent had not experienced any further losses up through the date of the hearing. Tr. 346; ALJ at 8.

On November 22, 2005, two DEA Diversion Investigators (DIs) went to Respondent's registered location to conduct an inspection. Tr. 139–40. The DIs met with Mr. Ramsey and presented him with a Notice of Inspection. *Id.* at 141. The DIs questioned Mr. Ramsey about the nature of his business, inspected the physical security (which was clearly adequate[6]), and examined his records. *Id.* at 140–45. The DIs also told Mr. Ramsey that they would be doing an audit; the DIs thus took an inventory of the listed chemical products he had on hand (which Mr. Ramsey agreed with), which was to be used as the closing inventory. The DIs also obtained copies of his records which included his purchase invoices and a "perpetual inventory"; the latter provided a running list of sales of each product by date, store, quantity, and invoice number. *Id.* at 141, 145–46, 149–53; GX 22; RX 4.

To perform the audit, the DI used January 1, 2005 as the starting date; because Respondent did not then have any products on hand, he assigned a value of zero for each of the products. Tr. 151–52; GX 22, at 2. Based on his review of Respondent's invoices documenting its purchases from its suppliers, which was added to the zero opening inventory figure for each product, the DI calculated the total amount of each product for which Respondent was accountable and entered the figures on the Computation Chart.[7] Tr. 152–54; GX 23. The DI also reviewed Respondent's perpetual inventory to calculate its sales of listed chemical products and added these figures to the closing inventory to calculate the total amount that Respondent could account for. Tr. 145, 153–54; RX 3.

The DI then compared the figures for each of the three products. GX 23. While the audit found that two of the products balanced, the audit found an overage of 732 bottles of the 36-count Rapid Action Ephedrine 2-Way product. *Id.* According to the DI, "in theory" this suggests that Respondent had distributed 732 more bottles than it purchased. However, because this is not possible, such an overage could result from a delivery of product with no invoice from its supplier, a lost invoice, or mistaken documentation such as recording the sale of one product as a different product. Tr. 154–55.

Mr. Ramsey disputed the accuracy of the audit. While he agreed with the DI's figures for Respondent's purchases of Rapid Action bottles and the closing inventory, Mr. Ramsey maintained that when he attempted to recreate the Government's audit, his results did not match. Tr. 326, 334, 357, 367; *see also* GX 23. According to Mr. Ramsey, his total amount of the distributions during the audit period was 11,328 bottles and not the DI's figure of 12,048 bottles. Tr. 367–71. Moreover, his figure for the "Total List I accounted for" was just 12,240 bottles and not 12,972 as the DI had found. Tr. 328; *see also* GX 23.

In his testimony, Mr. Respondent suggested several reasons for why the DI found the overage. Tr. 329–33. First, Mr. Ramsey claimed that the DI had apparently not accounted for a return of twelve bottles, which reduced the discrepancy in the results from 732 to just 720 bottles. *Id., see also* RX 4, at 4 (invoice documenting return of twelve bottles). As for the remaining 720-bottle overage, Mr. Ramsey suggested two explanations. First, that the DI could have erroneously added in 720 bottles of BronchEze to the total amount of the distributions. Tr. 332; *see also* RX 3, at 25 (listing sales of BronchEze during July 2005).[8] Second, that the DI could have erroneously added in two other distributions it received (for 288

[3] The ALJ found that the Government produced no evidence that any list I chemical products distributed by Respondent have been found at illicit methamphetamine laboratories or that the particular brands of soft-gel listed chemical products distributed by Respondent were either discovered at an illicit methamphetamine laboratory or successfully used to produce methamphetamine. ALJ at 12 (citing Tr. 37, 46–48, 50 & 52); *see also id.* at 29 & 42. Related to the latter point, a DEA Special Agent testified that since 2005, law enforcement authorities have discovered more than 400 illicit methamphetamine laboratories in southeastern Tennessee alone and that gel-cap listed chemical products were found in very few of these labs, with the majority using tablet-form products. Tr. 46–48.

That there is no evidence linking products sold by Respondent to illicit meth. labs does not, however, foreclose the Agency from evaluating the adequacy of its diversion controls, its compliance record, and other factors relevant in the public interest inquiry. As for the evidence regarding the use of gel caps, the hearing in this matter was held in August 2006. Given that tablet-form products were available in Tennessee until May of 2005, as well as in adjacent States until the passage of the Combat Methamphetamine Epidemic Act in 2006, it is possible that traffickers bought up as much tablet-form product as possible before this form was banned, and that those supplies were still being used.

[4] Respondent explained that the product had been stored on the back of his truck and that the door to the truck's cargo area had become unlatched. GX 24.

[5] There is a factual dispute as to whether Mr. Ramsey provided oral notification of the loss to DEA. *Compare* Tr. 156 (testimony of DI that while he was not in the office then, he checked with his co-workers and that none of them "can remember a phone call being received from Mr. Ramsey"), *with id.* at 345 (Mr. Ramsey's testimony that he called DEA). The ALJ did not clearly resolve this factual dispute, which is material because DEA's regulation requires both an oral and written report. *See* ALJ at 7.

[6] Mr. Ramsey stores his listed chemical inventory at his registered location in a separate, secure room with a locked door, which has an ADT security system monitor. *Id.* at 317–19; RX 2, at 1, 6. Within that room, the listed chemical products are stored in a 30-gauge steel cage with welded hinges and padlocks. Tr. 317–20. Only Mr. Ramsey has access to the keys to the cage, which he stores in a combination-locked safe. *Id.* at 319; RX 2, at 3. In Mr. Ramsey's twenty-seven year residence on the property, he has not experienced a single theft or break-in. Tr. 319. Finally, Mr. Ramsey does not stored listed chemical products on his delivery trucks overnight but instead returns them to the cage. *Id.* at 320.

[7] According to the computation chart, credits and returns (presumably to suppliers) were to be counted in determining the total amount of product Respondent was accountable for. GX 23. For each product, the chart indicates that the amount of both the credits and returns was zero.

[8] It is undisputed that this document was among those taken by the Government. Tr. 331.

BronchEze and 432 Twin Tabs) to the total amount. *Id.* at 332–33; RX 3, at 39, 45.

Although it bears the burden of proof, the Government offered no evidence (such as an accounting showing each distribution it included in calculating the overage) to rebut Mr. Ramsey's contentions.[9] Moreover, having conducted my own review of Respondent's records, I agree with Mr. Ramsey's figure for the total amount of Rapid Action that he distributed. I further conclude that, at most (and even this is doubtful), twelve bottles are unaccounted for. Consequently, I agree with the ALJ that the Government failed to prove by a preponderance of the evidence that the audit revealed a 732-bottle overage for the Rapid Action product.

As noted above, the Government also apparently alleged that Respondent was selling listed chemical products to convenience stores and gas stations in quantities that were "far in excess of [the] amounts of product that could be reasonably sold for legitimate purposes." Show Cause Order at 3. In support of the allegation, the Government introduced two affidavits prepared by an expert witness for proceedings involving two different distributors. *See* GXs 20 & 27. The gist of these affidavits was that the normal expected retail sale of pseudoephedrine in a convenience store is between $10 and $30 a month, with an average of $20 per month, and that a sale of more $100 a month (to meet legitimate demand) could be expected to occur "about once in a million raised to the tenth power." GX 20, at 8–9. The affidavit further asserts that the normal expected sales level of combination ephedrine products at "a convenience store is about one quarter that of single ingredient products." *Id.* at 11.

Subsequent to the closing of the record in this proceeding, I found that the expert's methodology was unreliable for several reasons. *See Novelty Distributors, Inc.,* 73 FR 52689, 52693–94 (2008). I further concluded that the Expert's testimony as to the normal expected sales range of the products and statistical probability that various sales levels were consistent with legitimate demand did not constitute substantial evidence. *Id.* at 52694. As I have previously held, even when a Respondent has not raised similar challenges to the Expert's methodology, the Agency cannot ignore the ultimate finding in Novelty that the expert's conclusions as to the expected sales levels (and probabilities) do not satisfy the substantial evidence test. *See CBS Wholesale,* 74 FR 36746, 36748 (2009); *Gregg & Son Distributors,* 74 FR 17517, 17520 (2009).

Other Evidence

Mr. Ramsey personally stocks his listed chemical products in plexiglass display cases, which he has provided to his customers at his own expense to prevent theft. Tr. 338–40, 407–08. According to Mr. Ramsey, the cases prevent the public from having direct access to the product. *Id.* at 338. Mr. Ramsey further testified that he had provided the cases for more than ten years and had been doing so long before the 2006 enactment of the Combat Methamphetamine Epidemic Act (CMEA), which made placement of the product behind-the-counter a Federal requirement. *Id.* at 339. He also posted signs on the cases indicating the amount of a product that can be sold on a daily basis and testified that he was then in the process of sending his customers a letter explaining what they needed to do to comply with the CMEA's logbook requirement. *Id.* at 342.

Mr. Ramsey further testified that following Tennessee's enactment of the Tennessee Meth Free Act, which prohibited his customers from selling tablet-forms of ephedrine, he has not sold any tablet-form products and instead is selling only soft-gel products in blister packs. *Id.* at 352–53. Moreover, he accepted returned tablets and sent them, along with his remaining inventory, to a reverse distributor for destruction. *Id.* at 351–52. He also retained records of the destroyed products. *Id.; see also* RX 3, at 14–15.

Discussion

Section 304(a) of the Controlled Substances Act (CSA) provides that a registration to distribute a list I chemical "may be suspended or revoked * * * upon a finding that the registrant * * * has committed such acts as would render [its] registration under section 823 of this title inconsistent with the public interest as determined under such section." 21 U.S.C. 824(a)(4). Moreover, under section 303(h), "[t]he Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest." *Id.* § 823(h). In making the public interest determination, Congress directed that the following factors be considered:

(1) Maintenance by the [registrant] of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) Compliance by the [registrant] with applicable Federal, State, and local law;

(3) Any prior conviction record of the [registrant] under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) Any past experience of the [registrant] in the manufacture and distribution of chemicals; and

(5) Such other factors as are relevant to and consistent with the public health and safety.

Id.

"These factors are considered in the disjunctive." *Gregg & Son Distributors,* 74 FR 17517, 17520 (2009); *see also Joy's Ideas,* 70 FR 33195, 33197 (2005). I may rely on any one or a combination of factors, and I may give each factor the weight I deem appropriate in determining whether to revoke an existing registration or to deny an application for renewal of a registration. *Gregg & Son,* 74 FR at 17520; *Energy Outlet,* 64 FR 14269 (1999). Moreover, I am not required to make findings as to all of the factors. *Volkman* v. *DEA,* 567 F.3d 215, 222 (6th Cir. 2009); *Morall* v. *DEA,* 412 F.3d 165, 173–74 (DC Cir. 2005).

The Government, however, bears the burden of proof. 21 CFR 1309.54. Having considered all of the factors, I conclude that the Government has failed to prove that Respondent's continued registration is inconsistent with the public interest. While I have also considered the ALJ's recommendation that I impose several compliance conditions on Respondent's registration, I conclude that the record does not support doing so. Accordingly, the Order to Show Cause will be dismissed.

As noted above, the Government's case was based primarily on Respondent's putative failure to maintain effective controls against diversion. More specifically, the Government alleged that: (1) Respondent had once lost a case of ephedrine, and that he failed to timely report the loss, (2) that Respondent was selling list I products in quantities which were "far in excess" of legitimate demand, and (3) that an audit found an overage of 732 bottles of one product. Show Cause Order at 2–3.

As explained in numerous cases, maintaining proper security for list I chemicals is a highly important consideration under factor one. Here, however, there is no dispute that Respondent maintains proper security of the products at its registered location. Rather, the Government relies on a single incident, which had occurred

[9] To make clear, in performing the audit, the Government used Respondent's perpetual inventory which documented each distribution it received from a supplier as well as each distribution it made to a customer.

nearly three years before the Show Cause Order was even filed, in which Respondent lost a case of product out the back of its truck.

It is undisputed that upon discovering the loss, Mr. Ramsey attempted to find the product. He reported the loss in writing to DEA within three days. *See* 21 U.S.C. 830(b)(1)(C). He also took corrective action to prevent a reoccurrence and there is no evidence that there has been one.

The Government nonetheless asserts that Respondent violated Federal law because it "failed to timely report" the loss "pursuant to 21 CFR 1310.05(a)(3) and (b)." Gov. Br. at 9. The Government does not explain, however, whether it relies on the provision of the regulation which requires that "whenever possible," an oral report shall be made "at the earliest practicable opportunity," or the provision which requires that a written report be filed "within 15 days after the regulated person becomes aware of the circumstances of the event." 21 CFR 1310.05(b); *see also* Gov. Br. 9.

What is clear is that Respondent's written report complied with the regulation. Moreover, it is not the role of those who perform quasi-judicial functions to make the Government's argument for it. Because the Government did not advance the argument that its allegation is based on Respondent's failure to give oral notification, I do not consider it. Accordingly, I reject the allegation that Respondent violated Federal law by failing to timely report the 2003 loss of listed chemicals.

I am also compelled to reject the allegation that Respondent was selling excessive quantities of listed chemicals. As noted above, because the Government Expert's methodology is unreliable, his findings as to both the monthly expected sales range and the statistical improbability of certain sales levels of ephedrine products in legitimate commerce at convenience stores are not supported by substantial evidence.[10] *Novelty Distributors,* 73 FR at 52693–94; *see also CBS Wholesale,* 74 FR at 36746.

Finally, the Government alleged that its audit of Respondent found an overage of 732 bottles of 36-count Rapid Action combination ephedrine tablets. Here again, the Government failed to meet its evidentiary burden. As noted above, the primary dispute over the audit involved the amount of Respondent's distributions to its customers. The Government did not, however, document how it arrived at its figure by showing what invoices (or transactions [11]) it included. Moreover, Respondent's evidence (which included the purchase invoices and the perpetual inventories Mr. Ramsey maintained) establishes that Mr. Ramsey's testimony accurately reflects the amount of the product he had distributed to the stores during the audit period. Finally, the Government failed to rebut this evidence. I thus reject the allegation as unsupported by substantial evidence.

While the ALJ found this allegation unproven, and further noted that Respondent's "perpetual inventory" records "exceeded the DEA's requirements to some extent," she nonetheless found that the logs submitted into evidence were "difficult to decipher, which makes a proper evaluation of their accuracy nearly impossible." ALJ at 29. The ALJ therefore recommended that as a condition of continuing his registration, I require that "Respondent shall improve and maintain its records of listed chemical product sales such that they are (a) clearly legible, (b) the product sold is clearly identified, and (c) the customer to whom products are sold is clearly identified such that all of its sales can be accounted for." [12] *Id.* at 43 (footnotes omitted).

Neither Federal law nor Agency regulations require that a list I chemical distributor maintain a perpetual inventory.[13] *See* 21 CFR 1310.03(a). And even assuming that the Agency has authority to impose conditions based on a registrant's maintenance of a record he has no obligation under the law to maintain, I conclude that the ALJ's conditions are unwarranted for several reasons.

First, the records are copies, and as such, do not necessarily establish that the originals are illegible. Second, the legibility of a person's handwriting is like beauty—it is in the eyes of the beholder. Having reviewed the records, I find that they are legible enough to understand. Third, the records were compiled from the invoices Respondent created for each store and transaction. In the event an entry was unreadable—and the Government does not maintain that any of the entries were—the original invoice could have been reviewed. Yet none of Respondent's sales invoices are in the record, and thus, it is not possible to assess whether they were being properly maintained and were legible.[14] Accordingly, there is no basis to support the ALJ's conclusion that Respondent's records "render an accurate assessment of its accountability extremely difficult." ALJ at 42. The evidence therefore supports neither "admonish[ing] the Respondent to improve its recordkeeping," nor the imposition of the ALJ's proposed condition. *Id.*

The ALJ also recommended that I impose the condition that "Respondent is only authorized to handle soft gel listed chemical products." *Id.* at 43. As I have previously explained, conditions on a registration "must be related to what the Government has alleged [15] and proved in any case." *Janet L. Thornton,* 73 FR 50354, 50356 (2008). In her decision, the ALJ noted that there is "no evidence that the Respondent has violated the [Tennessee] Meth Act," and that "the record demonstrates that the Respondent is effectively adhering to the [Tennessee] Meth Act and has limited the sales to its customers strictly to gel-form ephedrine." ALJ at 41. Likewise, there is no evidence that Respondent had violated the then newly enacted Combat Methamphetamine Epidemic Act.

This being so, there is no basis for imposing this condition. The purpose of conditions is not simply to replicate what is already required by State or Federal law. *Cf. Joseph Gaudio,* 74 FR 10083, 10095 (2009) (rejecting ALJ's recommendation to continue a registration on the condition that a registrant refrain from illegal activity, noting that there were numerous State and Federal laws which already prohibited the activity). Rather, the purpose is to remedy identified and proven deficiencies in a registrant's policies and practices where those deficiencies are not so serious or

[10] While the Government has the burden of proof, it also failed to produce any analysis of Respondent's sales data to show what its average monthly sale was. *See also* Resp. Br. 22 (arguing that the Government "presented no evidence that [the Expert] review any information concerning [its] business practices or its List I sales"). Accordingly, even if its Expert's methodology had not been subsequently shown to be invalid, I would still be compelled to reject the allegation.

[11] The Government did not use Respondent's sales invoices, but rather, the perpetual inventories it maintained for each lot of product it obtained from a distributor.

[12] The ALJ suggested that Respondent could improve the legibility of his records by either "typing or *carefully* handwriting the logs." ALJ at 43 n.15.

[13] Nor is there a requirement that a registrant who handles controlled substances maintain a perpetual inventory. *See* 21 CFR 1304.21(a).

[14] In light of the fact that Combat Methamphetamine Epidemic Act eliminated the thresholds for combination ephedrine products such that all "transactions, regardless of size, are subject to recordkeeping and reporting requirements as set forth in" 21 CFR 1310, 21 CFR 1310.04(g), Respondent should ensure that its recordkeeping complies with the regulations.

[15] To make clear, conditions can be imposed based on any allegation which the Government provides adequate notice of in accordance with the Due Process Clause and Administrative Procedure Act (and DEA regulations) and which it proves at a hearing.

extensive as to warrant revocation of a registration but which nonetheless threaten the public interest. Because there is no evidence that Respondent has sold forms of list I products in violation of either State or Federal law, there is no basis to impose the condition.[16]

In conclusion, the Government has not established that Respondent has committed any acts which either render its registration inconsistent with the public interest or which would support the imposition of conditions on its registration. Accordingly, the Order to Show Cause will be dismissed.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(h) and 824(a), as well as 28 CFR 0.100(b) and 0.104, I order that the application of M & N Distributors for renewal of its DEA Certificate of Registration be, and it hereby is, granted. I further order that the Order to Show Cause issued to M & N Distributors be, and it hereby is, dismissed. This order is effective immediately.

Dated: May 6, 2010.

Michele M. Leonhart,

Deputy Administrator.

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[16] For the same reason, there is no basis to impose the ALJ's third condition.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Christopher Henry Lister, P.A.; Revocation of Registration

On November 3, 2009, I, the Deputy Administrator of the Drug Enforcement Administration, issued an Order to Show Cause and Immediate Suspension of Registration to Christopher Henry Lister, P.A. (Respondent), of Hesperia, California. The Order proposed the revocation of Respondent's DEA Certificate of Registration, ML0817900, as a practitioner, and the denial of any pending applications to renew or modify his registration, on the ground that he had committed acts which render his registration inconsistent with the public interest. Show Cause Order at 1 (citing 21 U.S.C. 823(f) & 824(a)(4)).

The Show Cause Order alleged that Respondent violated Federal law by issuing controlled substance prescriptions "outside [of] the usual course of professional practice," which lacked a "legitimate medical purpose, and that he violated California law because he issued the prescriptions "without an appropriate prior examination and a medical indication." *Id.* at 1–2 (citing 21 CFR 1306.04(a) & Cal. Bus. & Prof. Code § 2242(a)). More specifically, the Order alleged that on June 16, 2009, an undercover agent purchased through an intermediary a prescription for 60 tablets of OxyContin 80 mg., and that Respondent "never met or * * * much less conducted a physical examination" of, the person for whom he wrote the prescription. *Id.* at 2.

Next, the Show Cause Order alleged that on June 25, 2009, an undercover agent purchased though an intermediary prescriptions for 90 tablets of OxyContin 80 mg., which were written in the names of four different persons, and that Respondent had never met or conducted a physical examination of any of these persons. *Id.* Finally, the Show Cause Order alleged that on October 8, 2009, an informant purchased from Respondent prescriptions for OxyContin 80 mg., Xanax 2 mg., Valium 10 mg., and Lortab 10/500 mg., which were post–dated for October 29, 2009, and written in the names of three different persons he never physically examined. *Id.*

Based on the above, I further concluded that Respondent's continued registration during the pendency of the proceeding would "constitute[] an imminent danger to the public health and safety." *Id.* Therefore, pursuant to my authority under 21 U.S.C. 824(d), I immediately suspended Respondent's registration. *Id.* The Order further explained that Respondent had the right to request a hearing on the allegations, the procedure for doing so, and that if he failed to do so, the scheduled hearing would be cancelled and he would be deemed to have waived his right to a hearing. *Id.*

On November 5, 2009, a DEA Special Agent personally served Respondent with the Order to Show Cause and Immediate Suspension of Registration. Moreover, on November 6, 2009, Government Counsel served a copy of the Order on Respondent by First-Class Mail to him at his registered location.

More than thirty days have now passed since the service of the Order to Show Cause and Immediate Suspension, and neither Respondent, nor anyone purporting to represent him, has requested a hearing. I therefore find that Respondent has waived his right to a hearing, 21 CFR 1301.43(d), and issue this Decision and Final Order without a hearing based on the record submitted by the Government. I make the following findings.

Findings

Respondent is the holder of DEA Certificate Registration, ML0817900. Respondent last renewed his registration on April 2, 2008; the registration does not expire until March 31, 2011.

Respondent also holds a Physician Assistant (PA) License issued by the Physician Assistant Committee of the Medical Board of California. On November 6, 2009, the Executive Officer of the Physician Assistant Committee filed a petition for an interim order of suspension of Respondent's state license. On November 12, 2009, a state Administrative Law Judge (ALJ) granted the petition and immediately suspended Respondent's PA license. The ALJ also ordered that Respondent appear for hearing on November 30, 2009, to show cause why the interim order suspending his license "should not remain in full force and effect pending the issuance of a final decision by the Medical Board of California." Interim Order of Suspension at 2, *Portman* v. *Lister* (Cal. Office. of Admin. Hearings, No. 1E–2008–195465).

On November 30, 2009, a hearing was held before another state ALJ. Following the hearing, the ALJ found that:

> [o]n October 8, 2009, a Bureau of Narcotics Enforcement confidential informant (CI) met with respondent at the CI's residence. The meeting was monitored by a DEA agent. During the meeting the CI provided respondent with a list of names and asked respondent to prescribe OxyContin, Xanax, Ambien, and Valium to the listed individuals in exchange for $750 in cash. Respondent did as requested, and took the $750 cash payment.

Order of Interim Suspension at 2, *In re Lister.*

Based on this finding, the ALJ concluded "that respondent has engaged in acts constituting violations of the Medical Practice Act" and that the State had "show[n] that permitting [him] to continue to engage in the profession for which [his] license was issued will endanger the public health, safety, or welfare." *Id.* at 3 (citing Cal. Gov. Code § 11529(a)). In a footnote, the ALJ further explained that "[b]y prescribing dangerous drugs and controlled substances to the CI without an appropriate medical examination and without any medical indication * * * Respondent violated [various] provisions of the Medical Practice[] Act" including, *inter alia,* Cal. Bus. & Prof. Code § 2242(a) ("furnishing dangerous drugs without examination"), and Cal. Health & Safety Code § 11153(a) ("prescribing controlled substances without a legitimate medical purpose"). *Id.* at n.6. The ALJ thus granted the

State's petition and ordered that Respondent's license remain "suspended until final resolution of the underlying Accusation." *Id.* at 4.

Discussion

Section 304(a) of the Controlled Substances Act (CSA) provides that a registration to "dispense a controlled substance * * * may be suspended or revoked by the Attorney General upon a finding that the registrant * * * has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section." 21 U.S.C. 824(a)(4). With respect to a practitioner, the CSA requires the consideration of the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id. § 823(f).

"[T]hese factors are * * * considered in the disjunctive." *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I "may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked." *Id.* Moreover, I am "not required to make findings as to all of the factors." *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005).

While I have considered all of the factors, I conclude that it is not necessary to make findings as to factors three and five. As explained below, I conclude that the finding of the state ALJ that Respondent violated California law by prescribing controlled substances without performing an appropriate medical examination and without a legitimate medical purpose is dispositive in assessing his experience in dispensing controlled substances (factor two) and his compliance with State and Federal laws related to controlled substances (factor four). The state ALJ's finding further establishes that Respondent has committed acts which render his continued registration "inconsistent with the public interest." 21 U.S.C. 824(a)(4).

Factors Two and Four—Respondent's Experience in Dispensing Controlled Substances and Record of Compliance With Applicable Controlled Substance Laws

Under a longstanding DEA regulation, a prescription for a controlled substance is not "effective" unless it is "issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice." 21 CFR 1306.04(a). This regulation further provides that "an order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning and intent of [21 U.S.C. 829] and * * * the person issuing it, shall be subject to the penalties provided for violations of the provisions of law related to controlled substances." *Id. See also* 21 U.S.C. 802(10) (defining the term "dispense" as meaning "to deliver a controlled substance to an ultimate user by, or pursuant to *the lawful order of, a practitioner,* including the prescribing and administering of a controlled substance") (emphasis added).

As the Supreme Court recently explained, "the prescription requirement * * * ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses." *Gonzales* v. *Oregon,* 546 U.S. 243, 274 (2006) (citing *United States* v. *Moore,* 423 U.S. 122, 135, 143 (1975)).

Under the CSA, it is fundamental that a practitioner must establish and maintain a bonafide doctor-patient relationship in order to act "in the usual course of * * * professional practice" and to issue a prescription for a "legitimate medical purpose." *Laurence T. McKinney,* 73 FR 43260, 43265 n.22 (2008); *see also Moore,* 423 U.S. at 142–43 (noting that evidence established that physician "exceeded the bounds of 'professional practice,' " when "he gave inadequate physical examinations or none at all," "ignored the results of the tests he did make," and "took no precautions against * * * misuse and diversion"). Moreover, the CSA generally looks to state law to determine whether a doctor and patient have established a bona fide doctor-patient relationship. *See Kamir Garces-Mejias,* 72 FR 54931, 54935 (2007); *United Prescription Services, Inc.,* 72 FR 50397, 50407 (2007).

Under California law, except for in circumstances not applicable here, "[p]rescribing, dispensing, or furnishing dangerous drugs * * * without an appropriate prior examination and a medical indication, constitutes unprofessional conduct." Cal. Bus. & Prof. Code § 2242(a). California law further adopts nearly verbatim the CSA's prescription requirement. *See* Cal. Health & Safety Code § 11153(a) ("A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice.").

Here, a state ALJ found that, on October 8, 2009, Respondent violated both of these provisions of California law when he sold prescriptions for OxyContin, a schedule II controlled substance, as well as Xanax, Ambien, and Valium (all of which are schedule IV controlled substances), to a confidential informant working for the California Bureau of Narcotics Enforcement in exchange for $750 in cash. While Respondent did not appear at the state hearing, the state ALJ found that he "was properly noticed of the date, time and place of the hearing." Order of Interim Suspension, at 1. Accordingly, I hold that the state ALJ's finding is entitled to preclusive effect in this proceeding. *See University of Tennessee* v. *Elliot,* 478 U.S. 788, 797–98 (1986) ("When an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply *res judicata*[.]") (int. quotations and citations omitted). Based on the state ALJ's findings, I further conclude that Respondent lacked a legitimate medical purpose and acted outside of the usual course of professional practice in issuing each of the prescriptions and thus violated Federal law as well. *See* 21 CFR 1306.04(a); 21 U.S.C. 841(a)(1).

I thus conclude that Respondent has committed acts which render his registration "inconsistent with the public interest." 21 U.S.C. 824(a)(4). Accordingly, Respondent's registration will be revoked.[1]

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a)(4), as well as 28 CFR 0.100(b) & 0.104, I order that DEA Certificate of Registration, ML0817900, issued to Christopher

[1] It is further noted that because the State has imposed an order of interim suspension against Respondent's PA license, he does not have authority to dispense controlled substances and thus does not meet an essential requirement for holding a registration under the CSA. See, e.g., *John B. Freitas,* 74 FR 17524, 17525 (2009); 21 U.S.C. §§ 823(f) & 824(a)(3).

Henry Lister, P.A., be, and it hereby is, revoked. I further order that any pending application of Christopher Henry Lister, P.A., to renew or modify his registration, be, and it hereby is, denied. This Order is effective immediately.

Dated: May 6, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–11950 Filed 5–18–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Comment Request for Information Collection: "Confidentiality & Disclosure of State Unemployment Compensation Information Final Rule and State Income and Eligibility Verification Provisions of the Deficit Reduction Act of 1984; OMB Control No. 1205–0238;" Extension Without Change

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the collection of data about the regulatory requirements of the Confidentiality and Disclosure of State Unemployment Compensation Information final rule and State Income and Eligibility Verification System (IEVS) provisions of the Deficit Reduction Act of 1984 (current expiration date is August 31, 2010).

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before July 19, 2010.

ADDRESSEE: Submit written comments to the Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue, NW., Room C4518, Washington, DC 20210, Attention: Patricia Mertens. Telephone number: 202–693–3182 (this is not a toll-free number). Fax: 202–693–2874. E-mail: *mertens.patricia@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background: The Deficit Reduction Act of 1984 established an Income and Eligibility Verification System (IEVS) for the exchange of information among state agencies administering specific programs. The programs include Temporary Assistance for Needy Families, Medicaid, Food Stamps, Supplemental Security Income, Unemployment Compensation and any state program approved under Titles I, X, XIV, or XVI of the Social Security Act. Under the Act, programs participating must exchange information to the extent that it is useful and productive in verifying eligibility and benefit amounts to assist the child support program and the Secretary of Health and Human Services in verifying eligibility and benefit amounts under Titles II and XVI of the Social Security Act.

On September 27, 2006, the Employment and Training Administration of the Department of Labor issued a final rule regarding the Confidentiality and Disclosure of State Unemployment Compensation Information. This rule supports and expands upon the requirements of the Deficit Reduction Act of 1984 and subsequent regulatory changes.

II. Review Focus:

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions:

Type of Review: Extension without changes.

Title: Confidentiality & Disclosure of State Unemployment Compensation Information Final Rule and State Income and Eligibility Verification provisions of the Deficit Reduction Act of 1984;

OMB Number: 1205–0238.

Affected Public: State governments.

Total Annual Respondents: 53 state agencies.

Annual Frequency: Quarterly.

Total Estimated Annual Responses: 1,437,897.

Average Estimated Response Time: 1 minute.

Estimated Total Annual Burden Hours: 23,964 hours.

Total Annual Burden Cost for Respondents: $0.

Comments submitted in response to this comment request 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.

Signed at Washington, DC this 15th day of May 2010.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2010–11943 Filed 5–18–10; 8:45 am]

BILLING CODE 4510–FW–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Information Collection; (10–053).

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©(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed Brenda J. Maxwell, Office of the Chief Information Officer, Mail Suite 2S71, 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 J. Maxwell, Office of the Chief Information Officer, NASA Headquarters, 300 E Street SW., Mail Suite 2S71, Washington, DC 20546, (202) 358–4616, *brenda.maxwell@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This clearance request pertains to the administration of data collection instruments designed to gather information on change, or growth, made in various domains of STEM awareness, motivation and efficacy, and career pathways, as it relates to NASA's Summer of Innovation. These outcomes are not available unless collected via surveys to students and teachers. The evaluation is an important opportunity to examine the extent to which the SOI-supported activities meet their intended objectives.

II. Method of Collection:

Electronic Survey.

III. Data

Title: NASA Summer of Innovation (SOI) Pilot.

OMB Number: 2700–XXXX.

Type of Review: New.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 7100.

Estimated Time per Response: Voluntary.

Estimated Total Annual Burden Hours: 1,775.

Estimated Total Annual Cost: $6,166.

IV. Requests 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.

Brenda J. Maxwell,

NASA PRA Clearance Officer.

[FR Doc. 2010–11899 Filed 5–18–10; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Information Collection; (10–052)

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 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed Brenda J. Maxwell, Office of the Chief Information Officer, Mail Suite 2S71, 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 J. Maxwell, Office of the Chief Information Officer, NASA Headquarters, 300 E Street, SW., Mail Suite 2S71, Washington, DC 20546, (202) 358–4616, *brenda.maxwell@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this project is to assess if National Park Service (NPS) visitors, as well as visitors to other public lands, are benefiting from an interagency partnership, known as Earth to Sky, by measuring awareness and understanding of global climate change in visitors to NPS and other public land locations. An on-site survey will be administered to park visitors to assess their awareness and understanding of global climate change; meaning of and connection to park resources; and perception of trust in sources of information regarding global climate change. Data will be collected in a variety of NPS and other sites from June–Aug, 2010. Results will help NASA and other managers of the Earth to Sky partnership assess the success of the partnership efforts and help refine and encourage the continued collaboration.

II. Method of Collection

An on-site survey will be administered to visitors in order to collect the data.

III. Data

Title: An assessment of global climate change in visitors to National Park Service sites and other public lands.

OMB Number: 2700—XXXX.

Type of Review: New.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 1200.

Estimated Time per Response: Voluntary.

Estimated Total Annual Burden Hours: 322.5.

Estimated Total Annual Cost: $0.

IV. Requests 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.

Brenda J. Maxwell,

NASA PRA Clearance Officer.

[FR Doc. 2010–11900 Filed 5–18–10; 8:45 am]

BILLING CODE P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA,

records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before June 18, 2010. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: request.schedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Forest Service (N1–95–10–1, 3 items, 3 temporary items). Agency Web site records, including Web site management and operations records, logs, and Web content that is not unique. Some unique Web content records have been previously scheduled while others will be scheduled in the future.

2. Department of the Army, Agency-wide (N1–AU–10–9, 1 item, 1 temporary item). Master files of an electronic information system that contains information concerning evaluations of enlisted personnel. Included are job ratings as well as information concerning the service member's name, rank, and military occupational specialty.

3. Department of the Army, Agency-wide (N1–AU–10–12, 1 item, 1 temporary item). Master files of an electronic information system that contains military occupational specialty data for Army Reserve personnel.

4. Department of the Army, Agency-wide (N1–AU–10–23, 1 item, 1 temporary item). Master files of an electronic information system that contains information concerning recruitment and retention of Army Reserve personnel.

5. Department of the Army, Agency-wide (N1–AU–10–24, 1 item, 1 temporary item). Master files of an electronic information system used to track and manage cases related to correction of military records. Records include such information as name and rank of service member and contact information, as well as data concerning the case.

6. Department of the Army, Agency-wide (N1–AU–10–41, 1 item, 1 temporary item). Master files of an electronic information system used to track Army Corps of Engineers student training. Included is such information as enrollment reports, transcripts, course evaluations, class schedules, rosters, and course descriptions.

7. Department of the Army, Agency-wide (N1–AU–10–43, 1 item, 1 temporary item). Master files of an electronic information system used in connection with evaluating the effectiveness of training courses.

8. Department of the Army, Agency-wide (N1–AU–10–44, 1 item, 1 temporary item). Master files of an electronic information system used to track individual training histories. Included are student profile data, contact information, test scores, and progress reports.

9. Department of the Army, Agency-wide (N1–AU–10–45, 1 item, 1 temporary item). Master files of an electronic information system that contains information used in planning and conducting general training. Included are exercise plans and scenarios, critiques, scheduling data, and final reports.

10. Department of the Army, Agency-wide (N1–AU–10–46, 1 item, 1

temporary item). Master files of an electronic information system used to match training requirements and available resources.

11. Department of Commerce, Bureau of Industry and Security (N1–476–07–1, 16 items, 12 temporary items). Records accumulated by the Office of Exporter Services, including such records as company review files, import certifications, export control seminar files, export control program reviews, and applications for export licenses. Proposed for permanent retention are such records as licensing officer's manuals, historic special license files, and historic export administration regulations files.

12. Department of Education, Office of Management (N1–441–09–7, 2 items, 1 temporary item). Working papers relating to transfers of surplus Federal real property to states, local governments, and non-profit institutions for educational purposes. Proposed for permanent retention are case files relating to the transfers.

13. Department of Health and Human Services, Administration on Aging (N1–439–09–7, 10 items, 8 temporary items). Delegations of authority, records relating to appointments to committees, responses to reports, administrative program guidance documents, plans received from states, memorandums of understanding and interagency agreements, working papers, and other records. Proposed for permanent retention are policy records, as well as documents prepared for the approval of the Assistant Secretary for Aging.

14. Department of Health and Human Services, National Institutes of Health (N1–443–10–1, 20 items, 20 temporary items). Records relating to patenting and licensing of inventions and discoveries made by agency employees. Included are such records as employee invention reports, patent applications, license agreements, technology transfer marketing files, and related working files.

15. Department of Justice, Office of the Inspector General (N1–60–09–47, 1 item, 1 temporary item). Master files of an electronic information system used to track milestone dates and other aspects of financial and performance audits.

16. Department of Justice, Office of the Inspector General (N1–60–09–68, 1 item, 1 temporary item). Master files of an electronic information system used to track the status of open recommendations made in evaluation and inspection reports.

17. Department of Justice, Federal Bureau of Investigation (N1–65–09–30, 1 item, 1 temporary item). Copies of correspondence intercepted by the Central Intelligence Agency between 1968 and 1973 under the Hunter Project and sent to the Bureau. Policy and program records relating to the project were previously scheduled for permanent retention.

18. Department of the Treasury, Internal Revenue Service (N1–58–09–40, 37 items, 37 temporary items). Records relating to the private debt collection program, a soon to end program under which the agency utilized private debt collection agencies to collect Federal tax debts. Included are such records as case files, reports, spreadsheets, data bases, correspondence, audit records, planning documents, and customer surveys.

19. Federal Energy Regulatory Commission, Agency-wide (N1–138–10–2, 1 item, 1 temporary item). Annual reports submitted to the Department of Justice that relate to agency activities under the Freedom of Information Act.

20. Federal Energy Regulatory Commission, Agency-wide (N1–138–10–3, 1 item, 1 temporary item). Records relating to shipping rates of materials used for maintaining gas pipelines.

Dated: May 11, 2010.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 2010–12022 Filed 5–18–10; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of Matter To Be Deleted From the Agenda of a Previously Announced Agency Meeting

TIME AND DATE: 11:15 a.m., Thursday, May 20, 2010.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTER TO BE DELETED:

1. Member Business Loan Waiver Appeal. Closed pursuant to Exemption (8).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, *Telephone:* 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2010–12071 Filed 5–17–10; 11:15 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0181]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–3039, "Standard Format and Content for Emergency Plans for Fuel Cycle and Materials Facilities."

FOR FURTHER INFORMATION CONTACT: Kevin M. Ramsey, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 492–3123 or e-mail *Kevin.Ramsey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG) is temporarily identified by its task number, DG–3039, which should be mentioned in all related correspondence. DG–3039 is proposed Revision 1 of Regulatory Guide 3.67, dated January 1992.

This guide provides guidance acceptable to the NRC staff on the information to be included in emergency plans and establishes a format for presenting the information. Use of a standard format will help ensure uniformity and completeness in the preparation of emergency plans.

The NRC's regulations in 10 CFR part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material;" part 40, "Domestic Licensing of Source Material;" part 63, "Disposal of High-Level Radioactive Wastes in a Geologic Repository at Yucca Mountain, Nevada;" part 70, "Domestic Licensing of Special Nuclear Material;" part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste;" and part 76, "Certification of Gaseous Diffusion Plants," require some fuel cycle and materials licensees to

prepare emergency plans. The information specified in this guide should be included in the licensee's emergency plan to comply with the requirements of 10 CFR 30.32(i)(3), 40.31(j)(3), 63.161, 70.22(i)(3), 72.32, and 76.91.

II. Further Information

The NRC staff is soliciting comments on DG–3039. Comments may be accompanied by relevant information or supporting data and should mention DG–3039 in the subject line.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2010–0181 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0181. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Chief, Rulemaking, Announcements and Directives Branch (RADB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RDB at (301) 492–3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov. Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2010–0181.

Comments would be most helpful if received by July 12, 2010. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Requests for technical information about DG–3039 may be directed to the NRC contact, Kevin M. Ramsey at (301) 492–3123 or e-mail *Kevin.Ramsey@nrc.gov.*

Electronic copies of DG–3039 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/.* Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML093290274.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 11th day of May, 2010.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–11975 Filed 5–18–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on June 9–11, 2010, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, October 14, 2009, (74 FR 52829–52830).

Wednesday, June 9, 2010, Conference Room T2–B1, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Draft Final Regulatory Guide (RG) 1.216, "*Containment Structural Integrity Evaluation for Internal Pressure Loadings above Design-Basis Pressure*" (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding draft final RG 1.216, "Containment Structural Integrity Evaluation for Internal Pressure Loadings above Design-Basis Pressure," and the NRC staff's resolution of public comments.

10:45 a.m.–12 p.m.: Discussion of Topics for Meeting with the Commission (Open)—The Committee will discuss the following topics in preparation for the meeting with the Commission: Risk-Informed Performance-Based Fire Protection, NRC Safety Research Program, Draft Guidance for Use of Containment Accident Pressure, and Rulemaking for Disposal of Depleted Uranium.

1:30 p.m.–3:30 p.m.: Meeting with the Commission (Open)—The Committee will hold discussions with the Commission regarding the topics noted above.

3:45 p.m.–5 p.m.: Proposed Rulemaking on Distribution of Source Materials to Exempt Persons and to General Licensees and Revision of General License and Exemptions (Open)—The Committee will hold discussions with representatives of the NRC staff regarding a proposed rule on distribution of source materials to exempt persons and to general licensees and revision of general license and exemptions.

5:15 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee

will discuss proposed ACRS reports on matters discussed during this meeting.

Thursday, June 10, 2010, Conference Room T2-B1, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: Proposed Interim Staff Guidance (ISG) DC/COL/-ISG–013, "*Assessing the Consequences of an Accidental Release of Radioactive Materials from Waste Tanks,*" *and Proposed DC/COL–ISG–014,* "*Assessing Groundwater Flow and Transport of Accidental Radionuclide Releases*" (Open)—The Committee will hold discussions with representatives of the NRC staff regarding proposed ISG–013, "Assessing the Consequences of an Accidental Release of Radioactive Materials from Waste Tanks," and proposed ISG–014, "Assessing Groundwater Flow and Transport of Accidental Radionuclide Releases."

10:15 a.m.–12 p.m.: Status of Risk-Informing Guidance of New Reactors (Open)—The Committee will hold discussions with representatives of the NRC staff regarding the current status of risk-informing guidance for new reactors.

1 p.m.–2:30 p.m.: Generic Safety Issue (GSI)–191, "*Assessment of Debris Accumulation on PWR Sump Performance*" (Open)—The Committee will hold discussions with representatives of the NRC staff regarding the current status towards resolution of GSI–191.

2:45 p.m.–4:15 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings, including anticipated workload and member assignments.

[Note: A portion of this session may be closed pursuant to 5 U.S.C. 552b (c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

4:15 p.m.–4:30 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

4:45 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Friday, June 11, 2010, Conference Room T2–B1, Two White Flint North, Rockville, Maryland

12 p.m.–2 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

2 p.m.–2:30 p.m.: Miscellaneous (Open)—The Committee will continue its discussion related to the conduct of Committee activities and specific issues that were not completed during previous meetings.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 14, 2009, (74 FR 52829–52830). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Mr. Derek Widmayer, Cognizant ACRS Staff (Telephone: 301–415–7366, E-mail: *Derek.Widmayer@nrc.gov*), five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) Public Law 92–463, and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr.resource@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/ACRS/.*

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service.

Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: *May 13, 2010.*

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2010–11967 Filed 5–18–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0002]

Sunshine Act Notice

DATES: Weeks of May 17, 24, 31, June, 7, 14, 21, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of May 17, 2010

There are no meetings scheduled for the week of May 17, 2010.

Week of May 24, 2010—Tentative

Thursday, May 27, 2010

9:30 a.m. Briefing on the Results of the Agency Action Review Meeting, (AARM) (Public Meeting), (Contact: Nathan Sanfilippo, 301–415–3951).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of May 31, 2010—Tentative

There are no meetings scheduled for the week of May 31, 2010.

Week of June 7, 2010—Tentative

Wednesday, June 9, 2010

1:30 p.m. Meeting with the Advisory Committee on Reactor Safeguards, (Public Meeting), (Contact: Cayetano Santos, 301–415–7270).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of June 14, 2010—Tentative

There are no meetings scheduled for the week of June 14, 2010.

Week of June 21, 2010—Tentative

There are no meetings scheduled for the week of June 21, 2010.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415–1292. Contact person for more information: Rochelle Bavol, (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/about-nrc/policy-making/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Angela Bolduc, Chief, Employee/Labor Relations and Work Life Branch, at 301–492–2230, TDD: 301–415–2100, or by e-mail at *angela.bolduc@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an e-mail to *darlene.wright@nrc.gov.*

Dated: May 13, 2010.

Rochelle C. Bavol,

Office of the Secretary.

[FR Doc. 2010–12075 Filed 5–17–10; 11:15 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2010–50 through CP2010–53; Order No. 461]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add new Global Expedited Package Services 2 products to the Competitive Product List. This notice addresses procedural steps associated with the filing.

DATES: Comments are due: May 20, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Notice of Filing
III. Ordering Paragraphs

I. Introduction

On May 11, 2010, the Postal Service filed a notice announcing that it has entered into four additional Global Expedited Package Services 2 (GEPS 2) contracts.[1] The Postal Service believes the instant contracts are functionally equivalent to previously submitted GEPS 2 contracts, and are supported by Governors' Decision No. 08–7, attached to the Notice and originally filed in Docket No. CP2008–4. *Id.* at 1, Attachment 3. The Notice also explains that Order No. 86, which established GEPS 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1. In Order No. 290, the Commission approved the GEPS 2 product.[2]

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that each contract is in accordance with Order No. 86. The term of each contract is one year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 2–3.

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachments 1A, 1B, 1C and 1D—redacted copies of the four contracts and applicable annexes;
- Attachments 2A, 2B, 2C and 2D—a certified statement required by 39 CFR 3015.5(c)(2) for each of the two contracts;
- Attachment 3—a redacted copy of Governors' Decision No. 08–7 which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis and certification of the formulas and certification of the Governors' vote; and
- Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the contracts and supporting documents under seal.

The Notice advances reasons why the instant GEPS 2 contracts fit within the Mail Classification Schedule language for GEPS 2. The Postal Service identifies customer-specific information, general contract terms, and other differences that distinguish the instant contracts from the baseline GEPS 2 agreement, all of which are highlighted in the Notice. *Id.* at 3–6. These modifications as described in the Postal Service's Notice apply to each of the instant contracts.

The Postal Service contends that the instant contracts are functionally equivalent to the GEPS 2 contracts filed previously notwithstanding these differences. *Id.* at 6–7.

The Postal Service asserts that several factors demonstrate the contracts' functional equivalence with previous GEPS 2 contracts, including the product being offered, the market in which it is offered, and its cost characteristics. *Id.* at 3. The Postal Service concludes that because the GEPS agreements "incorporate the same cost attributes and methodology, the relevant cost and market characteristics are similar, if not the same . . . " despite any incidental differences. *Id.* at 6.

The Postal Service contends that its filings demonstrate that each of the new GEPS 2 contracts complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to previous GEPS 2 contracts. It also requests that the contracts be included within the GEPS 2 product. *Id.* at 7.

II. Notice of Filing

The Commission establishes Docket Nos. CP2010–50, CP2010–51, CP2010–52 and CP2010–53 for consideration of matters related to the contracts identified in the Postal Service's Notice.

[1] Notice of United States Postal Service Filing of Four Functionally Equivalent Global Expedited Package Services 2 Negotiated Service Agreements and Application for Non-Public Treatment of Materials Filed Under Seal, May 11, 2010 (Notice).

[2] Docket No. CP2009–50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

These dockets are addressed on a consolidated basis for purposes of this order. Filings with respect to a particular contract should be filed in that docket.

Interested persons may submit comments on whether the Postal Service's contracts are consistent with the policies of 39 U.S.C. 3632, 3633 or 3642. Comments are due no later than May 20, 2010. The public portions of these filings can be accessed via the Commission's website (http:// www.prc.gov).

The Commission appoints John P. Klingenberg to serve as Public Representative in the captioned proceedings.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. CP2010–50, CP2010–51, CP2010–52 and CP2010–53 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than May 20, 2010.

3. Pursuant to 39 U.S.C. 505, John P. Klingenberg is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Judith M. Grady,

Assistant Secretary.

[FR Doc. 2010–11942 Filed 5–18–10; 8:45 am]

BILLING CODE 7710–FW–S

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Decision not to proceed with issuance of a class waiver of the Nonmanufacturer Rule for Improved Outer Tactical Vests and related accessories under Product Service Code (PSC) 8470 (Armor Personal) under North American Industry Classification System (NAICS) code 339113 (Surgical Appliance and Supplies Manufacturing).

SUMMARY: The U. S. Small Business Administration (SBA) will not issue a class waiver of the non-manufacturer rule for PSC 8470 (Armor Personal), NAICS code 339113.

DATES: A printout of approved class waivers can be found at *http://www.sba.gov/aboutsba/sbaprograms/gc/programs/gc_waivers_nonmanufacturer.html.*

FOR FURTHER INFORMATION CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail at *Pamela.McClam@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or Participants in SBA's 8(a) Business Development (BD) Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR § 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

A class of products is defined based on the Office of Management and Budget's NAICS codes and the General Services Administration's Product and Service Code Directory. Within each six-digit NAICS code are subdivisions of products that can be considered for a waiver. A request for a waiver of a class of products should refer to a specific subdivision, or statement of product, within a six-digit NAICS code. A waiver of the Nonmanufacturer Rule does not waive the entire class of products under a specific NAICS code. The class waiver waives specific products within a subdivision within a NAICS code.

Any individual or organization (government agency, business, association, etc.) may request a waiver for a class of products. The request should be in writing, addressed to the Director for Government Contracting and should specifically state the class (or classes) of products for which the waiver is sought.

In response to a request from a Federal Agency, SBA proposed to issue a Class Waiver for Improved Outer Tactical Vests, PSC 8470, NAICS code 339113, **Federal Register** Notice 20870. The SBA received multiple comments from small business manufacturers and distributors that have been awarded prime contracts or have submitted offers within the past 24 months.

Thus, SBA will not issue a class waiver from the non-manufacturer rule for PSC 8470 (Armor Personal) under NAICS code 339113.

Authority: 15 U.S.C. 634.

Karen Hontz,

Director for Government Contracting.

[FR Doc. 2010–11926 Filed 5–18–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for Herbicides, Insecticides, and Fungicides, under Product Service Code (PSC) 6840, under North American Industry Classification System (NAICS) code 325320, Pesticide and Other Agricultural Chemical Manufacturing.

SUMMARY: The U. S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for Herbicides, Insecticides, and Fungicides, under PSC 6840, under NAICS code 325120. According to a request, no small business manufacturers supply these products to the Federal government. If granted, the waiver would allow an otherwise qualified small businesses to supply the products of any manufacturer on a Federal contract set aside for small businesses, service-disabled veteran-owned small businesses, or Participants in the SBA's 8(a) Business Development (BD) Program.

DATES: Comments and source information must be submitted June 3, 2010.

ADDRESSES: You may submit comments and source information to Amy Garcia, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Amy Garcia, by telephone at (202) 205–6842; by FAX at (202) 481–1630; or by e-mail at *Amy.garcia@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations require that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or Participants in the SBA's 8(a) BD Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual

manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market. In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. 13 CFR 121.1202(c). The SBA defines "class of products" based on the Office of Management and Budget's NAICS system and PSC to further identify particular products within the NAICS code to which a waiver would apply.

The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for this class of product within 15 days after date of publication in the **Federal Register**.

Karen Hontz,

Director, Office of Government Contracting.

[FR Doc. 2010–11929 Filed 5–18–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62078; File No. 4–597]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving and Declaring Effective a Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and EDGA Exchange, Inc.

May 11, 2010.

On April 2, 2010, EDGA Exchange, Inc. ("EDGA") and the Financial Industry Regulatory Authority, Inc. ("FINRA") (together with EDGA, the "Parties") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 17(d) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 17d–2 thereunder,[2] a plan for the allocation of regulatory responsibilities, dated March 31, 2010 ("17d–2 Plan" or the "Plan"). The Plan was published for comment on April 13, 2010.[3] The Commission received no comments on the Plan. This order approves and declares effective the Plan.

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every self-regulatory organization ("SRO") registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[5] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO ("common members"). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. Proposed Plan

The proposed 17d–2 Plan is intended to reduce regulatory duplication for firms that are common members of both EDGA and FINRA. Pursuant to the proposed 17d–2 Plan, FINRA would assume certain examination and enforcement responsibilities for those EDGA members that are also members of FINRA and the associated persons therewith ("Dual Members") with respect to certain applicable laws, rules, and regulations.[11]

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (the "EDGA Certification for 17d–2 Agreement with FINRA," referred to herein as the "Certification") that lists every EDGA rule, and select federal securities laws, rules, and regulations, for which FINRA would bear responsibility under the Plan for overseeing and enforcing with respect to Dual Members.

Specifically, under the 17d–2 Plan, FINRA would assume examination and enforcement responsibility relating to compliance by Dual Members with the

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] *See* Securities Exchange Act Release No. 61860 (April 7, 2010), 75 FR 18915.

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Paragraph 1(c) of the proposed 17d–2 Plan (defining "Dual Members").

rules of EDGA that are substantially similar to the applicable rules of FINRA, as well as any provisions of the federal securities laws and the rules and regulations thereunder delineated in the Certification ("Common Rules"). Common Rules would not include the application of any EDGA rule or FINRA rule, or any rule or regulation under the Act, to the extent that it pertains to violations of insider trading activities, because such matters are covered by a separate multiparty agreement under Rule 17d–2.[12] In the event that a Dual Member is the subject of an investigation relating to a transaction on EDGA, the plan acknowledges that EDGA may, in its discretion, exercise concurrent jurisdiction and responsibility for such matter.[13]

Under the Plan, EDGA would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving EDGA's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules); its duties as a DEA pursuant to Rule 17d–1 under the Act; and any EDGA rules that are not Common Rules, except for EDGA rules for any broker-dealer subsidiary of Direct Edge Holdings LLC.[14] Apparent violations of any EDGA rules by any broker-dealer subsidiary of Direct Edge Holdings LLC. will be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA.[15]

III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act[16] and Rule 17d–2(c) thereunder[17] in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for Dual Members that would otherwise be performed by both EDGA and FINRA. Accordingly, the proposed Plan promotes efficiency by reducing costs to Dual Members. Furthermore, because EDGA and FINRA will coordinate their regulatory functions in accordance with the Plan, the Plan should promote investor protection.

The Commission notes that when it granted the application of EDGA for registration as a national securities exchange, the Commission conditioned the operation of the EDGA exchange on the satisfaction of several requirements.[18] One of those requirements was the effectiveness of an agreement pursuant to Rule 17d–2 between FINRA and EDGA that allocates to FINRA regulatory responsibility for certain specified matters, or, alternatively, the demonstration by EDGA that it independently has the ability to fulfill all of its regulatory obligations.[19] The proposed 17d–2 Plan represents EDGA's effort to satisfy that prerequisite.

The Commission notes that, under the Plan, EDGA and FINRA have allocated regulatory responsibility for those EDGA rules, set forth on the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Dual Member's activity, conduct, or output in relation to such rule. In addition, under the Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

Under the Plan, EDGA would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving EDGA's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules); its duties as a DEA pursuant to Rule 17d–1 under the Act; and any EDGA rules that are not Common Rules, except for EDGA rules for any broker-dealer subsidiary of Direct Edge Holdings LLC.[20] Apparent violations of any EDGA rules by any broker-dealer subsidiary of Direct Edge Holdings LLC will be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA.[21] The effect of these provisions is that regulatory oversight and enforcement responsibilities for any broker-dealer subsidiary of Direct Edge Holdings LLC, which is the parent company of EDGA, will be vested with FINRA. These provisions should help avoid any potential conflicts of interest that could arise if EDGA was primarily responsible for regulating its affiliated broker-dealers.

According to the Plan, EDGA will review the Certification, at least annually, or more frequently if required by changes in either the rules of EDGA or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add EDGA rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete EDGA rules included in the then-current list of Common Rules that are no longer substantially similar to FINRA rules; and confirm that the remaining rules on the list of Common Rules continue to be EDGA rules that are substantially similar to FINRA rules.[22] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Plan. Under the Plan, EDGA will also provide FINRA with a current list of Dual Members and shall update the list no less frequently than once each quarter.[23]

The Commission is hereby declaring effective a plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all EDGA rules that are substantially similar to the rules of FINRA for Dual Members of EDGA and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Plan, provided that the Parties are only adding to, deleting from, or confirming changes to EDGA rules in the Certification in conformance with the definition of Common Rules provided in the Plan. However, should the Parties decide to add a EDGA rule to the Certification that is not substantially similar to a FINRA rule; delete a EDGA rule from the

[12] *See* paragraph 1(b) of the proposed 17d–2 Plan. *See also* Securities Exchange Act Release Nos. 58350 (August 13, 2008), 73 FR 48247 (August 18, 2008) (File No. 4–566) (notice of filing of proposed plan); and 58536 (September 12, 2008) 73 FR 54646 (September 22, 2008) (File No. 4–566) (order approving and declaring effective the plan). The Certification identifies several Common Rules that may also be addressed in the context of regulating insider trading activities pursuant to the proposed separate multiparty agreement.

[13] *See* paragraph 6 of the proposed 17d–2 Plan.

[14] *See* paragraph 2 of the proposed 17d–2 Plan.

[15] *See* paragraph 6 of the proposed 17d–2 Plan.

[16] 15 U.S.C. 78q(d).

[17] 17 CFR 240.17d–2(c).

[18] *See* Securities Exchange Act Release No. 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (File No. 10–194).

[19] *Id.*

[20] *See* paragraph 2 of the proposed 17d–2 Plan.

[21] *See* paragraph 6 of the proposed 17d–2 Plan.

[22] *See* paragraph 2 of the proposed 17d–2 Plan.

[23] *See* paragraph 3 of the proposed 17d–2 Plan.

Certification that is substantially similar to a FINRA rule; or leave on the Certification a EDGA rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act and noticed for public comment.[24]

The Plan also permits EDGA and FINRA to terminate the Plan, subject to notice.[25] The Commission notes, however, that while the Plan permits the Parties to terminate the Plan, the Parties cannot by themselves reallocate the regulatory responsibilities set forth in the Plan, since Rule 17d–2 under the Act requires that any allocation or re-allocation of regulatory responsibilities be filed with the Commission.[26]

IV. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4–597. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan in File No. 4–597, between FINRA and EDGA, filed pursuant to Rule 17d–2 under the Act, is approved and declared effective.

It is therefore ordered that EDGA is relieved of those responsibilities allocated to FINRA under the Plan in File No. 4–597.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11933 Filed 5–18–10; 8:45 am]

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[24] The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Plan for examining, and enforcing compliance by, Dual Members, also would constitute an amendment to the Plan.

[25] *See* paragraph 12 of the proposed 17d–2 Plan.

[26] The Commission notes that paragraph 12 of the Plan reflects the fact that FINRA's responsibilities under the Plan will continue in effect until the Commission approves any termination of the Plan.

[27] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62079; File No. 4–598]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving and Declaring Effective a Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and EDGX Exchange, Inc.

May 11, 2010.

On April 2, 2010, EDGX Exchange, Inc. ("EDGX") and the Financial Industry Regulatory Authority, Inc. ("FINRA") (together with EDGX, the "Parties") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 17(d) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 17d–2 thereunder,[2] a plan for the allocation of regulatory responsibilities, dated March 31, 2010 ("17d–2 Plan" or the "Plan"). The Plan was published for comment on April 13, 2010.[3] The Commission received no comments on the Plan. This order approves and declares effective the Plan.

I. Introduction

Section 19(g)(1) of the Act,[4] among other things, requires every self-regulatory organization ("SRO") registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[5] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO ("common members"). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d-1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] *See* Securities Exchange Act Release No. 61861 (April 7, 2010), 75 FR 18920.

[4] 15 U.S.C. 78s(g)(1).

[5] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

regulatory responsibilities allocated by the plan to another SRO.

II. Proposed Plan

The proposed 17d–2 Plan is intended to reduce regulatory duplication for firms that are common members of both EDGX and FINRA. Pursuant to the proposed 17d–2 Plan, FINRA would assume certain examination and enforcement responsibilities for those EDGX members that are also members of FINRA and the associated persons therewith ("Dual Members") with respect to certain applicable laws, rules, and regulations.[11]

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (the "EDGX Certification for 17d–2 Agreement with FINRA," referred to herein as the "Certification") that lists every EDGX rule, and select federal securities laws, rules, and regulations, for which FINRA would bear responsibility under the Plan for overseeing and enforcing with respect to Dual Members.

Specifically, under the 17d–2 Plan, FINRA would assume examination and enforcement responsibility relating to compliance by Dual Members with the rules of EDGX that are substantially similar to the applicable rules of FINRA, as well as any provisions of the federal securities laws and the rules and regulations thereunder delineated in the Certification ("Common Rules"). Common Rules would not include the application of any EDGX rule or FINRA rule, or any rule or regulation under the Act, to the extent that it pertains to violations of insider trading activities, because such matters are covered by a separate multiparty agreement under Rule 17d–2.[12] In the event that a Dual Member is the subject of an investigation relating to a transaction on EDGX, the plan acknowledges that EDGX may, in its discretion, exercise concurrent jurisdiction and responsibility for such matter.[13]

Under the Plan, EDGX would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving EDGX's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules); its duties as a DEA pursuant to Rule 17d–1 under the Act; and any EDGX rules that are not Common Rules, except for EDGX rules for any broker-dealer subsidiary of Direct Edge Holdings LLC.[14] Apparent violations of any EDGX rules by any broker-dealer subsidiary of Direct Edge Holdings LLC. will be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA.[15]

III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act[16] and Rule 17d–2(c) thereunder[17] in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for Dual Members that would otherwise be performed by both EDGX and FINRA. Accordingly, the proposed Plan promotes efficiency by reducing costs to Dual Members. Furthermore, because EDGX and FINRA will coordinate their regulatory functions in accordance with the Plan, the Plan should promote investor protection.

The Commission notes that when it granted the application of EDGX for registration as a national securities exchange, the Commission conditioned the operation of the EDGX exchange on the satisfaction of several requirements.[18] One of those requirements was the effectiveness of an agreement pursuant to Rule 17d–2 between FINRA and EDGX that allocates to FINRA regulatory responsibility for certain specified matters, or, alternatively, the demonstration by EDGX that it independently has the ability to fulfill all of its regulatory obligations.[19] The proposed 17d–2 Plan represents EDGX's effort to satisfy that prerequisite.

The Commission notes that, under the Plan, EDGX and FINRA have allocated regulatory responsibility for those EDGX rules, set forth on the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Dual Member's activity, conduct, or output in relation to such rule. In addition, under the Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

Under the Plan, EDGX would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving EDGX's own marketplace, including, without limitation, registration pursuant to its applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules); its duties as a DEA pursuant to Rule 17d–1 under the Act; and any EDGX rules that are not Common Rules, except for EDGX rules for any broker-dealer subsidiary of Direct Edge Holdings LLC.[20] Apparent violations of any EDGX rules by any broker-dealer subsidiary of Direct Edge Holdings LLC will be processed by, and enforcement proceedings in respect thereto will be conducted by, FINRA.[21] The effect of these provisions is that regulatory oversight and enforcement responsibilities for any broker-dealer subsidiary of Direct Edge Holdings LLC, which is the parent company of EDGX, will be vested with FINRA. These provisions should help avoid any potential conflicts of interest that could arise if EDGX was primarily responsible for regulating its affiliated broker-dealers.

According to the Plan, EDGX will review the Certification, at least annually, or more frequently if required by changes in either the rules of EDGX or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add EDGX rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete EDGX rules

[11] *See* Paragraph 1(c) of the proposed 17d–2 Plan (defining "Dual Members").

[12] *See* paragraph 1(b) of the proposed 17d–2 Plan. *See also* Securities Exchange Act Release Nos. 58350 (August 13, 2008), 73 FR 48247 (August 18, 2008) (File No. 4–566) (notice of filing of proposed plan); and 58536 (September 12, 2008) 73 FR 54646 (September 22, 2008) (File No. 4–566) (order approving and declaring effective the plan). The Certification identifies several Common Rules that may also be addressed in the context of regulating insider trading activities pursuant to the proposed separate multiparty agreement.

[13] *See* paragraph 6 of the proposed 17d–2 Plan.

[14] *See* paragraph 2 of the proposed 17d–2 Plan.

[15] *See* paragraph 6 of the proposed 17d–2 Plan.

[16] 15 U.S.C. 78q(d).

[17] 17 CFR 240.17d–2(c).

[18] *See* Securities Exchange Act Release No. 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (File No. 10–196).

[19] *Id.*

[20] *See* paragraph 2 of the proposed 17d–2 Plan.

[21] *See* paragraph 6 of the proposed 17d–2 Plan.

included in the then-current list of Common Rules that are no longer substantially similar to FINRA rules; and confirm that the remaining rules on the list of Common Rules continue to be EDGX rules that are substantially similar to FINRA rules.[22] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Plan. Under the Plan, EDGX will also provide FINRA with a current list of Dual Members and shall update the list no less frequently than once each quarter.[23]

The Commission is hereby declaring effective a plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all EDGX rules that are substantially similar to the rules of FINRA for Dual Members of EDGX and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Plan, provided that the Parties are only adding to, deleting from, or confirming changes to EDGX rules in the Certification in conformance with the definition of Common Rules provided in the Plan. However, should the Parties decide to add a EDGX rule to the Certification that is not substantially similar to a FINRA rule; delete a EDGX rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a EDGX rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act and noticed for public comment.[24]

The Plan also permits EDGX and FINRA to terminate the Plan, subject to notice.[25] The Commission notes, however, that while the Plan permits the Parties to terminate the Plan, the Parties cannot by themselves reallocate the regulatory responsibilities set forth in the Plan, since Rule 17d–2 under the Act requires that any allocation or re-allocation of regulatory responsibilities be filed with the Commission.[26]

IV. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4–598. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan in File No. 4–598, between FINRA and EDGX, filed pursuant to Rule 17d–2 under the Act, is approved and declared effective.

It is therefore ordered that EDGX is relieved of those responsibilities allocated to FINRA under the Plan in File No. 4–598.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11934 Filed 5–18–10; 8:45 am]

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[22] *See* paragraph 2 of the proposed 17d–2 Plan.

[23] *See* paragraph 3 of the proposed 17d–2 Plan.

[24] The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Plan for examining, and enforcing compliance by, Dual Members, also would constitute an amendment to the Plan.

[25] *See* paragraph 12 of the proposed 17d–2 Plan.

[26] The Commission notes that paragraph 12 of the Plan reflects the fact that FINRA's responsibilities under the Plan will continue in effect until the Commission approves any termination of the Plan.

[27] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62081; File No. SR–NASDAQ–2010–058]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ Market Center

May 11, 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 May 3, 2010, 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. Pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] NASDAQ has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ proposes to modify pricing for NASDAQ members using the NASDAQ Market Center. NASDAQ will implement the proposed change on May 3, 2010. The text of the proposed rule change is available at *http://nasdaqomx.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, 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

In response to announced execution rate changes at the New York Stock Exchange ("NYSE"), NASDAQ is making minor modifications to its pricing schedule for the routing of orders through the NASDAQ Market Center. First, NASDAQ is increasing the per share credits and fees for members using the STGY, SCAN, SKNY, SKIP, or DOTI routing strategies to either add liquidity or execute at the NYSE.[5] The credit for orders adding liquidity after routing will increase to $0.0013 from $0.0010 per share. The fee for other orders will increase to $0.0021 from $0.0018 per share. For orders using these strategies that execute in destinations other than the NYSE (or NASDAQ OMX BX, in the case of DOTI orders), the fee will remain $0.0030 per share executed.[6]

Second, NASDAQ is modifying the fees for members using the TFTY or MOPP routing strategies, and directed orders that execute in a venue other than the NASDAQ Market Center as

[5] Orders designated to use these routing strategies check the NASDAQ book for the full size of the order prior to routing. The terms and conditions of NASDAQ's routing strategies are described in NASDAQ Rule 4758.

[6] For DOTI orders that execute in NASDAQ OMX BX, NASDAQ will continue to pass through fees and rebates associated with order execution on that venue.

follows: (1) The fees for directed orders designated as Intermarket Sweep Orders that execute at the NYSE will increase to $0.0023 from $0.0020 per share executed; (2) The fee for other directed orders that execute at the NYSE will increase to $0.0022 from $0.0019 per share executed for members with an average daily volume through the NASDAQ Market Center in all securities during the month of more than 35 million shares of liquidity provided; (3) The fee for all for other directed orders that execute at the NYSE from members that do not reach the 35 million threshold will increase to $0.0023 from $0.0020 per share; (4) The fee for MOPP orders that execute at the NYSE will increase to $0.0023 from $0.0020 per share; and (5) The fee for TFTY orders that execute at the NYSE will increase to $0.0017 from $0.0014 per share. All other fees and pass-through fees remain unchanged.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. The impact of the modest price increases upon the net fees paid by a particular market participant will depend upon a number of variables, including the routing strategies that it uses, the relative availability of liquidity on NASDAQ and other venues, the prices of the market participant's quotes and orders relative to the national best bid and offer (*i.e.,* its propensity to add or remove liquidity), and the types of securities that it trades. NASDAQ notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. Accordingly, if particular market participants object to the proposed fee increases, they can avoid paying the fees by directing orders to other venues or using routing strategies and order types that are not subject to the increases. NASDAQ believes that its fees continue to be reasonable and equitably allocated to members on the basis of whether they opt to direct orders to NASDAQ.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution and routing is extremely competitive, members may readily direct orders to NASDAQ's competitors if they object to the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (f)(2) of Rule 19b–4 thereunder.[10] 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–NASDAQ–2010–058 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–2010–058. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2010–058, and should be submitted on or before June 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11936 Filed 5–18–10; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62085; File No. SR–CHX–2010–08]

Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish a Fixed Provide Credit for CHX-Registered Institutional Brokers

May 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 30, 2010, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

below, which Items have been prepared by the Exchange. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The CHX proposes to amend its Schedule of Participant Fees and Assessments (the "Fee Schedule"), effective May 3, 2010, to establish a fixed provide credit for CHX-registered institutional brokers for agency trade executions of one-sided orders entered by their customers in Tape A, B and C securities which execute within the Exchange's Matching System. The proposal also removes certain obsolete references to the now-defunct ITS trading system in the Fee Schedule. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm* and in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549.

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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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

Through this filing, the Exchange would amend its Fee Schedule, effective May 3, 2010, to establish a non-variable credit for certain liquidity-providing single-sided orders submitted by CHX-registered Institutional Brokers on behalf of their customers to the Exchange's Matching System and subsequently executed there. The Exchange's Fee Schedule provides for a tiered schedule of fees and rebates for Participants for trade executions of single-sided orders in securities priced over $1 in the event that certain volume thresholds (described as the "Average Daily Volume" or "ADV") are achieved.[5] For transactions subject to the Agency Execution fee of Section E.3., the Fee Schedule states that the take fees and provide credits accruing pursuant to Section E.1. (Matching System single order executions (one-sided orders of 100+ shares)) shall be assessed against the Institutional Broker handling the transaction, and not the Participant which is a party to the transaction.[6] Currently, the Institutional Broker is exempt from payment of the liquidity taking fee normally charged to Participants if it is handling an order subject to the Agency Execution fees.[7]

Pursuant to this filing, the Exchange would modify its Fee Schedule to state that Institutional Brokers would be entitled to a fixed provide credit irrespective of its ADV for orders subject to the Agency Execution fees. A provide credit of $0.0029/share in Tape A and C securities and $0.0032/share in Tape B securities priced $1.00/share or more would be paid to the Institutional Broker representing the Participant which originated the order (regardless of the ADV attributable to either firm). The filing also calls for a provide credit of 0.20% of the trade value in Tape A, B and C securities priced less than $1.00/share to be paid to the Institutional Broker representing the Participant which originated the order (regardless of the ADV attributable to either firm).

Institutional Brokers are typically smaller firms that enter orders manually and cannot realistically achieve the higher ADV levels needed for preferential pricing.[8] Payment of a fixed provide credit at a preferential rate to Institutional Brokers acts as an incentive to post liquidity in the CHX Matching System when those firms are considering how best to seek execution of their customer's orders. Representation of such orders within the CHX Matching System in turn benefits the Exchange by potentially increasing transaction revenue (in the form of take fees for orders which interact with posted liquidity) and market data revenue. Creating a fixed provide rate which does not vary based upon the Institutional Broker's ADV allows for a simple and consistent formula which these firms can rely upon when deciding to how to handle their customer's orders. Furthermore, any market participant may apply for registration as a CHX Institutional Broker and, if eligible, avail themselves of the fixed provide credit.

The Exchange also proposes to remove from Section E.1. and E.3. of the Fee Schedule certain obsolete references to the Intermarket Trading System ("ITS") and the payment obligations relating to orders transmitted to other ITS participating markets through the ITS system. The ITS system was deactivated in 2007 and is no longer is use. The removal of these obsolete references will serve to eliminate a potential source of confusion for Exchange Participants.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(4) of the Act[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members. Among other things, the change to the Fee Schedule would provide incentives to Exchange-registered Institutional Brokers to increase the amount of liquidity provided on our trading facilities, which may contribute to an increase in trading volume on the Exchange and in the income derived therefrom. The removal of the obsolete references to the Intermarket Trading System in the Fee Schedule will serve to eliminate a potential source of confusion for Exchange Participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Section E.1 of the Fee Schedule defines ADV as follows: "'ADV' means, with respect to a Participant, the number of shares such Participant has executed as a liquidity provider in any and all trading sessions on average per trading day (excluding partial trading days) across all tapes on the trading facilities of the CHX (excluding all cross transactions and transactions in issues priced less than $1.00/share) for the calendar month in which the executions occurred."

[6] *See,* Section E.3. of the Fee Schedule. ("If the institutional broker executes the order in the Matching System or as otherwise permitted by CHX rules, the institutional broker (not its customer) will be assessed applicable Matching System fees (*see* (1) and (2) above).")

[7] Section E.1. of the Fee Schedule.

[8] Institutional Broker firms (formerly Floor Brokers under the Exchange's old floor based trading model) are firms that primarily receive orders needing special handling and manual entry into the CHX system. These brokers are essentially order-entry firms for which the Exchange is the designated examining authority.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4)

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(B)(3)(A)(ii) of the Act [11] and subparagraph (f)(2) of Rule 19b–4 thereunder [12] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such 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 purpose 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–CHX–2010–08 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–CHX–2010–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–CHX–2010–08 and should be submitted on or before June 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11938 Filed 5–18–10; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62094; File No. SR–OCC–2010–07]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Clearing Options on the CBOE Gold ETF Volatility Index

May 13, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on April 26, 2010, The Options Clearing Corporation ("OCC") 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 primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The proposed rule change would allow OCC to add an interpretation following the introduction in Article XVII of OCC's By-Laws to clarify that OCC will clear and treat as securities options any option contracts on the CBOE Gold ETF Volatility Index.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC 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

The purpose of the proposed rule change is to make clear that options on the CBOE Gold ETF Volatility Index, which is an index that measures the implied volatility of options on the SPDR Gold Trust, which is an exchange-traded fund designed to reflect the performance of gold bullion. To accomplish this purpose, OCC is proposing to add an interpretation following the introduction in Article XVII of OCC's By-Laws, clarifying that OCC will clear and treat as securities options any option contracts on the CBOE Gold ETF Volatility Index.[2] On May 30, 2008, the Commission approved rule filing SR–OCC–2008–07, which added a similar interpretation with respect to the treatment and clearing of options on shares of the SPDR Gold Trust.[3] On December 4, 2008, the Commission approved rule filings SR–OCC–2008–13 and SR–OCC–2008–14, which extended similar treatment to options on iShares® COMEX Gold Shares and iShares® Silver Shares.[4] On February 25, 2010, the Commission approved rule filing SR–OCC–2009–20, which extended similar treatment to options and security futures on ETFS Physical Swiss

[1] 15 U.S.C. 78s(b)(1).

[2] The specific language of the proposed interpretation can be found on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jspU*.

[3] Securities Exchange Act Release No. 57895, 73 FR 32066 (June 5, 2008).

[4] Securities Exchange Act Release No. 59054, 73 FR 75159 (Dec. 10, 2008). These filings also provided that futures on the exchange-traded funds in question would be cleared and treated as security futures.

Gold Shares and ETFS Physical Silver Shares.[5]

In its capacity as a "derivatives clearing organization" registered as such with the CFTC, OCC is filing this proposed rule change for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act ("CEA") in order to foreclose any potential liability under the CEA based on an argument that the clearing by OCC of such options as securities options constitutes a violation of the CEA.

OCC states that the proposed interpretation of OCC's By-Laws is consistent with the purposes and requirements of Section 17A of the Act[6] because it is designed to promote the prompt and accurate clearance and settlement of transactions in securities options, to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. It does so by reducing the likelihood of a dispute as to OCC's treatment of options based on the CBOE Gold ETF Volatility Index. The proposed rule change is not inconsistent with the By-Laws and Rules of OCC.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

OCC has not solicited or received written comments relating to the proposed rule change. OCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the 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 No. SR–OCC–2010–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–OCC–2010–07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at *http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jspU*. 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 submission should refer to File No. SR–OCC–2010–07 and should be submitted on or before June 9, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[7]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11940 Filed 5–18–10; 8:45 am]

BILLING CODE 8010–01–P

[5] Securities Exchange Act Release No. 61591, 75 FR 9979 (Mar. 4, 2010).

[6] 15 U.S.C. 78q–1.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62095; File No. SR–CBOE–2010–042]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Suspension of Seat Market

May 13, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 6, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CBOE. CBOE has filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(3) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its rules governing the sale and transfer of Exchange memberships by adding new Interpretation and Policy .02 to Rule 3.14. The rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide for a fair and orderly market in shares of common stock of CBOE Holdings, Inc. ("CBOE Holdings Common Stock") in the unique circumstances presented during the brief period, anticipated to be three business days, between the commencement of the initial public offering of such shares and the effectiveness of the demutualization of the Exchange. The timetable for the demutualization of the Exchange and the public offering of CBOE Holdings Common Stock is such that, although the demutualization transaction will have been approved in a vote of the Exchange membership prior to the commencement of the public offering, the demutualization will not become effective until just prior to the closing of the public offering, which is expected to occur three business days after the commencement of the offering. This timetable avoids having to address difficult administrative issues that would otherwise arise on account of the need to issue special "Class A" and "Class B" shares of CBOE Holdings Common Stock to Exchange membership owners and to participants in the settlement of the "Exercise Right" litigation, respectively, upon the effectiveness of the demutualization. Upon the closing of the public offering, both of these special share Classes will be converted into the same classes of shares of CBOE Holding Common Stock. By essentially eliminating the time interval between the effectiveness of the demutualization and the closing of the public offering, the Exchange is able to avoid difficult issues that would otherwise have to be addressed as a result of having both Class A and Class B shares of CBOE Holdings Common Stock outstanding prior to just before the closing of the public offering.

As is customary in underwritten public offerings, immediately upon the commencement of the public offering of shares of CBOE Holdings common stock the shares will begin to be traded on a when-issued basis on the exchange where the shares are listed. However, because the effectiveness of the demutualization will not occur until just before the closing of the public offering for the reason explained above, Exchange memberships will continue to be outstanding concurrently with the when-issued trading of the same class of shares into which they will ultimately be converted. It is essential to the orderliness of the public offering of shares of CBOE Holdings Common Stock and consistent with the ability of the underwriters to engage in stabilization transactions in those shares under Rule 104 of Regulation M under the Securities Exchange Act of 1934,[5] that while there is when-issued trading in shares of CBOE Holdings Common Stock in the listed market for these shares, there must not be an alternative market in the same class of shares or in interests that are equivalent to those shares. If there were to continue to be a market for Exchange memberships during this brief period, it would amount to an alternative market for the class of shares being offered, since upon the effectiveness of the demutualization all outstanding Exchange memberships will be converted into shares of CBOE Holdings Common Stock. The Exchange believes that such a seat market would be outside of the scope of Regulation M[6] and the underwriters' ability to stabilize the price of the shares being offered. Accordingly, the existence of such an alternative market would jeopardize the orderliness of the public offering. For this reason, the Exchange believes that it is necessary to suspend the operation of the Exchange's seat market during this brief period. A rule change is needed to accomplish this suspension, since it is for a longer period than the Board of Directors is authorized to declare under existing Interpretation and Policy .01 under Exchange Rule 3.14.

There should be no adverse consequences to Exchange members as a result of suspending the CBOE seat market for a brief, three-day period. Before the public offering commences, and as a condition of the offering, the demutualization of the Exchange will have been approved by a vote of the Exchange membership, although as explained above the demutualization will not become effective until after the public offering has been completed and just prior to its closing. During this period, the ownership interests in the Exchange will, for all practical purposes, be represented by the shares of CBOE Holdings common stock into which memberships will be converted in accordance with the terms and upon the effectiveness of the demutualization, which will have been approved by CBOE's membership. Once this happens, Exchange memberships will cease to exist and the purchase and sale of Exchange memberships will no longer be possible. Thus the effect of the proposed rule change is simply to accelerate the termination of the seat market by three days prior to the time it would have ended in any event.

In the unlikely event that the demutualization, having been approved by the membership, does not become effective as anticipated, the public offering will not close and Exchange memberships will remain outstanding. In that event, the seat market will once again resume operation, subject only to the authority of the Board to delay its resumption for no more than one business day under existing Interpretation and Policy .01 of Rule 3.14, if the Board determines that under the circumstances such a delay is needed in the interest of a fair and orderly market in memberships.

2. Statutory Basis

By providing for a fair and orderly public offering of shares of CBOE Holdings Common Stock and eliminating any possibility that the market in Exchange memberships could be used to manipulate the when-issued market in such shares, the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5)[8] in particular, in that it would prevent fraudulent and manipulative acts and practices, would promote just and equitable principles of trade and would protect investors and the public interest.

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.

[5] 17 CFR 242.104.

[6] 17 CFR 242.104.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(3) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2010–042 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–2010–042. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2010–042 and should be submitted on or before June 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11944 Filed 5–18–10; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(3).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62103; File No. SR–BX–2010–036]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reduce the Required Number of Market Makers Appointed in a Particular Class for the Opening of Trading

May 13, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 4, 2010, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ OMX BX, Inc. (the "Exchange") proposes to amend Chapter IV, Section 5 (Minimum Participation Requirement for Opening Trading of Option Classes) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to reduce the required number of Market Makers appointed in a particular class for the opening of trading in series of an options class from at least two (2) Market Makers to at least one (1) Market Maker. The text of the proposed rule change is attached as Exhibit 5.[5] The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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

Chapter IV, Section 5(a) of the BOX Rules currently provides, in relevant part, that after a particular class of options has been approved for listing on BOX, BOXR [6] will open trading in series of options in that class only if there are at least two (2) Market Makers [7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Commission notes that the text of the proposed rule change is attached as Exhibit 5 to the Form 19b–4, but is not attached to this Notice.

[6] The term "BOXR" or "BOX Regulation" means Boston Options Exchange Regulation LLC, a wholly-owned subsidiary of the Exchange. *See* Chapter I, Section 1(a)(9) of the BOX Rules.

[7] The term "Market Maker" means an Options Participant registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the BOX Rules. All Market Makers are designated

appointed for trading that particular class. Additionally, Chapter IV, Section 5(c) of the BOX Rules currently provides, in relevant part, that BOXR may continue trading in a class where subsequently only one (1) Market Maker remains appointed to that class.[8]

The Exchange is proposing to reduce the requirement of Section 5(a), from at least two (2) Market Makers to at least one (1) Market Maker, in order to expand the number of options classes available to investors for trading on BOX and for hedging risks associated with securities underlying those options classes, as well as to enhance the BOX Market in products which are likely to receive customer order flow. Reducing this listing requirement on BOX to one (1) Market Maker would provide BOX with the opportunity to trade options classes that may have interest but that do not have the presently required interest to meet the two (2) Market Maker requirement.

Additionally, the reduction of the requirement of Section 5(a), from at least two (2) Market Makers to at least one (1) Market Maker, requires that Section 5(c) be amended to reflect that once a class is opened for trading and subsequently zero (0) Market Makers remain appointed to that class, an Options Official shall halt trading in such options class until such time when at least one (1) Market Maker is again appointed for trading in that particular class. In such a case BOX will not execute any orders whatsoever, whether against the BOX Book, or otherwise, and will not accept any incoming orders from BOX Options Participants or from Away Exchanges.[9]

The Exchange also proposes adding new rule text to Section 5 to address the circumstance where a particular class of options has been approved for listing on BOX and there is not at least one (1) series of options in that class open for trading. In this circumstance the class shall be halted from trading until such time as a series of options in that class may be opened for trading and BOX will neither execute orders on its book nor accept inbound orders from BOX Options Participants or from away markets.[10]

The Commission previously stated, in its approval order for the proposed rule change establishing the NASDAQ Options Market ("NOM"), that it does not believe that the Act requires an exchange to have market makers and that although market makers could be an important source of liquidity on NOM, they likely would not be the only source.[11] Furthermore, the Commission also recently approved a proposed rule change establishing rules governing the trading of standardized options contracts on the BATS Exchange ("BATS"). Specifically, after a particular class of options has been approved for listing on BATS Options a series of options in that class will be opened for trading only if there is at least *one* (emphasis added) options market maker registered for trading that particular series.[12] Both NOM and BATS Options trading rules also place an options class in a 'regulatory execution suspension,' or halt, when there are no longer any NOM Market Makers or BATS Options Members, respectively, registered or appointed in the particular class as well in a 'non-regulatory suspension,' or halt, in the circumstance where a particular class of options has been approved for listing and there is not at least one (1) series of options in that class open for trading.[13]

With regard to the impact on system capacity, the Exchange has analyzed BOX's capacity and represents that BOX and the Options Price Reporting Authority have the necessary systems capacity to handle any additional traffic associated with the listing and trading of an expanded number of options classes, and series within those classes, which may result from approval of this proposal.

2. *Basis*

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[14] in general, and Section 6(b)(5) of the Act,[15] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposal would expand the ability of investors to hedge risks associated with securities underlying options which are currently not listed on BOX and allow the BOX Rules to more closely conform to the rules of other options exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent

as specialists on the Exchange for all purposes under the Exchange Act or Rules thereunder. *See* Chapter I, Section 1(a)(31) of the BOX Rules. The term "Options Participant" or "Participant" means a firm, or organization that is registered with the Exchange pursuant to Chapter II of the BOX Rules for purposes of participating in options trading on BOX as an "Order Flow Provider" or "Market Maker". *See* Chapter I, Section 1(a)(48) of the BOX Rules.

[8] If an Options Official makes an affirmative determination that halting of trading in such class is detrimental to the remaining Market Maker, and that continued trading in such class by one Market Maker is in the interest of maintaining a fair and orderly marketplace and would not create adverse consequence to an existing Customer of BOX or an Options Participant. The term "Options Official" means an officer of BOXR vested by the BOXR Board with certain authority to supervise option trading on BOX. *See* Chapter I, Section 1(a)(44) of the BOX Rules.

[9] The term "Away Exchange" means a national securities exchange that trades listed options, other than the Exchange. *See* Chapter XII, Section 1(a) of the BOX Rules.

[10] The Exchange proposes inserting this rule text as new Section 5(b). This proposed insertion requires that current Sections 5(b) and (c) be re-numbered as Sections 5(c) and (d), respectively.

[11] *See* Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (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"). The Exchange notes that NASDAQ recently submitted a proposed rule change with the Commission which, among other things, would eliminate, in its entirety, the requirement that at least one options market maker be registered for trading a particular series before it may be opened for trading on NOM.

[12] *See* Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Establish Rules Governing the Trading of Options on the BATS Options Exchange).

[13] *See* Chapter IV, Section 5 of the NOM Rules and BATS Options Rule 19.5, respectively.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) [16] of the Act and Rule 19b–4(f)(6) thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2010–036 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2010–036. 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,[18] all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2010–036 and should be submitted on or before June 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11941 Filed 5–18–10; 8:45 am]

BILLING CODE 8010–01–P

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with 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 deems this requirement to have been met.

[18] The text of the proposed rule change is available on the Commission's Web site at *https://www.sec.gov.*

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62087; File No. SR–CHX–2010–09]

Self-Regulatory Organizations; The Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Decrease the Provide Credit for Transactions Involving Issues Priced Less Than One Dollar

May 12, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2010, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. CHX has filed the proposal pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The CHX proposes to amend its Schedule of Participant Fees and Assessments (the "Fee Schedule"), effective May 3, 2010, to change its transaction fees and rebates to Exchange Participants for transactions involving issues priced less than one dollar that occur within the Exchange's Matching System. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm* and in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549.

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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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

Through this filing, the Exchange would amend its Fee Schedule to decrease the provide credit to Exchange Participants for transactions involving issues priced less than one dollar that occur within the Exchange's Matching System.

The Exchange proposes to decrease the provide credit in the transactions described above from 0.25% to 0.20% of the trade value.[5] The Exchange notes that the provide credit was increased earlier this year in response to similar increases by some of our competitors for transactions in securities priced under $1.[6] Since that time, some of our competitors have again changed their pricing for transactions in securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] "Trade value" is defined in our Fee Schedule as "a dollar amount equal to the price per share multiplied by the number of shares executed."

[6] For example, National Stock Exchange raised its provide credit to 0.25% for transactions under $1 in Tape A, B and C securities beginning in the month of February 2010.

priced under $1.[7] The proposed decrease in the provide credit will help us remain competitive while maximizing the income derived from transactions in securities priced under $1.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members. Among other things, the change to the fee schedule would provide incentives to Participants to increase the amount of liquidity provided on our trading facilities for securities priced less than $1, which may contribute to an increase in trading volume on the Exchange and in the income derived there from.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(B)(3)(A)(ii) of the Act[10] and subparagraph (f)(2) of Rule 19b–4 thereunder[11] because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of such 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 purpose of the Act.

[7] For example, National Stock Exchange changed its rebate to the lesser of 0.25% of trade value and 25% of the quote spread.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

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–CHX–2010–09 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–CHX–2010–09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at 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–CHX–2010–09 and should be submitted on or before June 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11939 Filed 5–18–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62084; File No. SR–NYSEAmex–2010–40]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rules Extending the Maximum Term of FLEX Index and FLEX Equity Options and To Establish a New Pilot Program

May 12, 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 April 22, 2010, NYSE Amex LLC ("NYSE Amex" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission"), as modified by Amendment No. 1 on May 12, 2010, the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.[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 Exchange is proposing Amendment No. 1 to SR–NYSEAmex-2010–40 in order to revise the Statutory Basis section and to adopt rules extending the maximum term of FLEX Index and FLEX Equity Options, and to establish a new Pilot Program to permit FLEX Options to trade with no minimum size requirement, and also to correct a reference within the rule text. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that Amendment No. 1 replaces the original filing in its entirety.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex is filing this Amendment No. 1 in order to revise the Statutory Basis section of the 19b–4 with corresponding changes to the Exhibit 1. The Exchange is not proposing any revisions to the Exhibit 5. This amendment replaces the original filing in its entirety.

The purpose of the filing is to modify Rule 903G to extend the maximum term of FLEX Index and FLEX Equity options to the same term permissible on NYSE Arca Inc. ("Arca"); and replace the minimum value size Pilot Program for FLEX Equity options with a new Pilot Program to eliminate minimum value sizes for both FLEX Equity options and FLEX Index options by adopting rule provisions similar to those in use by the Chicago Board Options Exchange ("CBOE"). The Exchange also proposes to correct a rule reference.

Extension of the Maximum Term Of FLEX Index and FLEX Equity Options

The Exchange is proposing to adopt a provision to allow a maximum term of fifteen years for both FLEX Equity and FLEX Index options, based on a provision in NYSE Arca Rule 5.32(d)(1).[4] This change will allow NYSE Amex to remain competitive and offer the same terms for FLEX options as other markets.

Minimum Value Size Requirements for All FLEX Options

Presently, under an existing Pilot Program, the Exchange has reduced the minimum value size requirements for an opening FLEX Equity transaction to the lesser of 150 contracts or the number of contracts overlying $1 million in underlying securities. An opening FLEX Index transaction requires a minimum size of $10 million Underlying Equivalent Value in the case of Broad Stock Index Group FLEX Index Options and $5 million Underlying Equivalent Value in the case of Stock Index Industry Group FLEX Index Options. The Exchange proposes to replace the existing minimum size Pilot Program with a new pilot program that eliminates the minimum value size requirements for both FLEX Equity and FLEX Index options. If, in the future, the Exchange proposes an extension of the new minimum value size Pilot Program, or should the Exchange propose to make the new Program permanent, the Exchange will submit, along with any filing proposing such amendments to the Program, a Pilot Program report that would provide an analysis of the Pilot covering the period during which the Program was in effect. This minimum value size report would include: (i) data and analysis on the open interest and trading volume in (a) FLEX Equity Options with opening transaction with a minimum size of 0 to 249 contracts and less than $1 million in underlying value; (b) FLEX Index Options with opening transaction with a minimum opening size of less than $10 million in underlying equivalent value; and (ii) analysis on the types of investors that initiated opening FLEX Equity and Index Options transactions (*i.e.,* institutional, high net worth, or retail). The report would be submitted to the Commission at least two months prior to the expiration date of the Pilot Program and would be provided on a confidential basis.

The Exchange notes that 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 Pilot. If the Pilot Program were not extended, the position would 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. The proposed minimum opening transaction size elimination is based on a similar pilot approved for use on CBOE.[5]

Correction To A Rule Reference

In preparing this filing the Exchange discovered an incorrect rule reference in Rule 903G(c)(2). The reference is to Rule 952 that has been eliminated and replaced with Rule 960NY; as such we are amending our rules to make this correction.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)[7] in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest by eliminating a minimum size for FLEX transactions and also to allow a term of up to fifteen years for FLEX transactions. The Exchange believes that these proposed changes provide greater opportunities for investors to manage risk through the use of FLEX options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 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, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

[4] *See* Securities Exchange Act Release No. 34–59305 (January 27, 2009) 74 FR 5954 (February 3, 2009).

[5] *See* Exchange Act Release No. 34–61439 (January 28, 2010) 75 FR 5831 (February 4, 2010).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). When filing a proposed rule change pursuant to Rule 19b–4(f)(6) under the Act, an Exchange is required 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

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[10] However, Rule 19b–4(f)(6)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. NYSE Amex has requested that the Commission waive the 30-day operative delay.

The Commission believes that waiving the 30-day operative delay with respect to the proposed rule change to the maximum term of FLEX options is consistent with the protection of investors and the public interest. The Commission notes that this proposed rule change will make the Amex rule substantially similar to the corresponding provisions of the Arca and CBOE rules, and may provide investors with greater flexibility when conducting transactions in FLEX options.[12]

The Commission has also considered NYSE Amex's request to waive the 30-day operative delay with respect to the minimum size pilot. Because, however, the Commission does not believe, practically speaking, that a pilot should retroactively commence, the Commission is only waiving the operative delay as of the date of this notice for the reasons discussed below.

The Commission believes that shortening the 30-day operative delay to allow the commencement of the pilot as of the date of this notice is consistent with the protection of investors and the public interest. The Commission notes that the proposed rule change is substantially similar to a pilot that was previously approved by the Commission and is currently in existence for CBOE.[13] The Commission also notes that the corresponding CBOE pilot was subject to full notice and comment in the **Federal Register**, and that the Commission only received comments that supported that proposal.[14] Moreover, waiving the operative date as of the date of this notice is consistent with approval of CBOE's pilot, which allowed implementation as of the date of the Commission's approval order. For these reasons, the Commission designates the portion of the proposal to establish a minimum size pilot to be operative upon the date of issuance of this notice.[15]

At any time within 60 days of the filing of Amendment No. 1, 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 the 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–NYSEAmex–2010–40 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–NYSEAmex–2010–40. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2010–40 and should be submitted on or before June 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11937 Filed 5–18–10; 8:45 am]

BILLING CODE 8010–01–P

designated by the Commission. The Exchange has met this requirement.

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *Id.*

[12] *See* NYSE Arca Equities Rule 5.32(d)(1); CBOE Rule 24A.4(a)(4)(i).

[13] *See* CBOE Rule 24A.4 Interpretations and Policies .01(b); *see also* Securities Exchange Act Release No. 61439 (January 28, 2010) 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087).

[14] *See* Securities Exchange Act Release No. 61439 (January 28, 2010) 75 FR 5831 (February 4, 2010) (SR–CBOE–2009–087).

[15] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62080; File No. SR–BX–2010–035]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the NASDAQ OMX BX Equities System

May 11, 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 May 3, 2010, NASDAQ OMX BX, Inc. ("BX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by BX. Pursuant to Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] BX has designated this proposal as establishing or changing a due, fee, or other charge, which renders the proposed rule change effective upon filing. 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

BX proposes to modify pricing for BX members using the NASDAQ OMX BX Equities System. BX will implement the proposed change on May 3, 2010. The text of the proposed rule change is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

available at *http://nasdaqomxbx.cchwallstreet.com,* at BX'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, BX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. BX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BX is proposing to modify its fees for orders that execute at prices below $1. Currently, BX charges 0.15% (15 basis points) of the total dollar value of the execution to members accessing liquidity, and provides a rebate of 0.05% (5 basis points) of the total dollar value to members providing liquidity. Through this filing, BX will reduce the fee to access liquidity to 0.10% (10 basis points) of the total dollar value and eliminate the rebate for providing liquidity. The change is a competitive response to several other transaction venues that have made recent changes to fees for securities priced under $1.[5] The new fees are consistent with the limitations of Regulation NMS, SEC Rule 610(c), for securities with a price of less than $1.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(4) of the Act,[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which BX operates or controls. The impact of the price changes upon the net fees paid by a particular market participant will depend upon a number of variables, including the relative availability of liquidity on BX and other venues, the prices of the market participant's quotes and orders relative to the national best bid and offer (*i.e.,* its propensity to add or remove liquidity), and the types of securities that it trades. BX believes that the proposed changes are reasonable and equitable in that they apply uniformly to all similarly situated members.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution and routing is extremely competitive, members may readily direct orders to BX's competitors if they object to the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(2) of Rule 19b–4 thereunder.[9] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2010–035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2010–035. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2010–035 and should be submitted on or before June 9, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–11935 Filed 5–18–10; 8:45 am]

BILLING CODE 8010–01–P

[5] *See http://apps.nyse.com/commdata/pub19b4.nsf/docs/50B8C6B6842FEA1E85257700006A989D/$FILE/NYSEArca-2010-26.pdf* (NYSE Arca); *http://www.nsx.com/resources/content/5/1/documents/SR-NSX-2010-04.pdf* (National Stock Exchange); *http://www.ise.com/assets/documents/OptionsExchange/legal/proposed_rule_changes/2010/SR-ISE-2010-29$Proposed_Rule_Change_Relating_to_Direct_Edge%20_ECN_Fee_Change_for_ISE_Members$20100405.pdf* (Direct Edge).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 7017]

Culturally Significant Object Imported for Exhibition Determinations: "E Ku Ana Ka Paia: Unification, Responsibility and the Ku Images"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition "E Ku Ana Ka Paia: Unification, Responsibility and the Ku Images," imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Bishop Museum, Honolulu, Hawaii, from on or about June 5, 2010, until on or about October 4, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit object, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 12, 2010.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–12000 Filed 5–18–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 7016]

Culturally Significant Objects Imported for Exhibition Determinations: "Picasso Looks at Degas"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Picasso Looks at Degas," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Sterling and Francine Clark Art Institute, from on or about June 6, 2010, until on or about September 12, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 12, 2010.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2010–11991 Filed 5–18–10; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2010–0054]

RIN 2105–ADO4

Application To Renew Information Collection Request OMB No. 2105–0551

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

ACTION: Notice and request for comments.

SUMMARY: This notice requests public participation in the Office of Management and Budget (OMB) approval process for the renewal of an existing OST information collection. In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) described below has been forwarded to OMB for extension of the currently approved collection. The ICR describes the nature of the information and the expected burden. OST published a **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information on March 8, 2010. The purpose of this notice is to allow the public an additional 30 days from the date of this notice to submit comments to the recently published application to renew ICR 2105–0551, "Reporting Requirements for Disability-Related Complaints."

DATES: Comments on this notice must be received by June 18, 2010.

ADDRESSES: You may submit comments [identified by Docket No. DOT–OST–2010–0551] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave., SE., Washington, DC 20590–0001 (between 9 a.m. and 5 p.m. EST, Monday through Friday, except on Federal holidays).

FOR FURTHER INFORMATION CONTACT: Vinh Q. Nguyen or Blane A. Workie, Office of the General Counsel, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, 202–366–9342 (Voice), 202–366–7152 (Fax), or *vinh.nguyen@dot.gov* or *blane.workie@dot.gov* (E-mail). Arrangements to receive this document in an alternative format may be made by contacting the above-named individuals.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On March 8, 2010, OST published a 60-day notice in the **Federal Register** soliciting comment on ICRs for which the agency was seeking OMB approval. *See* 75 FR 10547. OST

received no comments after issuing this notice. Accordingly, the Department announces that these information collection activities have been re-evaluated and certified under 5 CFR. 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983 (Aug. 29, 1995). OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983 (Aug. 29, 1995). Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure their full consideration. 5 CFR 1320.12(c); *see also* 60 FR 44983 (Aug. 29, 1995). The summaries below describe the nature of the ICR and the expected burden. The unchanged requirements are being submitted for clearance by OMB as required by the PRA.

Title: Reporting Requirements for Disability-Related Complaints.

OMB Control Number: 2105–0551.

Type of Request: Renewal of currently approved Information Collection Request.

Background: On July 8, 2003, OST published a final rule that requires most certificated U.S. and foreign air carriers operating to, from and within the U.S. that conduct passenger-carrying service utilizing large aircraft to record complaints that they receive alleging inadequate accessibility or discrimination on the basis of disability. The carriers must also categorize these complaints according to the type of disability and nature of complaint, prepare a summary report annually of the complaints received during the preceding calendar year, submit the report to the Department's Aviation Consumer Protection Division, and retain copies of correspondence and records of action taken on the reported complaints for three years. The rule requires carriers to submit their annual report via the World Wide Web except if the carrier can demonstrate an undue burden in doing so and receives permission from the Department to submit it in an alternative manner. The first required report covering calendar year 2004 was due to the Department on January 24, 2005, the second report covering calendar year 2005 was due on January 30, 2006, the third report covering calendar year 2006 was due on January 29, 2007, the fourth report covering calendar year 2007 was due on January 28, 2008, and the fifth report covering calendar year 2008 was due on January 26, 2009. Subsequent reports of disability-related complaints received by carriers are due each year on the last Monday in January for the prior calendar year. On August 24, 2007, OMB approved information collection of disability-related complaints, "Reporting Requirements for Disability-related Complaints" through August 31, 2010. The application to renew this information collection request was published in the **Federal Register** on Monday, March 8, 2010 (75 FR 10547).

Respondents: Certificated U.S. and foreign air carriers operating to, from, and within the United States that conduct passenger-carrying service with large aircraft.

Estimated Number of Respondents: 370.

Estimated Total Burden on Respondents: 185 hours.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. All comments will also become a matter of public record.

As noted earlier, OST published a **Federal Register** notice with a 60-day comment period for this ICR on Monday, March 8, 2010 (75 FR 10547).

Issued in Washington, DC, 2010, under authority delegated in 49 CFR part 1.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement and Proceedings.

[FR Doc. 2010–11959 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending May 6, 2010

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2010–0120.

Date Filed: May 6, 2010.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 27, 2010.

Description: Application of Jet-A, LLC requesting a certificate of public convenience and necessity authorizing interstate charter air transportation.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2010–11958 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2010–0047]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 19, 2010.

ADDRESSES: You may submit comments identified by DOT Docket ID 2010–0047 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marshall Wainright, 202–366–4842, *Marshall.Wainright@dot.gov;* Office of Real Estate Services, Federal Highway Administration, Department of Transportation, New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Fixed Residential Moving Cost Schedule.

OMB Control #: 2125–0616.

Background: Relocation assistance payments to owners and tenants who move personal property for a Federal or federally-assisted program or project are governed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act). 49 Code of Federal Regulations (CFR) part 24 is the implementing regulation for the Uniform Act. 49 CFR 24.301 addresses payments for actual and reasonable moving and related expenses. The fixed residential moving cost schedule is an administrative alternative to reimbursement of actual moving costs. This option provides flexibility for the agency and affected property owners and tenants. The FHWA requests the State Departments of Transportation (State DOTs) to analyze moving cost data periodically to assure that the fixed residential moving cost schedules accurately reflect reasonable moving and related expenses. The regulation allows State DOTs flexibility in determining how to collect the cost data in order to reduce the burden of government regulation. Updated State fixed residential moving costs are submitted to the FHWA electronically.

Respondents: State Departments of Transportation (52, including the District of Columbia and Puerto Rico).

Frequency: Once every 3 years.

Estimated Average Burden Per Response: 24 hours per respondent.

Estimated Total Annual Burden Hours: 24 hours for each of the 52 State Departments of Transportation. The total is 1,248 burden hours, once every 3 years, or 416 hours annually.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: May 13, 2010.

Juli Huynh,

Chief, Management Programs and Analysis Division.

[FR Doc. 2010–11980 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2010–0050]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 19, 2010.

ADDRESSES: You may submit comments identified by DOT Docket ID 2010–0050 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*.

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kenneth Epstein, 202–366–2157, *Kenneth.Epstein@dot.gov;* Office of Safety, Federal Highway Administration, Department of Transportation, New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Drug Offender's Drivers License Suspension Certification.

OMB Control #: 2125–0579.

Background: States are legally required to enact and enforce laws that revoke or suspend the drivers licenses of any individual convicted of a drug offense and to make annual certifications to the FHWA on their actions. The implementing regulations of the Department of Transportation and Related Agencies Appropriation Act, 1993 (Pub. L. 102–388, October 6, 1992) require annual certifications by the Governors. In this regard, the State must submit by January 1 of each year either a written certification, signed by the Governor, stating that the State is in compliance with 23 U.S.C. 159; or a written certification stating that the Governor is opposed to the enactment or enforcement, and that the State legislature has adopted a resolution expressing its opposition to 23 U.S.C. Section 159.

Beginning in Fiscal Year 1996, States' failure to comply by October 1 of each fiscal year resulted in a withholding penalty of 10 percent from major categories of Federal-aid funds (i.e., National Highway System, Surface Transportation Program and the Interstate Maintenance Program) from States' apportionments for the fiscal

year. Any funds withheld in Fiscal Year 1996 and thereafter cannot be restored and will be redistributed.

Respondents: 50 States and the District of Columbia and Puerto Rico.

Estimated Annual Burden Hours: Annual average of 5 hours for each respondent; 260 total annual burden hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: May 13, 2010.

Juli Huynh,

Chief, Management Programs and Analysis Division.

[FR Doc. 2010–11916 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2010–0052]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 19, 2010.

ADDRESSES: You may submit comments identified by DOT Docket ID 2010–0052 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carol Tan, PhD, Office of Safety Research and Development (HRDS), at (202) 493–3315, Turner-Fairbank Highway Research Center, Federal Highway Administration, 6300 Georgetown Pike, McLean, VA 22101, between 9 a.m. and 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Motorcycle Crash Causation Study and Pilot Motorcycle Crash Causes and Outcomes Study.

OMB Control #: 2125–0619.

Background: Motorcycle injuries and fatalities have increased every year since 2003 in the United States. Per vehicle mile traveled motorcyclists were about 32 times more likely to die, and 6 times more likely to be injured in a motor vehicle crash than were passenger car occupants. This data shows that the motorcycle crash problem is becoming more severe.[1] Congress has recognized this problem and directed the Department of Transportation to conduct research that will provide a better understanding of the causes of motorcycle crashes. Specifically, in Section 5511 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) Public Law 109–59, Congress directed the Secretary of Transportation to provide grants to the Oklahoma Transportation Center (OTC) for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle crash investigation developed by the Organization for Economic Cooperation and Development (OECD).[2] The Secretary of Transportation delegated authority to FHWA for the Motorcycle Crash Causation Grants under Section 5511 (71 FR 30831).

Proposed Data Acquisition Methodology

Use of Parallel and Complementary Procedures

The OECD describes two complementary procedures to be performed for acquiring the data needed to understand the causes of motorcycle crashes. The first of these is the traditional in-depth crash investigation that focuses on the sequence of events leading up to the crash, and on the motorcycle, rider, and environmental characteristics that may have been relevant to the crash. The second procedure, known as the case-control procedure, complements the first. It requires the acquisition of matched control data to allow for a determination of the extent to which rider and driver characteristics, and pre-crash factors observed in the crash vehicles, are present in similarly-at-risk control vehicles.

Such a dual approach offers specific advantages to the understanding of crashes and the development of countermeasures. The in-depth study of the crash by itself allows for analysis of the events antecedent to the crash, some of which, if removed or altered, could result in a change in subsequent events that would have led to a non-crash, or reduced crash severity outcome. For example, an in-depth crash investigation may reveal that an automobile approaching an intersection was in a lane designated for straight through traffic only, but the motorist proceeded to make a left turn from that lane into the path of an oncoming motorcycle. That finding can, by itself, be used to develop countermeasures, and does not require matched control data. However, acquiring matched control data from similarly-at-risk riders and drivers provides additional critical information about crash causes that cannot be obtained if only crashes are examined. The main purpose of acquiring matched data is to allow for inferences to be made regarding risk factors for crash causes. A brief explanation is provided here so that those less familiar with case-control procedures will understand the advantage of acquiring controls.[3]

[1] More detailed information on motorcycle crashes can be found in Traffic Safety Facts—Motorcycles, published by NHTSA and available on its Web site at: *http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/Rpts/2006/810606.pdf.*

[2] The OECD methodology may be obtained by sending a request to *jtrc.contact@oecd.org.*

[3] This being a study of crashes involving motorcycles, data will be acquired from both crash-involved motorcycles and also motor vehicles

Consider a hypothetical situation where it is observed that the proportion of motorcycle riders involved in crashes that have a positive Blood Alcohol Content (BAC) is the same as the proportion of matched (similarly-at-risk) control motorcycle riders not involved in crashes. And assume that the proportion of passenger-vehicle motorists who crash with motorcycles at a positive BAC is greater than matched control passenger-vehicle motorists. These data considered together would suggest that for crashes involving passenger vehicles and motorcycles, alcohol is a bigger risk factor for passenger vehicle drivers than it is for motorcycle riders. That is, the relative risk of crash involvement attributable to alcohol in motorcycle-automobile crashes is greater for passenger-vehicle motorists than for motorcyclists. Other risk factors for crashes (i.e., age, gender, riding and driving experience, fatigue level) for both motorcyclists and motorists can also be examined in this manner. If scaled interval measurements of risk factor levels are obtained (for example, if the level of alcohol is measured, not just its presence or absence), then it becomes possible to calculate functions showing how risk changes with changes in the variable of interest. Such risk functions are highly useful in the development of countermeasures.[4]

Issues Related to Sampling

Characteristics of the Crash Sample

To properly acquire in-depth crash data, it is necessary to find a location in the country that experiences the full range of motorcycle crash types that occur under a wide range of conditions and with a wide range of motorcycle rider characteristics. The location must also have a sufficiently high frequency of motorcycle crashes to allow acquisition of the crash data in a reasonable amount of time. It is anticipated that it will be possible to find a single location meeting these requirements.

It is not necessary that the crash types observed (or other composite indices or parameters of interest) be drawn from a nationally representative sample, because it is not the intent of FHWA to make projections of the national incidence of the causes of crashes involving motorcycles from this study. Rather, the focus will be on identifying the antecedents and risk factors associated with motorcycle crashes. If it is deemed necessary, FHWA and NHTSA may utilize their alternative databases that incorporate certain of the key variables that will be acquired in this study, and those databases could be used in conjunction with this study's data to make national estimates of population parameters of interest.[5] In addition, the crash investigations will be conducted on-scene, while the involved operators and vehicles are still in place. This provides access to physical data that is less disturbed by rescue and clean-up activities. It also facilitates the collection of interview data while memories are unaffected. This quick-response approach is most effective when a census of applicable crashes is selected for inclusion.

Characteristics of the Control Sample

While the occurrence of a crash involving a motorcycle in the study site is sufficient for it to be selected into the study, selecting the similarly-at-risk controls is not as straightforward. The OECD recommends several options for acquiring matched controls including interviewing motorcyclists who may be filling up at nearby gas stations, taking videos of motorcyclists who pass the crash scenes, and interviewing motorcyclists at the location of the crash location at the same time of day, same day of week, and same direction of travel. The first of these methods suffers from the shortcoming that a rider or motorist filling his fuel tank is not presented with the same risks, in the same setting, as is the crash-involved rider and motorist. To illustrate, consider a motorcycle rider who is hit from the rear by a passenger vehicle motorist on a Friday night at 1 a.m. There is a reasonable chance that alcohol is involved in this crash, but to estimate the relative risk it will not help to measure the BAC of passenger vehicle motorists (and motorcyclists) at a nearby gas station. Passenger-vehicle motorists and motorcyclists will need to be sampled at the location of the crash on the same day of the week, at the same hour, and from the same travel direction. Even if the suspected risk factor is not alcohol, but some other variable (*e.g.*, distraction associated with cell phone use), it is still highly advantageous to acquire the comparison data at the crash locations (matched on time and direction), rather than somewhere else.

Using the second method mentioned above, acquiring the risk sample by taking video at the crash scenes provides a similarly-at-risk pool, and it also allows for many controls to be acquired at low cost. Its chief disadvantage is that it does not allow capture of some of the key risk factors for crashes (*e.g.*, BAC), while others (*e.g.*, fatigue) may be very difficult to capture. However, some risk factors could be acquired later by contacting the riders and drivers if license tag numbers are recorded, and so this method could be used to supplement the safety zone interview (described below).

The final method, the voluntary safety research interview, involves setting up a safety zone at the crash location, one week later at the same time of day, and asking those drivers and motorcyclists who pass through to volunteer in a study. With this method, Certificates of Confidentiality are presented to each interviewed driver and rider and immunity is provided from arrest. The main advantage of this method is that the key variables that are thought to affect relative crash risk can be acquired from drivers and riders who are truly similarly-at-risk. A final decision on the means of acquiring control data has not been made.

Information Proposed for Collection

The OECD protocol includes the following number of variables for each aspect of the investigation:

Administrative log	28
Accident typology/configuration	9
Environmental factors	35
Motorcycle mechanical factors	146
Motorcycle dynamics	32
Other vehicle mechanical factors	9
Other vehicle dynamics	18
Human factors	51
Personal protective equipment	34
Contributing environmental factors	8
Contributing vehicle factors	13
Contributing motorcycle factors	57
Contributing human factors	50
Contributing overall factors	2

involved in those crashes as countermeasures may be developed separately for each that could lead to a reduction in crashes involving motorcycles. Similarly, when control data are acquired, data from similarly-at-risk motorcycle rider controls and similarly-at-risk automobile driver controls will also be acquired. This way a balanced picture of the causes of crashes involving motorcycles and other vehicles will emerge.

[4] Certainly other outcomes besides the one presented are possible, and other comparisons are of interest. For example, it would be useful to compare crash-involved motorcyclists to non-crash involved motorcyclists and crash-involved passenger vehicle motorists to non-crash involved passenger-vehicle motorists. These comparisons would allow for estimates of changes in relative risks for riders and drivers independently.

[5] There is a lengthy precedent for studying crashes using case-control methods including the Grand Rapids study, (Borkenstein, R.F., Crowther, F.R., Shumate, R.P., Ziel, W.B. & Zylman, R. (1974)). The Role of the Drinking Driver in Traffic Accidents (The Grand Rapids Study). (Blutalkohol, 11, Supplement 1), and of course the Hurt study, (Hurt, H.H., Jr., Ouellet, J.V., and Thom, D.R. (1981)). Motorcycle Accident Cause Factors and Identification of Countermeasures (Volume I: Technical Report).

Note that multiple copies of various data forms will be completed as the data on each crash-involved vehicle and person and each control vehicle and person are acquired. This increases the number of variables above the sum of what is presented above. There are also diagrams and photographs that are essential elements of each investigation that are entered into the database. In prior OECD implementations, about 2,000 data elements in total were recorded for each crash.

Estimated Burden Hours for Information Collection

Frequency: Annually.

Respondents: This study will be based on all crashes occurring within the sampling area; however, this burden estimate is based on what we know about fatal crashes. The plan calls for data to be captured from up to 1200 crashes with motorcycle involvement, and for all surviving crash-involved riders and drivers to be interviewed. Two control riders will be interviewed for each crash-involved motorcyclist, and one rider and one driver will be interviewed for each rider and motorist in multi-vehicle crashes. Passengers accompanying crash-involved riders and passenger-vehicle drivers will also be interviewed. The following table shows the sampling plan and estimated number of interviews assuming 1200 crashes are investigated.[6]

Maximum total crashes to be investigated is 1200.

Crash Interviews:	
Single vehicle motorcycle crashes =	540
Multi-vehicle (2-vehicle) motorcycle crashes (660×2) =	1320
Passenger interviews motorcycle (.10×540 + .10×660) =	120
Passenger interviews cars (.68×660) =	449
Total Crash Interviews (540+1320+120+449) =	2429
Control interviews:	
Controls for single vehicle motorcycle crashes (2×540) =	1080
Controls for multi-vehicle motorcycle crashes (1×660 + 1×660) =	1320
Passenger Interviews =	0
Total Control Interviews =	**2400**
Grand Total Crash plus Control Interviews (2429+2400) =	**4829**

[6] The final crash sample size will depend on the rate at which crashes can be acquired in the selected site(s) and other matters related to logistics and the final budget. However, the study will acquire crashes on a sample size that exceeds the requirements of the OECD methodology, and will be of sufficient size to meet the goals of the study.

Estimated Average Burden per Interviewee: Crash interviews are estimated to require about 15 minutes per individual interviewed. To the extent possible, crash interviews will be collected at the scene, although it is likely that some follow-ups will be needed to get completed interviews from crash involved individuals. Control individuals' interviews will be completed in a single session and are expected to require about 10 minutes per individual.

Estimated Total Annual Burden Hours: Burden hours estimates are based on the total of 2,429 crash interviews to be conducted at an average length of 15 minutes each and 2,400 control interviews to be conducted at an average length of 10 minutes each for a total one-time burden on the public of 1007.25 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 13, 2010.

Juli Huynh,

Chief, Management Programs and Analysis Division.

[FR Doc. 2010–11920 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2010–0048]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 19, 2010.

ADDRESSES: You may submit comments identified by DOT Docket ID 2010–0048 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

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

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Murdaugh, 703–235–0535, Office of Professional and Corporate Development, Federal Highway Administration, Department of Transportation, 4600 N. Fairfax Drive, Suite 800, Arlington, VA 22203, between 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Eisenhower Transportation Fellowship Program.

OMB Control #: 2125–0617.

Background: The Eisenhower Transportation Fellowship Program is comprised of two programs, the Eisenhower Transportation Fellowship and the National Highway Institute (NHI). The Eisenhower Transportation Fellowship is currently authorized by Public Law 109–59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005 (SAFETEA–LU). The purpose of the fellowship is to advance transportation education and research, and attract qualified students to the field of transportation. The Eisenhower Transportation Fellowship allows for the collection and analysis of vital program information from student transportation education programs, also serving as a management tool to measure program performance and evaluate effectiveness in meeting Federal intent and workforce

development common goals and objectives. An application form is used to collect basic information from the student to determine eligibility and qualifications for fellowship. The NHI is authorized under Section 5204 of The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005 (SAFETEA–LU) which calls for the development and delivery of courses for the transportation community and requires the involvement and satisfaction measurement of transportation partners. One vital component involved in reaching those goals is providing training pertaining to highway activities, making sure that professionals and members of the public have access to the best, most accurate information. Towards this goal, the NHI develops and implements applicable training programs. To manage this increasingly complex task and to make the training process more accessible and useful, NHI has automated an online training management tool—the NHI Web Portal. The training evaluation and registration forms collect basic participant data for record keeping and basic course and instructor evaluation information for customer feedback about what NHI is doing well and what we need to improve.

Respondents: Approximately 200 students submit applications for the Eisenhower Transportation Fellowship and approximately 20,000 students for the NHI.

Frequency: The Eisenhower Transportation Fellowship frequency is annually. The NHI is by learning session.

Estimated Average Burden per Response: The estimated burden to complete the application for the Eisenhower Transportation Fellowship is 3 hrs, 600 hrs annually. The estimated burden to complete each training evaluation and registration for the NHI form is 3 minutes, 1000 hrs annually.

Estimated Total Annual Burden Hours: Approximately 1,600 hours annually.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: May 13, 2010.

Juli Huynh,

Chief, Management Programs and Analysis Division.

[FR Doc. 2010–11918 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD–2010 0051]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel JEN CHRIS.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2010–0051 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

DATES: Submit comments on or before June 18, 2010.

ADDRESSES: Comments should refer to docket number MARAD–2010–0051. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.govhttp://smses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel JEN CHRIS is:

Intended Commercial Use Of Vessel: "Carrying passengers for hire."

Geographic Region: "Alaska, Washington, Oregon, California."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: May 10, 2010.

By Order of the Maritime Administration.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–11930 Filed 5–18–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 13, 2010.

The Department of Treasury will submit the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the publication date of this notice. A copy of the submission may be obtained by calling the Treasury Departmental

Office Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

Dates: Written comments should be received on or before June 18, 2010 to be assured of consideration.

Community Development Financial Institutions (CDFI) Fund

OMB Number: To be assigned.

Type of Review: New collection.

Title: Evaluation of the New Markets Tax Credit (NMTC) Program.

Description: The evaluation is being done by the Urban Institute under contract to the CDFI Fund. It includes a one-time information collection effort involving participants and stakeholders in the program, and is intended to describe and assess program activities, identify project-specific outputs and outcomes as well as community outcomes, and address the issue of the need for NMTC Investment.

Estimated Total Burden Hours: 500 hours.

CDFI Fund Clearance Officer: Ashanti McCallum, Community Development Financial Institutions Fund, Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005; (202) 622–9018.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2010–11976 Filed 5–18–10; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0041]

Proposed Information Collection (Compliance Inspection Report) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine whether dwellings under construction comply with standards prescribed for specially adapted housing grant disbursement.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 19, 2010.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0041" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA. With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Compliance Inspection Report.

OMB Control Number: 2900–0041.

Type of Review: Extension of a currently approved collection.

Abstract: Fee-compliance inspectors complete VA Form 26–1839 during their inspection on properties under construction. The inspections provide a level of protection to veterans by assuring them and VA that the adaptation are in compliance with the plans and specifications for which a specially adapted housing grant is based.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,575 hour.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 6,300.

Dated: May 14, 2010.

By direction of the Acting Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2010–11946 Filed 5–18–10; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
May 19, 2010

Part II

Department of the Interior

Bureau of Indian Affairs

Indian Child Welfare Act; Designated Tribal Agents for Service of Notice; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Child Welfare Act; Designated Tribal Agents for Service of Notice

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The regulations implementing the Indian Child Welfare Act provide that Indian Tribes may designate an agent other than the Tribal chairman for service of notice of proceedings under the Act. This notice includes the current list of designated Tribal agents for service of notice. The names are those received by the Secretary of the Interior before the date of this publication.

FOR FURTHER INFORMATION CONTACT: Sue V. Settles, Chief, Division of Human Services, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 4513–MIB, Washington, DC 20240; Telephone: (202) 513–7621.

SUPPLEMENTARY INFORMATION:

The regulations implementing the Indian Child Welfare Act, 25 U.S.C. 1901 *et seq.,* provide that Indian Tribes may designate an agent other than the Tribal chairman for service of notice of proceedings under the Act. *See* 25 CFR 23.12. The Secretary of the Interior is required to publish in the **Federal Register** on an annual basis the names and addresses of the designated Tribal agents. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs by 209 DM 8.

This notice presents, in two different formats, the names and addresses of current designated Tribal agents for service of notice. The notice includes the names received by the Secretary of the Interior before the date of this publication. The first format lists designated Tribal agents by region and alphabetically by Tribe within each region. The second format is a table that lists designated Tribal agents alphabetically by the Tribal affiliation (listing Alaska Native Tribes and villages alphabetically at the end). Each format also lists the Bureau of Indian Affairs contact(s) for each of the twelve regions.

A. List of Designated Tribal Agents by Region
1. Alaska Region
2. Eastern Oklahoma Region
3. Eastern Region
4. Great Plains Region
5. Midwest Region
6. Navajo Region
7. Northwest Region
8. Pacific Region
9. Rocky Mountain Region
10. Southern Plains Region
11. Southwest Region
12. Western Region

B. List of Designated Tribal Agents by Tribal Affiliation
1. Tribes Other Than Alaska Native Tribes and Villages
2. Alaska Native Tribes and Villages

A. List of Designated Tribal Agents by Region

1. Alaska Region

Regional Director, Alaska Regional Office, P.O. Box 25520, 709 W. 9th, 3rd Floor, Federal Building, Juneau, AK 99802–5520; Phone: (800) 645–8397; Fax: (907) 586–7057. Gloria Gorman, M.S.W., Human Services Director, P.O. Box 25520, 709 W. 9th, 3rd Floor, Federal Building, Juneau, AK 99802–5520; Phone: (800) 645–8397 extension 2; Fax: (907) 586–7037.

A

Afognak, Native Village of (formerly the Village of Afognak), Melissa Borton, Tribal Administrator, 115 Mill Bay Rd, Ste 201, Kodiak, AK 99615; Phone: (907) 486–6357; Fax: (907) 486–6529; E-mail: *denise@afognak.org.*

Agdaagux Tribe of King Cove, Arthur Newman, Tribal Administrator, P.O. Box 249, King Cove, AK 99612; Phone: (907) 497–2648; Fax: (907) 497–2803; E-mail: *ATC@arctic.net* and Grace Smith, Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, AK 99518–1408; Phone: (907) 276–2700 or 222–4236; Fax: (907) 279–4351; E-mail: *graces@apiai.org.*

Akhiok, Native Village of, David Eluska, Tribal Manager, P.O. Box 5030, Akhiok, AK 99615; Phone: (907) 836–2231 or 836–2313; Fax: (907) 836–2345; E-mail: *david.eluska@kanaweb.org,* or *sandra.zeedar@kanaweb.org.*

Akiachak Native Community, George Peter, Tribal Administrator, P.O. Box 51070, Akiachak, AK 99551–0070; Phone: (907) 825–4626; Fax: (907) 825–4029; E-mail: n/a.

Akiak Native Community, Andrea Jasper, ICWA Worker, P.O. Box 52127, Akiak, AK 99552; Phone: (907) 765–7117; Fax: (907) 765–7120; E-mail: *akiakss@unicom-alaska.com.*

Akutan, Native Village of, Grace Smith, Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, AK 99518–1408; Phone: (907) 276–2700 or 222–4236; Fax: (907) 279–4351; E-mail: *graces@apiai.org.*

Alakanuk, Village of, Charlene Smith, ICWA Specialist, or Daisy Lamont, CFSS–ICWA, P.O. Box 149, Alakanuk, AK 99554; Phone: (907) 238–3704; Fax: (907) 238–3705; E-mail: *csmith@avcp.org, dlamont@avcp.org.* Sarah Jenkins, ICWA Social Worker, Association of Village Council Presidents, ICWA Counsel, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7440; Fax: (907) 543–5759; E-mail: *sarahjenkins@avcp.org.*

Alatna Village, Wilma David, Tribal Family Youth Service, P.O. Box 70, Alatna, AK 99720; Phone: (907) 968–2314; Fax: (907) 968–2305; and Legal Department, Tanana Chiefs Conference, 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251 ext. 3177; Fax: (907) 459–3953; E-mail: n/a.

Aleknagik, Native Village of, Jane Gottschalk, Tribal Children Service Worker, P.O. Box 115, Aleknagik, AK 99555; Phone: (907) 842–4577; Fax: (907) 842–2229; *janegottschalk@gmail.com;* and Children's Services Program Manager, Bristol Bay Native Association, P.O. Box 310, 1500 Kanakanak Road, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106; E-mail: *cnixon@bbna.com.*

Algaaciq Native Village (St. Mary's), Norbert Beans, President; Brenda Paukan, Tribal Administrator; G. Simone Paukan, ICWA Case Worker, P.O. Box 48, 200 Paukan Avenue, St. Mary's, AK 99658–0048; Phone: (907) 438–2932; ICWA direct line: (907) 438–2335; Fax: (907) 438–2227; and Association of Village Council Presidents, ICWA Counsel, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7440; Fax: (907) 543–5759; E-mail: n/a.

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King Cove (*see* Agdaagux)

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Quinhagak (*see* Kwinhagak)

Qissunamiut Tribe (*see* Chevak)

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Y

Yavapai-Apache Nation, Nancy B. Guzman, ICWA Coordinator, 2400 Datsi Road, Camp Verde, Arizona 86322; Telephone: (928) 649–7115; Fax: (928) 567–6832; E-mail: *nguzman@yan-tribe.org.*

Yavapai-Prescott Indian Tribe, Attention: ICWA Director, 530 East Merritt Avenue, Prescott, Arizona 86301; Telephone: (928) 777–0532; Fax: (928) 541–7945; E-mail: n/a.

Yerington Paiute Tribe, Rose Mary Joe-Kinale, Human Services Director/Social Worker, 171 Campbell Lane, Yerington, Nevada 89447; Telephone: (775) 463–7705; Fax: (775) 463–5029; E-mail: *humanservices@ypt-nsn.gov.*

Yomba Shoshone Tribe, Elisha A. Mockerman, Eligibility Worker, HC 61 Box 6275 Austin, Nevada 89310; Telephone: (775) 964–2463; Fax: (775) 964–1352; E-mail: n/a.

B. List of Designated Tribal Agents by Tribal Affiliation

1. Tribes Other Than Alaska Native Tribes and Villages

Alabama-Quassarte (*see* Creek)

Alabama-Quassarte Tribal Town of Oklahoma, Tarpie Yargee, Chief, P.O. Box 187, 101 E. Broadway, Wetumka, Oklahoma 74883, Phone: (405) 452–3987 ext: 227, Fax: (405) 452–3968, E-mail: *chief@alabama-quassarte.org,* Eastern Oklahoma Region

Apache

Apache Tribe of Oklahoma, Chairperson, P.O. Box 1220, Anadarko, Oklahoma 73005, Phone: (405) 247–9493, E-mail: n/a, Southern Plains Region

Fort Sill Apache Tribe of Oklahoma, Chairperson, Route 2, Box 121, Apache, Oklahoma 73006, Phone: (580) 588–2298, E-mail: n/a, Southern Plains Region

Jicarilla Apache Nation, Monica L. Carrasco, Director, P.O. Box 546, Dulce, New Mexico 87528, Phone: (505) 759–3162, Fax: (505) 759–3588, E-mail: *mcarrasco@jbhd.org,* Southwest Region

Mescalero Apache Tribe, Crystal Garcia, Tribal Census Clerk, P.O. Box 227, Mescalero, New Mexico 88340, Phone: (575) 464–9209, Fax: (575) 464–9191, E-mail: *cgarcia@matisp.net,* Southwest Region

San Carlos Apache Tribe, Aaron Begay, ICWA Coordinator, P.O. Box 0, San Carlos, Arizona 85550, Phone: (928) 475–2313, Fax: (928) 475–2342, E-mail: *abegay09@tss.scat-nsn.gov,* Western Region

Tonto Apache Tribe of Arizona, Russell Velasquez, Social Services Director, Tonto Apache Reservation # 30, Payson, Arizona 85541, Phone: (928) 474–5000, Fax: (928) 474–9125, E-mail: *rvelasquez@tontoapache.org,* Western Region

White Mountain Apache Tribe, Mariella Dosela, ICWA Representative, P.O. Box 1870, Whiteriver, Arizona 85941, Phone: (928) 338–4164, Fax: (928) 338–1469, E-mail: *mdosela@wmat.us,* Western Region

Apache (*see* Yavapai)

Yavapai-Apache Nation, Nancy B. Guzman, ICWA Coordinator, 2400 Datsi Road, Camp Verde, Arizona 86322, Phone: (928) 649–7115, Fax: (928) 567–6832, E-mail: *nguzman@yan-tribe.org,* Western Region

Arapahoe

Northern Arapahoe Tribe of the Wind River Reservation, Chairman, P.O. Box 396, Fort Washakie, Wyoming 82514, Phone: (406) 332–6120, Fax: (406) 332–7543, E-mail: n/a, Rocky Mountain Region

Arapaho (*see* Cheyenne)

Cheyenne-Arapaho Tribes of Oklahoma, Governor, P.O. Box 38, Concho, Oklahoma 73022, Phone: (405) 262–0345, E-mail: n/a, Southern Plains Region

Arikara (*see* Three Affiliated Tribes/Hidatsa/Mandan)

Three Affiliated Tribes, Katherine Felix, TAT ICWA Representative, 404 Frontage Road, New Town, North Dakota 58763, Phone: (701) 627–8169, Fax: (701) 627–5550, E-mail: *kfelix@mhanation.com,* Great Plains Region

Assiniboine (*see* Gros Ventre)

Gros Ventre and Assiniboine, Fort Belknap Indian Community, Lois Speakthunder, Director of Tribal Social Services, Rural Route 1, Box 66, Harlem, Montana 59526, Phone: (406) 353–4634, E-mail: *lspeakthunder@ftbelknap-nsn.gov,* Rocky Mountain Region

Assiniboine (*see* Sioux)

Assiniboine and Sioux Tribes, Chairman, Fort Peck Indian Reservation, P.O. Box 1027, Popular, Montana 59255, Phone: (406) 768–5155, E-mail: n/a, Rocky Mountain Region

Blackfeet

Blackfeet Tribe of Montana, Raquel Vaile, Indian Child Welfare Act (ICWA) Coordinator, P.O. Box 588, Browning, Montana 59417, Phone: (406) 338–7806, Cell: (406) 470–0026, Fax: (406) 338–7726, E-mail: n/a, Rocky Mountain Region

Caddo

Caddo Indian Tribe of Oklahoma, Chairperson, P.O. Box 487, Binger, Oklahoma 73009, Phone: (405) 656–2344, E-mail: n/a, Southern Plains Region

Cahuilla

Agua Caliente Band of Cahuilla Indians, Chantel Schuering, Tribal Family Services Director, 901 E. Tahquitz Canyon Way, Suite C–204, Palm Springs, California 92262, Phone: (760) 864–1756, Fax: (760) 654–1761, E-mail: *cschuering@aguacaliente.net,* Pacific Region

Cahuilla (*see* Mission)

Augustine Band of Cahuilla Indians, Mary Armgreen, Chairperson, P.O. Box 846, Coachella, California 92236, Phone: (760) 398–4722, E-mail: n/a, Pacific Region

Cabazon Band of Mission Indians, Chairman, 84–245 Indio Springs Drive, Indio, California 92201, Phone: (760) 342–2593, E-mail: n/a, Pacific Region

Cahuilla Band of Mission Indians, Executive Director, Indian Child & Family Services, P.O. Box 2269, Temecula, California 92590, Phone: (951) 676–8832, E-mail: n/a, Pacific Region

Cahuilla (*see* Mission/Cupeno)

Los Coyotes Band of Cahuilla & Cupeno Indians, Tribal Family Services, Manager, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (760) 749–1410, E-mail: n/a, Pacific Region

Cahuilla (*see* Mission)

Morongo Band of Cahuilla Mission Indians, Duke Steppe, Social Worker, 11581 Potrero Road, Banning, California 92220, Phone: (951) 849–4697, E-mail: n/a, Pacific Region

Ramona Band or Village of Cahuilla Mission Indians, Executive Director, Indian Child and Family Services, P.O. Box 2269, Temecula, California 92539, Phone: (951) 676–8832, Fax: (951) 763–4325, E-mail: n/a, Pacific Region

Santa Rosa Band of Mission Indians, ICWA Representative, P.O. Box 609, Hemet, California 92546, Phone: (951) 658–5311, E-mail: n/a, Pacific Region

Soboba Band of Luiseno Indians, Tribal Social Worker, Sobboba Social Services Department, P.O. Box 487, San Jacinot, California 92581, Phone: (707) 463–2644, Fax: (707) 487–1738, E-mail: n/a, Pacific Region

Cahuilla

Torres Martinez Desert Cahuilla Indians, Annette Chihuahua, ICWA Representative, P.O. Box 1160, Thermal, California 92274, Phone: (760) 397–0300, Fax: (760) 397–0455, E-mail: n/a, Pacific Region

Catawba

Catawba Indian Nation, Beverly Riley, 996 Avenue of Nations, Rock Hill, South Carolina 29730, Phone: (803) 366–4792, Fax: (803) 327–4853, E-mail: n/a, Eastern Region

Cayuga (*see* Iroquois/Seneca)

Cayuga Nation of New York, Anita Thompson, Assistant Administration, P.O. Box 11, Versailles, New York

14168, Phone: (716) 337–4270, Fax: (716) 337–0268, E-mail: *anita.thompson@cayuganation-nsn.gov*, Eastern Region

Cayuga (*see* Seneca)

Seneca-Cayuga Nation of Oklahoma, Darold Wofford, Director of Family Services, 23701 South 655 Road, Grove, Oklahoma 74344, Phone: (918) 787–5452, Fax: (918) 786–5713, E-mail: *dwofford@sctribe.com*, Eastern Oklahoma Region

Chehalis

Confederated Tribes of the Chehalis, Tracy Bray, ICWA Contact, P.O. Box 536, Oakville, Washington 98568–9616, Phone: (360) 273–5911, Fax: (360) 273–5914, E-mail: n/a, Northwest Region

Chemehuevi

Chemehuevi Indian Tribe, James L. Graves, PhD, Director of Social Services, P.O. Box 1919, Havasu Lake, California 92363, Phone: (760) 858–5426, Fax: (760) 858–5428, E-mail: *jgravesdss@gmail.com*, Western Region

Chemehuevi (*see* Colorado River/Hopi/Mojave/Navajo)

Colorado River Indian Tribes, Leticia Carrillo, ICWA/Child Welfare Case Worker, 12302 Kennedy Drive, Parker, Arizona 85344, Phone: (928) 669–8187, E-mail: *Leticia.carrillo@critdhs.org*, Western Region

Chemehuevi (*see* Luiseno/Mission)

Twenty-Nine Palms Band of Mission Indians, Executive Director, Indian Child & Family Services, P.O. Box 2269, Temecula, California 92590, Phone: (951) 676–8832, Fax: (951) 676–3950, E-mail: n/a, Pacific Region

Cherokee

Cherokee Nation of Oklahoma, Linda Woodward, Director, Children & Family Services, P.O. Box 948, Tahlequah, Oklahoma 74465, Phone: (918) 458–6900, Fax: (918) 458–6146, E-mail: *lwoodward@cherokee.org*, Eastern Oklahoma Region

Eastern Band of Cherokee Indians, Barbara Jones, Program Manager, Family Support Services, 508 Goose Creek Road, P.O. Box 507, Cherokee, North Carolina 28719, Phone: (828) 497–6092, Fax: (828) 497–3322, E-mail: *barbjone@nc-cherokee.com*, Eastern Region

United Keetoowah Band of Cherokee Indians in Oklahoma, Sonya Cochran/Mary L. Carey, ICW Director, P.O. Box 746, Tahlequah, Oklahoma 74465, Phone: (918) 456–9200, Fax: (918) 456–8220, E-mail: *scochran@unitedkeetoowahband.org*, Eastern Oklahoma Region

Cheyenne

Northern Cheyenne, Claude O. Rowland, Tribal Social Services, P.O. Box 128, Lame Deer, Montana 59043, Phone: (406) 477–8321 ext: 152, Fax: (406) 477–8333, E-mail: *crowland@mt.gov*, Rocky Mountain Region

Cheyenne (*see* Arapaho)

Cheyenne-Arapaho Tribes of Oklahoma, Governor, P.O. Box 38, Concho, Oklahoma 73022, Phone: (405) 262–0345, E-mail: n/a, Southern Plains Region

Chickasaw

The Chickasaw Nation, Bill Anoatubby, Governor, P.O. Box 1548, Ada, Oklahoma 74820, Phone: (580) 436–7216, Fax: (580) 436–4287, E-mail: *jay.keel@chickasaw.net*, Eastern Oklahoma Region

Chitimacha

Chitimacha Tribe of Louisiana, Karen Matthews, Social Services Director, P.O. Box 520, Charenton, Louisiana 70523, Phone: (337) 923–7000, Fax: (337) 923–2475, E-mail: *Karen@chitimacha.gov*, Eastern Region

Chippewa (*see* Ojibwe)

Bad River Band of Lake Superior Chippewa Indians of Wisconsin, Catherine Blanchard, ICWA Coordinator, P.O. Box 55, Odanah, Wisconsin 54861, Phone: (715) 682–7135, E-mail: n/a, Midwest Region

Chippewa

Bay Mills Indian Community, Cheryl Baragwanath, ICWA Worker, 12124 W. Lakeshore Drive, Brimley, Michigan 49715, Phone: (906) 248–8308, Fax: (906) 248–2496, E-mail: *cherylbara@baymills.org*, Midwest Region

Boise Fort Band, Angela Wright, Indian Child Welfare Supervisor, 13071 Nett Lake Road, Nett Lake, Minnesota 55771, Phone: (218) 757–3476 or (218) 757–3916, Fax: (218) 757–3335, E-mail: *amwright@boisforte.nsn.gov*, Midwest Region

Chippewa (*see* Cree)

Chippewa Cree Tribe of the Rocky Boy's Reservation of Montana, Tribal Chairman, Rural Route 1, P.O. Box 544, Box Elder, Montana 59521, Phone: (406) 395–5705, Fax: (406) 395–5702, E-mail: n/a, Rocky Mountain Region

Chippewa

Fond du Lac Band of Lake Superior Chippewa, Karen Diver, Chairwoman, 1720 Big Lake Road, Cloquet, Minnesota 55720, Phone: (218) 879–4593, Fax: (218) 878–2189, E-mail: *karendiver@fdlrez.com*, Midwest Region

Grand Portage Reservation, Ida Kubitz, Social Worker, Human Services, P.O. Box 428, Grand Portage, Minnesota 55604, Phone: (218) 475–2453, Fax: (218) 475–2455, E-mail: *idak@grandportage.com*, Midwest Region

Chippewa (*see* Ottawa/Peshawbestown)

Grand Traverse Band of Ottawa and Chippewa Indians, Derek J. Bailey, Tribal Chairman, 2605 N. West Bay Shore Drive, Peshawbestown, Michigan 49682, Phone: (231) 534–7103, Fax; (231) 534–7192, E-mail: *Derek.bailey@gtbindians.com*, Midwest Region

Chippewa (*see* Potawatomi)

Hannahville Indian Community of Michigan, ICWA Worker, N14911 Hannahville B1 Road, Wilson, Michigan 49896–9728, Phone: (906) 466–9320, E-mail: n/a, Midwest Region

Chippewa (*see* Keweenaw)

Keweenaw Bay Indian Community, Judy Heath, Social Service Director, 16429 Beartown Road, Baraga, Michigan 49908, Phone: (906) 353–4201, Fax: (906) 353–8171, E-mail: *judy@kbic-nsn.gov*, Midwest Region

Chippewa

Lac Courte Oreilles Band of Lake Superior Chippewa Indian of Wisconsin, LuAnn Kolumbus, Tribal Social Services Director, 13394 W. Trepania Road, Building 1, Hayward, Wisconsin 54843, Phone: (715) 634–8934, E-mail: n/a, Midwest Region

Lac du Flambeau Band of Lake Superior Chippewa, Chris Kettner, Indian Child Welfare, 533 Peace Pipe Rd., P.O. Box 189, Lac du Flambeau, Wisconsin 54538, Phone: (715) 588–1511, Fax: (715) 588–3903, E-mail: n/a, Midwest Region

Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan, James Williams Jr., Tribal Chairman, P.O. Box 249, Watersmeet, Michigan 49969, Phone: (906) 358–4577, Fax: (906) 358–4785, E-mail: *james.williams@lvdtribal.com*, Midwest Region

Chippewa (*see* Ojibwe)

Leech Lake Band of Ojibwe, Tammie Finn, Child Welfare Director, 115

Sixth Street, NW., Suite E, Cass Lake, Minnesota 56633, Phone: (218) 335–8240, Fax: (218) 335–3779, E-mail: *tamie.finn@llojibwe.com*, Midwest Region

Mille Lacs Band of Ojibwe, Kristy LeBlanc, Intake and Referral, 17230 Noopiming Drive, Onamia, Minnesota 56359, Phone: (320) 532–7864, Fax: (320) 532–7803, E-mail: *kristy.leblanc@millelacsband.com*, Midwest Region

Chippewa

Minnesota Chippewa Tribe, Linda Johnson, Human Services Director, (Includes Six Component Reservations:, Bois Forte Band, Fond Du Lac band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band), Adrienne Adkins, Human Services Director, P.O. Box 217, Cass Lake, Minnesota 56633, Phone: (218) 335–8585, Fax: (218) 335–8080, E-mail: *ljohnston@mnchippewatribe.org*, Midwest Region

Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, Susan Crazy Thunder, ICWA Director, 88385 Pike Road, Highway 13, Bayfield, Wisconsin 54814, Phone: (715) 779–3747, Fax: (715) 779–3141, *susie.crazythunder@redcliff-nsn.gov*, Midwest Region

Red Lake Band of Chippewa Indians, Sheila Stately, ICWA Coordinator, Family and Children Services, Box 427, Red Lake, Minnesota 56671, Phone: (218) 679–2122, Fax: (218) 679–2929, E-mail: n/a, Midwest Region

Chippewa (*see* Ojibwe)

St. Croix Chippewa Indians of Wisconsin, Kathryn LaPointe, ICWA Director, 24663 Angeline Avenue, Webster, Wisconsin 54893, Phone: (715) 349–2195, E-mail: n/a, Midwest Region

Chippewa

Sault Ste. Marie Tribe of Chippewa Indians, Juanita Bye, Child Placement Program Director, 2218 Shunk Rd., Sault Ste Marie, Michigan 49783, Phone: (906) 632–5250, Fax: (906) 632–5266, E-mail: *jbye@saulttribe.net*, Midwest Region

Sokaogon Chippewa Community, Angela Ring, ICW Director, 10808 Sokaogon Drive, Crandon, Wisconsin 54520, Phone: (715) 478–2520, Fax: (715) 478–7623, E-mail: *angelaring@sokaogonchippewa.com*, Midwest Region

Turtle Mountain Band of Chippewa Indians, Marilyn Poitra, ICWA Coordinator, Child Welfare and Family Services, P.O. Box 900, Belcourt, North Dakota 58316, Phone: (701) 477–5688, Fax: (701) 477–5797, E-mail: n/a, Great Plains Region

White Earth Reservation, Jeri Jasken, Director of Indian Child Welfare, P.O. Box 358, White Earth, Minnesota 56591, Phone: (218) 983–4647, Fax: (218) 983–3712, E-mail: *jerij@whiteearth.com*, Midwest Region

Chiricahua (*see* Apache)

Fort Sill Apache Tribe of Oklahoma, Chairperson, Route 2, Box 121, Apache, Oklahoma 73006, Phone: (580) 588–2298, E-mail: n/a, Southern Plains Region

Choctaw

Choctaw Nation of Oklahoma, Billy Stephens, Director, P.O. Box 1210, Durant, Oklahoma 74702, Phone: (580) 924–8280 ext: 2235, Fax: (580) 920–3197, E-mail: *bstephens@choctawnation.com*, Eastern Oklahoma Region

Jena Band of Choctaw Indians, Mona Maxwell, Director, Social Services, P.O. Box 14, Jena, Louisiana 71342, Phone: (318) 992–0136, Fax: (318) 992–4162, E-mail: n/a, Eastern Region

Mississippi Band of Choctaw Indians, Position Vacant, Child Welfare Supervisor, Children and Family Services, P.O. Box 6050, Choctaw, Mississippi 39350, Phone: (601) 650–1741, Fax: (601) 656–8817, E-mail: n/a, Eastern Region

Chukchansi

Picayune Rancheria of Chukchansi Indians, Orianna Walker, ICWA Coordinator, 46575 Road 417, Coarsegold, California 93614, Phone: (559) 683–6633, Fax: (559) 692–8792, E-mail: *orianna.walker@chukchansi.net*, Pacific Region

Chimash (*see* Mission)

Santa Ynez Band of Mission Indians, Caren Romero, Jess Montoya, ICWA Representative, Executive Director, Santa Ynez, California 93460, Phone: (805) 688–7070, Fax: (805) 686–5194, E-mail: n/a, Pacific Region

Cocopah

Cocopah Indian Tribe, Theresa Medel, ICWA Specialist, County 15 and Ave. G, Somerton, Arizona 85350, Phone: (928) 627–3729, Fax: (928) 627–3316, E-mail: *cocosocser@cocopah.com*, Western Region

Coeur D'Alene

Coeur D' Alene Tribal Council, Leona M. Flowers, Social Worker Lead, Box 408, Plummer, Idaho 83851, Phone: (208) 686–8106, Fax: (208) 686–4410, E-mail: *lflowers@cdatribe-nsn.gov*, Northwest Region

Colorado River (*see* Chemehuevi/Hopi/Mojave/Navajo)

Colorado River Indian Tribes, Leticia Carrillo, ICWA/Child Welfare Case Worker, 12302 Kennedy Drive, Parker, Arizona 85344, Phone: (928) 669–8187, E-mail: *Leticia.carrillo@critdhs.org,* Western Region

Colville

Colville Business Council, ICWA, P.O. Box 150, Nespelem, Washington 99155–011, Phone: (509) 634–2200, Fax: (509) 634–2663, E-mail: n/a, Northwest Region

Comanche

Comanche Nation, Chairperson, HC 32, Box 1720, Lawton, Oklahoma 73502, Phone: (580) 492–4988, E-mail: n/a, Southern Plains Region

Coquille

Coquille Indian Tribe, Bridgett Wheeler, ICWA Worker, P.O. Box 3190, Coos Bay, Oregon 97420, Phone: (541) 888–9494, Fax: (541) 888–6701, E-mail: *bridgett@uci.net* Northwest Region

Coushatta

Alabama-Coushatta Tribe of Texas, Chairperson, 571 State Park Road 56, Livingston, Texas 77351, Telephone: (936) 563–4391, E-mail: n/a, Southern Plains Region

Coushatta Tribe of Louisiana, Milton Hebert, MSW, Social Service Director, 2003 CC Bel, Elton, Louisiana 70532, Phone: (337) 584–1439, Fax: (337) 584–1473, E-mail: *mhebert@caushattatribela.org,* Eastern Region

Cowlitz

Cowlitz Indian Tribe, Carolee Morris, ICWA Director, P.O. Box 2547, Longview, Washington 98632–8594, Phone: (360) 577–8140, Fax: (360) 577–7432, E-mail: n/a, Northwest Region

Cree (*see* Chippewa)

Chippewa Cree Tribe of the Rocky Boy's Reservation of Montana, Tribal Chairman, Rural Route 1, P.O. Box 544, Box Elder, Montana 59521, Phone: (406) 395–5705, Fax: (406) 395–5702, E-mail: n/a, Rocky Mountain Region

Creek (*see* Alabama–Quassarte)

Alabama-Quassarte Tribal Town of Oklahoma, Tarpie Yargee, Chief, P.O. Box 187, 101 E. Broadway, Wetumka,

Oklahoma 74883, Phone: (405) 452–3987 ext: 227, Fax: (405) 452–3968, E-mail: *chief@alabama-quassarte.org,* Eastern Oklahoma Region

Creek

Kialegee Tribal Town, Aigista Anderson, ICW Director, P.O. Box 332, Wetumka, Oklahoma 74883, Phone: (405) 452–5388, Fax: (405) 452–3413, E-mail: *ardeena@att.net* Eastern Oklahoma Region

The Muscogee (Creek) Nation, Steven Wahnee, ICW Coordinator, P.O. Box 580, Okmulgee, Oklahoma 74447, Phone: (918) 732–7869, Fax: (918) 732–7855, E-mail: *swahnee@muscogeenation-nsn.gov.* Eastern Oklahoma Region

Poarch Band of Creek Indians, Carolyn M. White, Executive Director, Martha Gookin, Family Services Coordinator, Department of Family Services, 5811 Jack Springs Road, Atmore, Alabama 36502, Phone: (251) 368–9136 Ext. 2600, Fax: (251) 368–0828, E-mail: *cwhite@pci-nsn.gov.* Eastern Region

Thlopthlocco Tribal Town, Janet Wise, Manager, P.O. 188, Okemah, Oklahoma 74859, Phone: (918) 560–6130, Fax: (918) 623–3023, E-mail: *jwise@tttown.org.* Eastern Oklahoma Region

Crow

Crow Tribe, Director of Tribal Social Services, P.O. Box 159, Crow Agency, Montana 59022, Phone: (406) 638–3925, Fax: (406) 638–4042, E-mail: n/a, Rocky Mountain Region

Cupeno (*see* Cahuilla/Mission)

Los Coyotes Band of Cahuilla & Cupeno Indians, Tribal Family Services, Manager, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (760) 749–1410,
E-mail: n/a Pacific Region

Delaware (*see* Lenapi/Munsee)

Delaware Nation, President, P.O. Box 825, Anadarko, Oklahoma 73005, Phone: (405) 247–2448, E-mail: n/a, Southern Plains Region

Diegueno (*see* Mission)

Barona Band of Mission Indians, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine California 91903, Phone: (619) 445–1188, Fax: (619) 445–0765, E-mail: n/a, Pacific Region

Campo Band of Mission Indians, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine California 91903, Phone: (619) 445–1188, E-mail: n/a, Pacific Region

Diegueno (*see* Kumeyaay)

Cuyapaipe Ewiiaapaayp Band of Kumeyaay Indians, CEO, Ewiiaapaayp Tribal Government, 4054 Willow Road, Alpine, California 91903, Phone: (619) 445–6315, E-mail: n/a, Pacific Region

Diegueno (*see* Mission)

Inaja & Cosmit Band of Mission Indians, Tribal Family Services, Manager, Indian Health Services, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (706) 749–1410, E-mail: n/a, Pacific Region

Diegueno (*see* Kumeyaay)

Jamul Indian Village, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, California 91903, Phone: (619) 445–1188, E-mail: n/a, Pacific Region

Diegueno (*see* Mission)

La Posta Band of Mission Indians, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, California 91903, Phone: (619) 445–1188, E-mail: n/a, Pacific Region

Manzanita Band of Mission Indians, Chairperson, P.O. Box 1302, Boulevard, California 91905, Phone: (619) 766–4930, E-mail: n/a, Pacific Region

Mesa Grande Band of Mission Indians, Tribal Family Services, Manager, Indian Health Services, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (706) 749–1410 E-mail: n/a, Pacific Region

Rincon Band of Mission Indians, Tribal Family Services, Manager, Indian Health Services, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (706) 749–1410, E-mail: n/a, Pacific Region

Diegueno

San Pasqual Band of Diegueno Indians, Tribal Family Services, Manager, Indian Health Services, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (706) 749–1410, E-mail: n/a, Pacific Region

Diegueno (*see* Mission)

Santa Ysabel Band of Mission Indians, Iipay Nation, Linda Ruis, Director, Santa Ysabel Social Services Department, P.O. Box 701, Santa Ysabel, California 92070, Phone: (760) 765–1106, Fax: (760) 765–0312, E-mail: n/a, Pacific Region

Sycuan Band of Mission Indians, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, California 91903, Phone: (619) 445–1188, Fax: (619) 445–0765, E-mail: n/a, Pacific Region

Viejas (Baron Long) Band of Mission Indian, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, California 91903, Phone: (619) 445–1188, Fax: (619) 445–0765, E-mail: n/a, Pacific Region

Flathead (*see* Kootenai/Salish)

Confederated Salish & Kootenai Tribes, Lena Young Running Crane, ICWA Specialist, Box 278, Pablo, Montana 59855, Phone: (406) 675–2700, Fax: (406) 275–2883, E-mail: n/a, Northwest Region

Kootenai

Kootenai Tribal Council, Velma Bahe, ICWA Contact, P.O. Box 1269, Bonners Ferry, ID 83805–1269, Telephone: (208) 267–8451, E-mail: n/a, Northwest Region

Goshute

Goshute Business Council (Nevada and Utah), Melissa Oppenhein, ICWA Worker, Confederated Tribes of the Goshute Reservation, P.O. Box 6104, Ibapah, Utah 84034, Phone: (435) 234–1178, Fax: (435) 234–1162, E-mail: n/a, Western Region

Skull Valley Band of Goshute Indians, Denise Wash-Rael, ICWA Coordinator, 1198 S. Main Street, Tooele, Utah 84074, Phone: (435) 843–0217, Fax: (435) 882–4889, E-mail: *dwr.svicwa@gmail.com,* Western Region

Grand Ronde (*see* Shasta/Siletz)

Confederated Tribes of the Grande Ronde Community of Oregon, Dana Ainma, ICWA Contact, 9615 Grand Ronde Road, Grand Ronde, Oregon 97347–0038, Phone: (503) 879–2034, Fax: (503) 879–2142, E-mail: n/a, Northwest Region

Gros Ventre (*see* Assiniboine)

Gros Ventre and Assiniboine Fort Belknap Indian Community, Lois Speakthunder, Director of Tribal Social Services, Rural Route 1, Box 66, Harlem, Montana 59526, Phone: (406) 353–4634, E-mail: *lspeakthunder@ftbelknap-nsn.gov,* Rocky Mountain Region

Havasupai

Havasupai Tribe, Attention: Phyllis Jones, ICWA Coordinator, P.O. Box 10, Supai, Arizona 86435, Phone: (928) 448–2731, E-mail: n/a, Western Region

Hidatsa (*see* Arikara/Mandan/Three Affiliated Tribes)

Three Affiliated Tribes, Katherine Felix, TAT ICWA Representative, 404 Frontage Road, New Town, North Dakota 58763, Phone: (701) 627–8169, Fax: (701) 627–5550, E-mail: *kfelix@mhanation.com,* Great Plains Region

Ho-Chunk (*see* Winnebago)

The Ho-Chunk Nation, ICWA Coordinator, P.O. Box 40, Black River Falls, Wisconsin 54615, Phone: (715) 284–2622, E-mail: n/a, Midwest Region

Hoh

Hoh Tribal Business Committee, Ruth King, ICWA Contact, 2464 Lower Hoh Road, Forks, Washington 98331, Phone: (360) 374–6582, Fax: (360) 374–6549, E-mail: n/a, Northwest Region

Hoopa

Hoopa Valley Tribe, Millie Grant, Director—Human Services, P.O. Box 1267, Hoopa, California 95546, Phone: (530) 625–4236 x 19, E-mail: n/a, Pacific Region

Hopi (*see* Chemehuevi/Mohave/Colorado River/Navajo)

Colorado River Indian Tribes, Leticia Carrillo, ICWA/Child Welfare Case Worker, 12302 Kennedy Drive, Parker, Arizona 85344, Phone: (928) 669–8187, E-mail: *Leticia.carrillo@critdhs.org,* Western Region

Hopi

The Hopi Tribe, Jon Josevama, MSW, Acting Social Services Supervisor, P.O. Box 68, Second Mesa, Arizona 86043, Phone: (928) 737–2685, Fax: (928) 737–2697, E-mail: n/a, Western Region

Hualapai

Hualapai Tribe, Carrie Imus, Director, Hualapai Human Services, P.O. Box 480, Peach Springs, Arizona 86434, Phone: (928) 769–2383/2269, E-mail: n/a, Western Region

Huron (*see* Potawatomi)

Nottawaseppi Huron Band of the Potawatomi, Meg Fairchild, LMSW, CAAC, Clinical Social Worker, 1474 Mno Bmadzewen Way, Fulton, Michigan 49052, Phone: (269) 729–4422, Fax: (269) 729–4460, E-mail: *socialwpc@nhbp.org,* Midwest Region

Huron (*see* Wyandotte)

Wyandotte Nation, Kate Randall, Director of Family Services, 64700 E. Hwy 60, Wyandotte, Oklahoma 74370, Phone: (918) 678–2297, Fax: (918) 678–3087, E-mail: *krandall@wyandotte-nation.org,* Eastern Oklahoma Region

Iowa

Iowa Tribe of Kansas, Chairperson, 3345 B. Thrasher Road, White Cloud, Kansas 66094, Phone: (785) 595–3258, Southern Plains Region

Iowa Tribe of Oklahoma, Chairperson, Route 1, Box 721, Perkins, Oklahoma 74059, (405) 547–2402, Southern Plains Region

Iroquois (*see* Cayuga/Seneca)

Cayuga Nation of New York, Anita Thompson, Assistant Administration, P.O. Box 11, Versailles, New York 14168, Phone: (716) 337–4270, Fax: (716) 337–0268, E-mail: *anita.thompson@cayuganation-nsn.gov,* Eastern Region

Iroquois (*see* Oneida)

Oneida Indian Nation, Kim Jacobs, Nation Clerk, Box 1, Vernon, New York 13476, Phone: (315) 829–8337, Fax: (315) 829–8392, E-mail: *kjacobs@oneida.nation.org,* Eastern Region

Iroquois (*see* Onondaga)

Onondaga Nation of New York, Council of Chiefs, P.O. Box 85, Nedrow, New York 13120, Phone: (315) 469–9196, Fax: (315) 492–4822, E-mail: n/a, Eastern Region

Iroquois (*see* Mohawk)

Saint Regis Band of Mohawk Indians, Clarissa Chatland, ICWA Program Coordinator (Acting), 412 State, Route 37, Akwesasne, New York 13655, Phone: (518) 358–4516, Fax: (518) 358–9258, E-mail:, *clarissa.terrance-chatland@SRMT-nsn.gov,* Eastern Region

Iroquois (*see* Seneca)

Seneca Nation of Indians, Tracy Pacini, Program Coordinator, Child and Family Services, P.O. Box 500, Salamanca, New York 14799, Phone: (716) 945–5894 Ext: 3233, E-mail: n/a, Eastern Region

Iroquois (*see* Seneca/Tonawanda)

Tonawanda Band of Seneca, Roger Hill, Chief, Council of Chiefs, 7027 Meadville Road, Basom, New York 14013, Phone: (716) 542–4244, Fax: (716) 542–4008, E-mail: n/a, Eastern Region

Iroquois (*see* Tuscarora)

Tuscarora Nation of New York, Supervisor, Community Health Worker, 2015 Mount Hope Road, Lewistown, New York 14092, Phone: (716) 297–0598, E-mail: n/a, Eastern Region

Kalispel

Kalispel Tribe of Indians, David C. Bonga, Sr.—Tribal Attorney, Lorraine Parlange—Tribal Attorney, 934 S. Gargeld Rd., Airway Heights, Washington 99001, Phone: (509) 789–7601/(509) 789–7603, Fax: (509) 789–7609, E-mail: *dbonga@kalispeltribe.com, lparlange@kalispeltribe.com,* Northwest Region

Karuk (*see* Tolowa/Yurok)

Elk Valley Rancheria, Chairperson, 2332 Howland Hill Road, Crescent City, California 95531, Phone: (707) 464–4680, Fax: (707) 465–2638, E-mail: *evrlibrary@elk-valley.com,* Pacific Region

Karuk

Karuk Tribe, Mike Edwards, Director—Child and Family Services, 1519 S. Oregon Street, Yreka, California 96097, Phone: (530) 842–9200 Ext: 6301, Fax: (530) 841–5150, E-mail: *medwards@karuk.us,* Pacific Region

Karuk (*see* Shasta)

Quartz Valley Indian Reservation, Director—ICWA Program, 13601 Quartz Valley Road, Fort Jones, California 96032, Phone: (530) 468–5907, Fax: (530) 468–5608, E-mail: *lkent@qvir.com,* Pacific Region

Karuk

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Kashia (*see* Pomo)

Stewarts Point Rancheria, Kashia Band of Pomo Indians, Tara Candelaria, Administrative Assistant/ICWA Representative, 3535 Industrial Drive, Suite B–2, Santa Rosa, CA 95403, Telephone: (707) 591–0580, Fax: (707) 591–0583, E-mail: *tara@stewartspointrancheria.com*, Pacific Region

Kaw

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Keweenaw (*see* Chippewa)

Keweenaw Bay Indian Community, Judy Heath, Social Service Director, 16429

Beartown Road, Baraga, Michigan 49908, Phone: (906) 353–4201, Fax: (906) 353–8171, E-mail: *judy@kbic-nsn.gov*, Midwest Region

Kickapoo

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Kickapoo Tribe of Oklahoma, Chairperson, P.O. Box 70, McLoud, Oklahoma 74851, Phone: (405) 964–7053, E-mail: n/a, Southern Plains Region

Kickapoo Traditional Tribe of Texas, Chairperson, HC 1 Box 9700, Eagle Pass, Texas 78852, E-mail: n/a, Southern Plains Region

Kiowa

Kiowa Tribe of Oklahoma, Chairperson, P.O. Box 369, Carnegie, Oklahoma 73015, Phone: (580) 654–2300, E-mail: n/a, Southern Plains Region

Klamath (*see* Modoc/Yahooskin)

The Klamath Tribe, Jim Collins, ICWA Specialist, P.O. Box 436, Chiloquin, Oregon 97624, Phone: (541) 783–2219 Ext: 137, Fax: (541) 783–7783, E-mail: *jim.collins@klamathtribes.com*, Northwest Region

Klamath (*see* Modoc)

Modoc Tribe of Oklahoma, Regina Shelton, Child Protection, 625 6th SE., Miami, Oklahoma 74354, Phone: (918) 542–7890, Fax: (918) 542–7878, E-mail: n/a, Eastern Oklahoma Region

Kootenai (*see* Flathead/Salish)

Confederated Salish & Kootenai Tribes, Lena Young Running Crane, ICWA Specialist, Box 278, Pablo, Montana 59855, Phone: (406) 675–2700, Fax: (406) 275–2883, E-mail: n/a, Northwest Region

Kumeyaay (*see* Diegueno)

Cuyapaipe Ewiiaapaayp Band of Kumeyaay Indians, Ewiiaapaayp Tribal Government, 4054 Willow Road, Alpine, California 91903, Phone: (619) 445–6315, E-mail: n/a, Pacific Region

Jamul Indian Village, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine California 91903, Phone: (619) 445–1188, E-mail: n/a, Pacific Region

Lenapi (*see* Delaware/Munsee)

Delaware Nation, President, P.O. Box 825, Anadarko, Oklahoma 73005, Phone: (405) 247–2448, E-mail: n/a, Southern Plains Region

Luiseno

La Jolla Band of Luiseno Indians, Manager Tribal Family Services, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061, Telephone: (760) 749–1410, Fax: (760) 749–5518, E-mail: n/a, Pacific Region

Pauma & Yuima Band of Mission Indians, Maria Garcia, ICWA Manager, Department of Social Services, 35008 Pala-Temecula Road, PMB 50, Pala, California 92059, Phone: (760) 891–3542, E-mail: n/a, Pacific Region

Pechanga Band of Mission Indians, Mark Macarro, Spokesman, P.O. Box 1477, Temecula, California 92593, Phone: (951) 676–2768, Pacific Region

Luiseno (*see* Cahuilla/Mission)

Soboba Band of Luiseno Indians, Tribal Social Worker, Sobboba Social Services Department, P.O. Box 487, San Jacinot, California 92581, Phone: (707) 463–2644, Fax: (707) 487–1738, E-mail: n/a, Pacific Region

Luiseno (*see* Chemehuevi/Mission)

Twenty-Nine Palms Band of Mission Indians, Executive Director, Indian Child & Family Services, P.O. Box 2269, Temecula, California 92590, Phone: (951) 676–8832, Fax: (951) 676–3950, E-mail: n/a, Pacific Region

Lummi

Lummi Tribe of the Lummi Reservation, Leslye Revey, ICWA Contact, 1790 Bayon Road, Bellingham, Washington 98225, Phone: (360) 738–0848, Fax: (360) 380–1850, E-mail: n/a, Northwest Region

Maidu

Berry Creek Rancheria, Terilynn Steele, ICWA Supervisor, 5 Tyme Way, Oroville, California 95966, Phone: (530) 534–3859, Fax: (530) 534–1151, E-mail: *jessebrown@berrycreekrancheria.com*, Pacific Region

Maidu (*see* Me-Wuk/Miwok)

Enterprise Rancheria, Shari Ghalayini, Tribal Administrator, 3690 Olive Highway, Oroville, California 95966, Phone: (530) 532–9214, Fax: (530) 532–1768, E-mail: *sharig@enterpriserancheria.org*, Pacific Region

Maidu

Greenville Rancheria, Crystal Rios, Tribal Secretary/Treasurer, P.O. Box 279, Greenville, California 95947, Phone: (530) 284–7990, Fax: (530) 284–7299, E-mail: *crios@greenvillerancheria.com*, Pacific Region

Maidu (*see* Mechoopda)

Mechoopda Indian Tribe, Susan Bromley, Office Manager, 125 Mission Ranch Boulevard, Chico, California 95926, Phone: (530) 899–8922 ext: 210, Fax: (530) 899–8517, E-mail: *sbromley@mechoopda-nsn.gov*, Pacific Region

Maidu

Mooretown Rancheria of Maidu Indians of California, Francine McKinley, ICWA & Social Service Director, 1 Alverda Drive, Oroville, California 95966, Phone: (530) 533–3625, Fax: (530) 533–3625, E-mail: *icwa@mooretown.org*, Pacific Region

Maidu (*see* Paiute/Pit River)

Susanville Rancheria, Chairperson, ICWA Director, 745 Joaquin Street, Susanville, California 96130, Phone: (530) 257–6264, Fax: (530) 257–7986, E-mail: n/a, Pacific Region

Maidu (*see* Miwok/Me-Wuk)

Auburn Rancheria, Chairperson, United Auburn Indian Community, 10720 Indian Hill Road, Auburn, California 95603, Phone: (916) 663–3720, Fax: (530) 823–8709, E-mail: n/a, Pacific Region

Makah

Makah Indian Tribal Council, Kristena Sawyer, ICWA Lead Caseworker, Makah Family Services, P.O. Box 115, Neah Bay, Washington 98357–0115, Phone: (360) 645–3257, Fax: (360) 645–2806, Northwest Region

Maliseet

Houlton Band of Maliseet Indians, Tiffany Randall, ICWA Director, 13–2 Clover Court, Hourton, Maine 04730, Phone: (207) 694–0213, Fax: (207) 532–7287, E-mail: *icwa.director@maliseets.com*, Eastern Region

Mandan (*see* Arikara/Three Affiliated), Tribes/Hidatsa

Three Affiliated Tribes, Katherine Felix, TAT ICWA Representative, 404 Frontage Road, New Town, North Dakota 58763, Phone: (701) 627–8169, Fax: (701) 627–5550, E-mail: *kfelix@mhanation.com*, Great Plains Region

Maricopa (*see* Pima)

Gila River Pima-Maricopa Indian Community, Attention: Tribal Social Service Director, P.O. Box 97, Sacaton, Arizona 85247, Phone: (520) 562–3711 Ext: 233, E-mail: n/a, Western Region

Maricopa (*see* Pima)

Salt River Pima-Maricopa Indian Community, Chenita Dix, Social Services Manager/ICWA Manager, 10,005 East Osborn Road, Scottsdale, Arizona 85256, Phone: (480) 362–7357, Fax: (480) 362–5574, E-mail: *chenita.dix@SRPMIC-nsn.gov*, Western Region

Mechoopda (*see* Maidu)

Mechoopda Indian Tribe, Susan Bromley, Office Manager, 125 Mission Ranch Boulevard, Chico, California 95926, Phone: (530) 899–8922 ext: 210, Fax: (530) 899–8517, E-mail: *sbromley@mechoopda-nsn.gov*, Pacific Region

Menominee

Menominee Indian Tribe of Wisconsin, Laurie A. Boivin, Menominee Tribal Chairwoman, P.O. Box 910, Keshena, Wisconsin 54135, Phone: (715) 799–5114, Fax: (715) 799–3373, E-mail: *dbewman@mitw.org*, Midwest Region

Me-Wuk (*see* Miwok/Maidu)

Auburn Rancheria, Chairperson, United Auburn Indian Community, 10720 Indian Hill Road, Auburn, California 95603, Phone: (916) 663–3720, Fax: (530) 823–8709, E-mail: n/a, Pacific Region

Me-Wuk (*see* Miwok/Pomo)

Buena Vista Rancheria of Me-Wuk Indians, Penny Arciniaga, Tribal Member Services, P.O. Box 162283, Sacramento, California 95816, Phone: (916) 491–0011 x 10, Fax: (916) 491–0012, E-mail: *penny@buenavistatribe.com*, Pacific Region

Me-Wuk (*see* Miwok)

California Valley Miwok Tribe, As of date there is no recognized government for this Federally recognized Tribe., Pacific Region

Me-Wuk (*see* Miwok)

Chicken Ranch Rancheria, Jan Costa, Tribal Administrator, P.O. Box 1159, Jamestown, California 95327, Phone: (209) 984–4806, Fax: (209) 984–5606, E-mail: *chixrnch@mlode.com*, Pacific Region

Me-Wuk (*see* Miwok/Maidu)

Enterprise Rancheria, Shari Ghalayini, Tribal Administrator, 3690 Olive Highway, Oroville, California 95966, Phone: (530) 532–9214, Fax: (530) 532–1768, E-mail: *sharig@enterpriserancheria.org*, Pacific Region

Me-Wuk (*see* Miwok/Pomo)

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Me-Wuk (*see* Miwok)

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Jackson Rancheria, ICWA Manager, P.O. Box 1090, Jackson, California 95642, Phone: (209) 223–1935, E-mail: n/a, Pacific Region

Shingle Springs Rancheria, ICWA Coordinator, P.O. Box 1340, Shingle Springs, California 95682, Phone: (530) 698–1400, Fax: (530) 676–8033, E-mail: n/a, Pacific Region

Trinidad Rancheria, Amy Atkins, ICWA Representative, P.O. Box 630, Trinidad, California 95570, Phone: (707) 677–0211, Fax: (707) 677–3921, E-mail: n/a, Pacific Region

Tuolumne Me-wuk Tribal Council, Lisa Ames, Social Services Department Manager, P.O. Box 699, Tuolumne, California 95379, Phone: (209) 928–5316, Fax: (209) 928–1552, E-mail: *lisa@mewuk.com*, Pacific Region

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Miami

Miami Tribe of Oklahoma, Callie Lankford, MSW, Social Services Department Manager, P.O. Box 1326, Miami, Oklahoma 74355, Phone: (918) 542–1445, Fax: (918) 540–2814, E-mail: *clankford@miamination.com*, Eastern Oklahoma Region

Miccosukee

Miccosukee Tribe of Indians of Florida, J. Degaglia, Ph.D., Director Social Service Department, P.O. Box 440021, Miami, Florida 33144, Phone: (305) 223–8380 Ext: 2267, Fax: (305) 223–1011, E-mail: *jd@miccosukeetribe.com*, Eastern Region

Micmac

Aroostook Band of Micmac Indians, Ms. Sarah Dewitt, Social Services Director, 7 Northern Road, Presque Isle, Maine 04769, Phone: (207) 764–1972, Fax: (207) 764–7667, E-mail: *sdewitt@micmac-nsn.gov*, Eastern Region

Mission (*see* Cahuilla)

Augustine Band of Cahuilla Indians, Mary Armgreen, Chairperson, P.O. Box 846, Coachella, California 92236, Phone: (760) 398–4722, E-mail: n/a, Pacific Region

Mission (*see* Diegueno)

Barona Band of Mission Indians, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, California 91903, Phone: (619) 445–1188, Fax: (619) 445–0765, E-mail: n/a, Pacific Region

Mission (*see* Cahuilla)

Cabazon Band of Mission Indians, Chairman, 84–245 Indio Springs Drive, Indio, California 92201, Phone: (760) 342–2593, E-mail: n/a, Pacific Region

Cahuilla Band of Mission Indians, Executive Director, Indian Child & Family Services, P.O. Box 2269, Temecula, California 92590, Phone: (951) 676–8832, E-mail: n/a, Pacific Region

Mission (*see* Diegueno)

Campo Band of Mission Indians, Program Director, Kumeyaay Family Services, Southern Indian Health Council, Inc., 4058 Willow Road, Alpine, California 91903, Phone: (619) 445–1188, E-mail: n/a, Pacific Region

Inaja & Cosmit Band of Mission Indians, Tribal Family Services, Manager, Indian Health Services, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (706) 749–1410, E-mail: n/a, Pacific Region

Mission (*see* Cahuilla/Cupeno)

Los Coyotes Band of Cahuilla & Cupeno Indians, Tribal Family Services, Manager, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (760) 749–1410, E-mail: n/a, Pacific Region

Mission (*see* Diegueno)

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Mission (*see* Cahuilla/Cupeno)

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Mission (*see* Diegueno)

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Mesa Grande Band of Mission Indians, Tribal Family Services, Manager, Indian Health Services, Inc., P.O. Box 406, Pauma Valley, California 92061, Phone: (706) 749–1410, E-mail: n/a, Pacific Region

Mission (*see* Cahuilla)

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Mission (*see* Luiseno)

Pala Band of Mission Indians, Maria Garcia, ICWA Manager, Department of Social Services, 35008 Pala-Temecula Road, PMB 50, Pala, California 92059, Phone: (760) 891–3542, E-mail: n/a, Pacific Region

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Pechanga Band of Mission Indians, Mark Macarro, Spokesman, P.O. Box 1477, Temecula, California 92593, Phone: (951) 676–2768, E-mail: n/a, Pacific Region

Mission (*see* Cahuilla)

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Mission (*see* Diegueno)

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Mission (*see* Cahuilla)

Santa Rosa Band of Mission Indians, ICWA Representative, P.O. Box 609, Hemet, California 92546, Phone: (951) 658–5311, E-mail: n/a, Pacific Region

Mission (*see* Chimash)

Santa Ynez Band of Mission Indians, Caren Romero, Jess Montoya, ICWA Representative, Executive Director, Santa Ynez, California 93460, Phone: (805) 688–7070, Fax: (805) 686–5194, E-mail: n/a, Pacific Region

Mission (*see* Diegueno)

Santa Ysabel Band of Mission Indians, Iipay Nation, Linda Ruis, Director, Santa Ysabel Social Services Department, P.O. Box 701, Santa Ysabel, California 92070, Phone: (760) 765–1106, Fax: (760) 765–0312, E-mail: n/a, Pacific Region

Mission (*see* Cahuilla/Luiseno)

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Mission (*see* Chemehuevi/Luiseno)

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Mission (*see* Diegueno)

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Miwok (*see* Me-Wok/Maidu)

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Miwok(*see* Me-Wok/Pomo)

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Miwok (*see* Me-Wok)

California Valley Miwok Tribe, As of date there is no recognized government for this Federally recognized Tribe., Pacific Region

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Miwok (*see* Me-Wok/Maidu)

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Miwok(*see* Me-Wok/Pomo)

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Miwok (*see* Me-WoK)

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Miwok (*see* Me-Wok)

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Miwok (*see* Me–Wok/Tolowa/Yurok)

Trinidad Rancheria, Amy Atkins, ICWA Representative, P.O. Box 630, Trinidad, California 95570, Phone: (707) 677–0211, Fax: (707) 677–3921, E-mail: n/a, Pacific Region

Miwok (*see* Me–Wok)

Tuolumne Me-wuk Tribal Council, Lisa Ames, Social Services Department Manager, P.O. Box 699, Tuolumne, California 95379, Phone: (209) 928–5316, Fax: (209) 928–1552, E-mail: lisa@mewuk.com, Pacific Region

Wilton Rancheria, Chairperson, 9300 West Stockton Blvd., Ste. 205, Elk Grove, California 95758, Telephone: (916) 683–6000, Fax: (916) 683–6015, E-mail: n/a, Pacific Region

Modoc (*see* Klamath/Yahooskin)

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Modoc (*see* Klamath)

Modoc Tribe of Oklahoma, Regina Shelton, Child Protection, 625 6th,

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Mohawk (*see* Iroquois)

Saint Regis Band of Mohawk Indians, Clarissa Chatland, ICWA Program Coordinator (Acting), 412 State Route 37, Akwesasne, New York 13655, Phone: (518) 358–4516, Fax: (518) 358–9258, E-mail: *clarissa.terrance-chatland@SRMT-nsn.gov*, Eastern Region

Mohegan

Mohegan Indian Tribe, Irene Miller, APRN, Director, Family Services, 5 Crow Hill Road, Uncasville, Connecticut 06382, Phone: (860) 862–6236, E-mail: n/a, Eastern Region

Mohican (*see* Munsee)

Stockbridge-Munsee Community of Wisconsin, Stephanie Bowman, ICWA Coordinator, W12802 Cty Rd. A, Bowler, Wisconsin 54416, Phone: (715) 793–4580, Fax: (715) 793–1312, E-mail: *stephanie.bowman@mohican-nsn.gov*, Midwest Region

Mojave (*see* Chemehuevi/Hopi/Colorado River/Navajo)

Colorado River Indian Tribes, Daniel Eddy, Jr., Chairman, Route 1, Box 23–B, Parker, Arizona 85344, Phone: (928) 669–9211, E-mail: n/a, Western Region

Mojave

Fort Mojave Indian Tribe, Attention: Social Services Director, 500 Merriman Avenue, Needles, California 92363, Phone: (760) 629–3745, E-mail: n/a, Western Region

Mono

Big Sandy Rancheria, Dorothy Barton, ICWA/Social Services Coordinator, 37387 Auberry Mission Road, Auberrry, California 93602, Phone: (559) 855–4003, Fax: (559) 855–5502, E-mail: *dbarton@bigsandyrancheria.com*, Pacific Region

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North Fork Rancheria, Elaine Fink, Tribal Chairperson, P.O. Box 929, North Fork, California 93643, Phone: (559) 877–2461, Fax: (559) 877–2467, E-mail: *efink@northforkrancheria-nsn.gov*, Pacific Region

Mono (*see* Yokut)

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Muckleshoot

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Munsee (*see* Delaware/Lenapi)

Delaware Nation, President, P.O. Box 825, Anadarko, Oklahoma 73005, Phone: (405) 247–2448, E-mail: n/a, Southern Plains Region

Munsee (*see* Mohican)

Stockbridge-Munsee Community of Wisconsin, Stephanie Bowman, ICWA Coordinator, W12802 Cty Rd. A, Bowler, Wisconsin 54416, Phone: (715) 793–4580, Fax: (715) 793–1312, E-mail: *stephanie.bowman@mohican-nsn.gov*, Midwest Region

Narragansett

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Navajo (*see* Chemehuevi/Hopi/, Colorado River/Mojave)

Colorado River Indian Tribes, Leticia Carrillo, ICWA/Child Welfare Case Worker, 12302 Kennedy Drive, Parker, Arizona 85344, Phone: (928) 669–8187, E-mail: *Leticia.carrillo@critdhs.org*, Western Region

Navajo

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Nez Perce

Nez Perce Tribe, Janet Bennett, ICWA Caseworker, P.O. Box 365, Lapwai, Idaho 83540, Phone: (208) 843–2463, Fax: (208) 843–9401, Northwest Region

Nisqually

Nisqually Indian Community, Raymond Howell, ICWA Contact, 4820 She-Nah-Num Drive, SE., Olympia, Washington 98513, Phone: (360) 456–5221, Fax: (360) 407–0017, E-mail: n/a, Northwest Region

Nomlaki (*see* Wintun)

Cortina Rancheria, Charlie Wright, Tribal Chairman, P.O. Box 1630, Williams, California 95987, Phone: (530) 473–3274, Fax: (530) 473–3301, E-mail: *cortina2@citlink.net,* Pacific Region

Paskenta Band of Nomlaki Indians, Ines Crosby, Tribal Administrator, P.O. Box 398, Orland, California 95963, Phone: (530) 865–2010, Fax: (530) 865–1870, E-mail: *office@paskenta.org,* Pacific Region

Nomlaki (*see* Pit River/Pomo/Wintun/Wailaki/Yuki)

Round Valley Reservation, ICWA Representative, 77826 Covelo Road, Covelo, California 95428, Phone: (707) 983–8008, Fax: (707) 983–6128, E-mail: n/a, Pacific Region

Nooksack

Nooksack Indian Tribe of Washington, Nooksack Indian Tribe Legal Department, P.O. Box 1575048, Mount Baker Highway, Deming, Washington 98244, Phone: (360) 592–5176, Fax: (360) 592–2125, E-mail: n/a, Northwest Region

Odawa

Little Traverse Bay Band of Odawa Indians, Matt Lesky, Tribal Prosecutor, 7500 Odawa Circle, Harbor Springs, Michigan 49740, Phone: (213) 242–1466, Fax: (213) 242–1511, E-mail: *prosecutor@ltbbodawa-nsn.gov,* Midwest Region

Ojibwe (*see* Chippewa)

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St. Croix Chippewa Indians of Wisconsin, Kathryn LaPointe, ICWA Director, 24663 Angeline Avenue, Webster, Wisconsin 54893, Phone: (715) 349–2195, E-mail: n/a, Midwest Region

Omaha

Omaha Tribe of Nebraska, Merry Sheridan, ICWA Director, P.O. Box 369, Macy, Nebraska 68039, Phone: (402) 837–5261, E-mail: n/a, Great Plains Region

Oneida

Oneida Tribe of Indians of Wisconsin, ICWA Program, P.O. Box 365, Oneida, Wisconsin 54155, Phone: (920) 490–3700, E-mail: n/a, Midwest Region

Oneida (*see* Iroquois)

Oneida Indian Nation, Kim Jacobs, Nation Clerk, Box 1, Vernon, New York 13476, Phone: (315) 829–8337, Fax: (315) 829–8392, E-mail: *kjacobs@oneida.nation.org,* Eastern Region

Onondaga (*see* Iroquois)

Onondaga Nation of New York, Council of Chiefs, P.O. Box 85, Nedrow, New York 13120, Phone: (315) 469–9196, Fax: (315) 492–4822, E-mail: n/a, Eastern Region

Osage

Osage Nation, Eddie Screechowl Jr., Social Worker Supervisor, 255 Senior Drive, Pawhuska, Oklahoma 74056, Phone: (918) 287–5218, Fax: (918) 287–5231, E-mail: n/a, Eastern Oklahoma Region

Otoe

Otoe-Missouria Indian Tribe of Oklahoma, Chairperson, 8151 Highway 177, Red Rock, Oklahoma 74651, Phone: (580) 723–4466, E-mail: n/a, Southern Plains Region

Ottawa (*see* Chippewa/Peshawbestown)

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Ottawa

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Ottawa

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Paiute (*see* Shoshone)

Big Pine Paiute Tribe, Chairperson, P.O. Box 700, Big Pine, California 93513, Phone: (760) 938–2003, Fax: (760) 938–2942, E-mail: n/a, Pacific Region

Bishop Reservation, Attention: Margaret Romero, 50 Tu Su Lane, Bishop, California 93514, Phone: (760) 873–3584, Fax: (760) 873–4143, E-mail: *margaret.romero@bishoppaiute.org,* Pacific Region

Paiute

Bridgeport Indian Colony, Joseph A. Sam, Chairperson, P.O. Box 37, Bridgeport, California 93517, Phone: (760) 932–7083, Fax: (760) 932–7846, E-mail: n/a, Pacific Region

Burns Paiute Tribe, Bonnie Phelps, ICWA Contact, H.C. 71—100 Pasigo Street, Burns, Oregon 97720, Phone: (541) 573–7312, Fax: (541) 573–3854, E-mail: n/a, Northwest Region

Cedarville Rancheria, Chairperson, ICWA Director, 300 West First Street, Alturas, California 96101, Phone: (530) 223–3969, Fax: (530) 223–4776, E-mail: n/a, Pacific Region

Paiute (*see* Warm Springs/Wasco/Washoe)

Confederated Tribes of Warm Springs Reservation, Warms Springs Tribal Court, Chief Judge Lola Sohappy, ICWA Contact, P.O. Box 850, Warm Springs, Oregon 97761, Phone; (541) 553–3454, Fax: (541) 553–3281, E-mail: n/a, Northwest Region

Paiute (*see* Shoshone)

Fallon Paiute Shoshone Business Council, Youth & Family Services, 565 Rio Vista Drive, Fallon, Nevada 89406, Phone: (775) 423–1215, E-mail: n/a, Western Region

Paiute

Fort Bidwell Reservation, Chairperson, P.O. Box 129, Fort Bidwell, California 96112, Phone: (530) 279–6310, Fax: (530) 279–2233, E-mail: n/a, Pacific Region

Fort Independence Reservation, Kathleen Bernasconi, Secretary-Treasurer, P.O. Box 67, Independence, California 93526, Phone: (760) 878–5160, Fax: (760) 878–2311, E-mail: n/a, Pacific Region

Paiute (*see* Shoshone)

Fort McDermitt Paiute-Shoshone Tribe, Ms. Karen M. Crutcher, Chairperson, P.O. Box 457, McDermitt, Nevada 89421, Phone: (775) 532–8259, E-mail: n/a, Western Region

Paiute

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Las Vegas Paiute Tribe, Ruth Fite-Patrick, Social Service Caseworker, 1257 Paiute Circle, Las Vegas, Nevada 89106, Phone: (702) 382–0784 Ext: 2236, Fax: (702) 384–5272, E-mail: *rfitepatrick@lvpaiute.com*, Western Region

Paiute (*see* Shoshone)

Lone Pine Paiute Shoshone Reservation, Kathy Bancroft, Enrollment Committee Chairperson, P.O. Box 747, Lone Pine, California 96545, Phone: (760) 876–1034, Fax: (760) 876–8302, E-mail: n/a, Pacific Region

Paiute

Lovelock Paiute Tribe, Debbie George, ICWA Worker, Samualla L. Pry, MSW, ICWA Supervisor, P.O. Box 878, 201 Bowean Street, Lovelock, Nevada 89419, Phone: (775) 273–7861, Fax: (775) 273–5151, E-mail: n/a, Western Region

Moapa Band of Paiutes, Diana Croci, IGA/ICWA/Enrollment Specialist, P.O. Box 340, Moapa, Nevada 89025, Phone: (702) 865–2790, Fax: (702) 865–2078, E-mail: *enrollment@mudsl.com*, Western Region

Paiute (*see* Shoshone)

Northwestern Band of Shoshoni Nation, Lawrence Honena, ICWA Contact, 427 North Main, Suite 101, Pcatello, Idaho 83204, Phone: (208) 478–5712, Fax: (208) 478–5713, E-mail: n/a, Northwest Region

Paiute

Paiute Indian Tribe of Utah, Savania Tsosie, ICWA Caseworker, 440 North Paiute Drive, Cedar City, Utah 84721, Phone: (435) 586–1112, Fax: (435) 867–2659, E-mail: *savania.tsosie@ihs.gov*, Western Region

Pyramid Lake Paiute Tribe, Chairperson, P.O. Box 256, Nixon, Nevada 89424, Phone: (775) 574–1000, E-mail: n/a, Western Region

Paiute (*see* Shoshone/Washoe)

Reno-Sparks Indian Colony, Attention: Director of Social Services, 98 Colony Road, Reno, Nevada 89502, Phone: (775) 329–5071, E-mail: n/a, Western Region

Paiute

San Juan Southern Paiute Tribe, Gwendolyn Adakai, Social Worker, P.O. Box 720, St. George, UT 84771, Phone: (435) 674–9720, Fax: (435) 674–9714, E-mail: *gwendolyn.adakai@bia.gov*, Western Region

Paiute (*see* Shoshone)

Shoshone-Paiute Tribes, Carol Jones, Assistant Administrator, P.O. Box 219, Owyhee, Nevada 89832, Phone: (208) 759–3100, Fax: (208) 759–3104, E-mail: *jones.carol@shopai.org*, Western Region

Paiute

Summit Lake Paiute Tribe Nevada, Ron Johnny, Acting Administrator, 1708 H Street, Sparks, Nevada 89431, (775) 827–9670, (775) 827–9678, E-mail: *ron.johnny@summitlaketribe.org*, Western Region

Paiute (*see* Maidu/Pit River)

Susanville Rancheria, Chairperson, ICWA Director, 745 Joaquin Street, Susanville, California 96130, Phone: (530) 257–6264, Fax: (530) 257–7986, E-mail: n/a, Pacific Region

Paiute (*see* Shoshone)

Timbi-sha Shoshone Tribe, As of date there is no recognized government for this Federally recognized Tribe., Pacific Region

Paiute

Utu Utu Gwaitu Paiute Tribe of the Benton Reservation, Adora L. Saulque, Tribal Secretary, 25669 Hwy 6 PMB I, Benton, California 93512, Phone: (760) 933–2321, Fax: (760) 933–2412, E-mail: *bentonpaiutetribe@hughes.net*, Pacific Region

Paiute

Walker River Paiute Tribe, ICWA Specialist, P.O. Box 146, Schurz, Nevada 89427, Phone: (775) 773–2058/2541, E-mail: n/a, Western Region

Paiute (*see* Shoshone)

Winnemucca Tribe, Chairman, P.O. Box 1370, Winnemucca, Nevada 89446, E-mail: n/a, Western Region

Paiute

Yerington Paiute Tribe, Rose Mary Joe-Kinale, Human Services Director/Social Worker, 171 Campbell Lane, Yerington, Nevada 89447, Phone: (775) 463–7705, Fax: (775) 463–5029, E-mail: *humanservices@ypt-nsn.gov*, Western Region

Papago

Ak-Chin Indian Community, Victoria A. Smith, Enrollment Specialist, 42507 West Peters & Nall Road, Maricopa, Arizona 85239, Phone: (520) 568–1023, (520) 568–1001, E-mail: n/a, Western Region

Papago (*see* Tohono O'Odham)

Tohono O'Odham Nation, Jonathan L. Jantzen, Office of Attorney General, P.O. Box 830, Sells, Arizona 85634, Phone: (520) 383–3410, Fax: (520) 383–2689, E-mail: *jonathan.jantzen@tonation-nsn.gov*, Western Region

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Passamaquoddy

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Pawnee

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Penobscot

Penobscot Indian Nation of Maine, Janet Lola, Protective Services Specialist, Department of Human Services, 9 Sarah's Spring Road, Indian Island, Maine 04468, Phone: (207) 817–7492 Ext: 7492, Fax: (207) 827–2937, E-mail: *betsy.tannian@penobscotnation.org*, Eastern Region

Peoria

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Pequot

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Peshawbestown (*see* Chippewa/Ottawa)

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Pima (*see* Maricopa)

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Salt River Pima-Maricopa Indian Community, Office of the General Counsel or Social Services Division, Child Protective Services, 10,005 East Osborn Road, Scottsdale, Arizona 85256, Phone: (480) 850–4130, E-mail: n/a, Western Region

Pit River

Alturas Rancheria, Chairperson, 900 Running Bear Rd., Yreka, California 96097, Phone: (530) 949–9877, E-mail: n/a, Pacific Region

Pit River

Pit River Reservation, Coordinator—ICWA Program, 36970 Park Avenue, Burney, California 96013, Phone: (530) 335–5530, Fax: (530) 335–3140, E-mail: n/a, Pacific Region

Pit River (*see* Wintun/Yana)

Redding Rancheria, Director, Social Services, 2000 Rancheria Road, Redding, California 96001–5528, Phone: (530) 225–8979, E-mail: n/a, Pacific Region

Pit River (*see* Nomlaki/Pomo/Wailaki, Wintun/Yuki)

Round Valley Reservation, ICWA Representative, 77826 Covelo Road, Covelo, California 95428, Phone: (707) 983–8008, E-mail: n/a, Pacific Region

Pit River (*see* Maidu/Paiute)

Susanville Rancheria, Chairperson, ICWA Director, 745 Joaquin Street, Susanville, California 96130, Phone: (530) 257–6264, Fax: (530) 257–7986, E-mail: n/a, Pacific Region

Pomo

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Pomo, (*see* Me-Wuk/Miwok)

Buena Vista Rancheria of Me-Wuk Indians, Penny Arciniaga, Tribal Member Services, P.O. Box 162283, Sacramento, California 95816, Phone: (916) 491–0011 x 10, Fax: (916) 491–0012, E-mail: *penny@buenavistatribe.com,* Pacific Region

Pomo, (*see* Me–Wuk/Miwok)

California Valley Miwok Tribe, Rashel Reznor, ICWA Director, 10601 Escondido Place, Stockton, California 95212, Phone: (209) 931–4567, E-mail: n/a, Pacific Region

Pomo

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Pomo, (*see* Me–Wuk/Miwok)

Graton Rancheria, Michele Porter, ICWA Coordinator, 6400 Redwood Drive, Suite 104, Rohnert Park, California 94928, Phone: (707) 566–6100 Ext: 115, Fax: (707) 206–0351, Pacific Region

Pomo

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Lytton Rancheria, Margie Mejia, Chairwoman, 1300 N. Dutton Avenue, Suite A, Santa Rosa, California 95401–3515, Phone: (707) 575–5917, Fax: (707) 575–6974, E-mail: n/a, Pacific Region

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Pomo (*see* Nomlaki/Pit River/Wailaki/Wintun/Yuki)

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Pomo (*see* Wailaki)

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Pomo (*see* Wailaki)

Sherwood Valley Rancheria, Lorraine Laiwa, ICWA Coordinator, Indian Child & Family Preservation Program, 684 S. Orchard Avenue, Ukiah, California 95482, Phone: (707) 463–2644, Fax: (707) 459–0744, E-mail: n/a, Pacific Region

Pomo (*see* Kashia)

Stewarts Point Rancheria–Kashia Band of Pomo Indians, Tara Candelaria, Administrative Assistant/ICWA Representative, 3535 Industrial Drive, Suite B–2, Santa Rosa, CA 95403, Telephone: (707) 591–0580, Fax: (707) 591–0583, E-mail: *tara@stewartspointrancheria.com*, Pacific Region

Ponca

Ponca Tribe of Nebraska, Attention: Director, Social Services, Ponca Tribe of Nebraska, 1800 Syracuse Avenue, Norfolk, Nebraska 68701, Phone: (402) 371–8834, E-mail: n/a, Great Plains Region

Ponca Tribe of Oklahoma, Chairperson, 20 White Eagle Drive, Ponca City, Oklahoma 74601, Phone: (580) 762–810, E-mail: n/a, Southern Plains Region

Potawatomi

Citizen Potawatomi Nation, Chairperson, 1601 S. Gordon Copper Drive, Shawnee, Oklahoma 74801, Phone: (405) 275–3121, E-mail: n/a, Southern Plains Region

Forest County Potawatomi Community of Wisconsin, Vickie Lynn Valenti, ICWA Department Supervisor, 5415 Everybody's Road, Crandon, Wisconsin 54520, Phone: (715) 478–4812, Fax: (715) 478–7442, E-mail: *vickie.valenti@fcpotawatomi-nsn.gov*, Midwest Region

Potawatomi (*see* Chippewa)

Hannahville Indian Community of Michigan, ICWA Worker, N14911 Hannahville B1 Road, Wilson,

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Potawatomi, (*see* Chippewa)

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Potawatomi

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Pueblo

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Pueblo

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Pueblo (*see* Tigua)

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Pueblo

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Puyallup

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Quapaw

Quapaw Tribe of Oklahoma, John Berrey, Chairperson, P.O. Box 765, Quapaw, Oklahoma 74363, Phone: (918) 542–1853, E-mail: n/a, Eastern Oklahoma Region

Quechan

Quechan Tribal Council, Mike Jackson Sr., President, P.O. Box 1899, Yuma Arizona 85366–1899, Phone: (760) 572–0213, Fax: (760) 572–2102, E-mail: n/a, Western Region

Quileute

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Quinault

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Sac & Fox

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Salish (*see* Flathead/Kootenai)

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Sauk–Suiattle

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Seminole

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Seneca (*see* Cayuga/Iroquois)

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Seneca (*see* Cayuga)

Seneca-Cayuga Nation of Oklahoma, Paul Spicer, Principal Chief, P.O. Box 1283, Miami, Oklahoma 74355, Phone: (918) 542–6609, E-mail: n/a, Eastern Oklahoma Region

Seneca (*see* Iroquois)

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Seneca (*see* Iroquois/Tonawanda)

Tonawanda Band of Seneca, Roger Hill, Chief, Council of Chiefs, 7027 Meadville Road, Basom, New York 14013, Phone: (716) 542–4244, Fax: (716) 542–4008, E-mail: n/a, Eastern Region

Seneca (*see* Iroquois)

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Serrano

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Shasta (*see* Grand Ronde/Siletz)

Confederated Tribes of the Grande Ronde Community of Oregon, Dana Ainma, ICWA Contact, 9615 Grand Ronde Road, Grand Ronde, Oregon 97347–0038, Phone: (503) 879–2034, Fax: (503) 879–2142, E-mail: n/a, Northwest Region

Shasta (*see* Karuk)

Quartz Valley Indian Reservation, Director—ICWA Program, 13601 Quartz Valley Road, Fort Jones, California 96032, Phone: (530) 468–5907, Fax: (530) 468–5608, E-mail: *lkent@qvir.com,* Pacific Region

Shawnee

Absentee Shawnee Tribe of Oklahoma Indians, Governor, 2025 S. Gordon Cooper Drive, Shawnee, Oklahoma 74801, Phone: (405) 275–4030, E-mail: n/a, Southern Plains Region

Eastern Shawnee Tribe of Oklahoma, Glenna J. Wallace, Chief, P.O. Box 350, Wyandotte, OK 74370, Phone: (918) 666–2435, Fax: (918) 666–2186, E-mail: *gjwallace@estoo.net,* Eastern Oklahoma Region

Shoalwater

Shoalwater Bay Tribal Council, Katherine Horne, ICWA Contact, P.O. Box 130, Tokeland, Washington 98590, Phone: (360) 267–6766, Fax: (360) 267–0247, E-mail: n/a, Northwest Region

Shoshone

Battle Mountain Band Council, Te-Moak Tribe of Western Shoshone, Rhonda Hicks, ICWA Coordinator, 37 Mountain View Drive, Battle Mountain, Nevada 89820, Phone: (775) 635–9189, Fax: (775) 635–8528, E-mail: n/a, Western Region

Shoshone (*see* Paiute)

Big Pine Paiute Tribe, Chairperson, P.O. Box 700, 825 S. Main Street, Big Pine, California 93513, Phone: (760) 938–2003, Fax: (760) 938–2942, E-mail: n/a, Pacific Region

Shoshone (*see* Paiute)

Bishop Reservation, Attention: Margaret Romero, 50 Tu Su Lane, Bishop, California 93514, Phone: (760) 873–3584, Fax: (760) 873–4143, E-mail: *Margaret.romero@bishoppaiute.org,* Pacific Region

Shoshone

Duckwater Shoshone Tribe, Thelma R. Simon, Social Worker IV/LADC, P.O. Box 140068, Duckwater, Nevada 89314, Phone: (775) 863–0227, Fax: (775) 863–0301, E-mail: n/a, Western Region

Eastern Shoshone Tribe of the Wind River Reservation, ICWA Coordinator, P.O. Box 945, Fort Washakie, Wyoming 82514, Phone: (307) 332–6591, Fax: (307) 332–6593, E-mail: n/a, Rocky Mountain Region

Elko Band Council, Vacant, ICWA Coordinator, 1745 Silver Eagle Drive, Elko, Nevada 89801, Phone: (775) 738–8889, Fax: (775) 778–3397, E-mail: n/a, Western Region

Ely Shoshone Tribal, Rae Jean Morrill, Social Services Worker II, #16 Shoshone Circle, Ely, Nevada 89301, Phone: (775) 289–4133, Fax: (775) 289–3237, E-mail: n/a, Western Region

Shoshone (*see* Paiute)

Fallon Paiute Shoshone Business Council, Youth & Family Services, 565 Rio Vista Drive, Fallon, Nevada 89406, Phone: (775) 423–1215, E-mail: n/a, Western Region

Shoshone (*see* Paiute)

Fort McDermitt Paiute-Shoshone Tribe, Ms. Karen M. Crutcher, Chairperson, P.O. Box 457, McDermitt, Nevada 89421, Phone: (775) 532–8259, E-mail: n/a, Western Region

Shoshone (*see* Paiute)

Lone Pine Paiute Shoshone Reservation, Kathy Bancroft, Enrollment Committee Chairperson, P.O. Box 747, Lone Pine, California 96545, Phone: (760) 876–1034, Fax: (760) 876–8302, E-mail: n/a, Pacific Region

Shoshone (*see* Paiute)

Northwestern Band of Shoshoni Nation, Lawrence Honena, ICWA Contact, 427 North Main, Suite 101, Pocatello,

Idaho 83204, Phone: (208) 478–5712, Fax: (208) 478–5713, E-mail: n/a, Northwest Region

Shoshone (*see* Paiute/Washoe)

Reno-Sparks Indian Colony, Attention: Director of Social Services, 98 Colony Road, Reno, Nevada 89502, Phone: (775) 329–5071, E-mail: n/a, Western Region

Shoshone (*see* Shoshone–Bannock)

Shoshone Bannock Tribe, Brandelle Whitworth, Tribal Attorney, P.O. Box 306, Fort Hall, Idaho 83203, Phone: (208) 478–3923, Fax: (208) 237–9736, E-mail: n/a, Northwest Region

Shoshone (*see* Paiute)

Shoshone-Paiute Tribes, Carol Jones, Assistant Administrator, P.O. Box 219, Owyhee, Nevada 89832, Phone: (208) 759–3100, Fax: (208) 759–3104, E-mail: *jones.carol@shopai.org,* Western Region

Shoshone

South Fork Band, Karen McDade, Director–Human Services, 21 Lee, B–13, Spring Creek, Nevada 89815, Phone: (775) 744–2412, Fax: (775) 744–2306, E-mail: n/a, Western Region

Te-Moak Tribe of Western Shoshone Indians, Chairman, 525 Sunset Street, Elko, Nevada 89801, E-mail: n/a, Western Region

Shoshone (*see* Paiute)

Timbi-sha Shoshone Tribe, As of date there is no recognized government for this Federally recognized Tribe, Pacific Region

Shoshone

Wells Indian Colony Band Council, Chairman, P.O. Box 809, Wells, Nevada 89835, Phone: (775) 752–3045, E-mail: n/a, Western Region

Shoshone (*see* Paiute)

Winnemucca Tribe, Chairman, P.O. Box 1370, Winnemucca, Nevada 89446, E-mail: n/a, Western Region

Shoshone (*see* Yomba)

Yomba Shoshone Tribe, Elisha A. Mockerman, Eligibility Worker, HC 61 Box 6275, Austin, Nevada 89310, Phone: (775) 964–2463, Fax: (775) 964–1352, E-mail: n/a, Western Region

Shoshone–Bannock (*see* Shoshone)

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Siletz (*see* Grand Ronde/Shasta)

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Siletz

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Sioux (*see* Assiniboine)

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Sioux

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S'Kllalam

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Lower Elwha Tribal Community Council, Patricia Elofson, ICWA Contact, 2851 Lower Elwha Road, Port Angeles, Washington 98363–9518, Phone: (360) 452–8471, Fax: (360) 457–8429, E-mail: n/a, Northwest Region

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Squaxin

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Stillaguamish

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Tachi (*see* Yokut)

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Three Affiliated Tribes (*see* Arikara/Hidatsa/Mandan)

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Tigua (*see* Pueblo)

Pueblo of Isleta, Caroline Dailey, Acting ICWA Director, P.O. Box 1270, Isleta, New Mexico 87022, Phone: (505) 869-2772, E-mail: n/a, Southwest Region

Tohono' O'Odham (*see* Papago)

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Tolowa (*see* Karuk/Yurok)

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Tolowa

Smith River Rancheria, Dorothy Perry, Director—Community & Family Services, 13140 Highway 101 North—Unit B, Smith River, California 95567, Phone: (707) 487–9255, Fax: (707) 487–0137, E-mail: *dperry@tolowa.com*, Pacific Region

Tolowa (*see* Me-Wok/Miwok/Yurok)

Trinidad Rancheria, Amy Atkins, ICWA Representative, P.O. Box 630, Trinidad, California 95570, Phone: (707) 677–0211, Fax: (707) 677–3921, E-mail: n/a, Pacific Region

Tonawanda (*see* Iroquois/Seneca)

Tonawanda Band of Seneca, Roger Hill, Chief, Council of Chiefs, 7027 Meadville Road, Basom, New York 14013, Phone: (716) 542–4244, Fax: (716) 542–4008, E-mail: n/a, Eastern Region

Tonkawa

Tonkawa Tribe of Oklahoma, President, P.O. Box 70, Tonkawa, Oklahoma 74653, Phone: (580) 628–2561, E-mail: n/a, Southern Plains Region

Tulalip

Tulalip Tribe, Elishia Stewart, ICWA Contact, 6700 Totem Beach Road, Marysville, Washington 98271, Phone: (360) 651–3290, Fax: (360) 651–4742, E-mail: n/a, Northwest Region

Tunica-Biloxi

Tunica-Biloxi Indian Tribe of Louisiana, Betty Pierite Logan, Registered Social Worker, P.O. Box 1589, Marksville, Louisiana 71351, Telephone: (318) 240–6442, Fax: (318) 253–0083, E-mail: *blogan@tunica.org*, Eastern Region

Tuscarora (*see* Iroquois)

Tuscarora Nation of New York, Supervisor, Community Health Worker, 2015 Mount Hope Road, Lewistown, New York 14092, Phone: (716) 297–0598, E-mail: n/a, Eastern Region

Umatilla

Confederated Tribes of the Umatilla Indian Reservation, M. Brent Leonhard, Department of Justice/ICWA, P.O. Box 638, Pendleton, Oregon 97801, Phone: (541) 966–2030, Fax: (541) 278–7462, E-mail: n/a, Northwest Region

Umpqua

Cow Creek Band of Umpqua Tribe of Indians, Rhonda Malone, Human Services Director, 2371 NE. Stephens Street, Roseburg, Oregon 97470, (541) 677–5575 ext: 5513, Fax: (541) 677–5574, E-mail: *rmalone@cowcreek.com*, Northwest Region

Umpqua & Siuslaw

Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians, Dottie Garcis, Family Services Coordinator, P.O. Box 3279, Coos Bay, Oregon 97420, Phone: (541) 888–3012 or Cell: (541) 297–0370, Fax: (541) 888–1027, E-mail: *dcarcia@ctclusi.org*, Northwest Region

Upper Skagit

Upper Skagit Indian Tribe of Washington, Michelle Anderson-Kamato, ICWA Contact, 2284 Community Plaza Way, Sedro Woolley, Washington 98284, Phone: (360) 856–4200, Fax: (360) 856–3537, E-mail: n/a, Northwest Region

Ute

Southern Ute Indian Tribe, Jerri Sindelar, ICWA Worker II, 116 Capote Dr., P.O. Box 737 #40, Ignacio, Colorado 81137, Phone: (970) 563–0209, Fax: (970) 563–0334, E-mail: *jsindelar@southern-ute.nsn.us*, Southwest Region

Ute Indian Tribe, Floyd Wyasket, Social Service Director, Box 190, Fort Duschesne, Utah 84026, Phone: (435) 725–4026 or (435) 823–0141, Fax:

(435) 722–5030, E-mail: n/a, Western Region

Ute Mountain Ute Tribe (Colorado & Utah), Carla L. Snow, MSW, Social Services Director, P.O. Box 309, Towaoc, Colorado 81334, Phone: (970) 564–5302/5307, Fax: (970) 564–5300, E-mail: *csnow@utemountain.org*, Southwest Region

Wailaki (*see* Wintun)

Grindstone Indian Rancheria, Ronald Kirk, Chairman, P.O. Box 63, Elk Creek, California 95939, Phone: (530) 968–5365, Fax: (530) 968–5366, E-mail: n/a, Pacific Region

Wailaki (*see* Nomlaki/Pit River/Pomo/Wintun/Yuki)

Round Valley Reservation, ICWA Representative, 77826 Covelo Road, Covelo, California 95428, Phone: (707) 983–8008, E-mail: n/a, Pacific Region

Wailaki (*see* Pomo)

Scotts Valley Band of Pomo Indians, Sharon Warner, Department Manager, Health and Social Services, 301 Industrial Avenue, Lakeport, California 95453, Phone: (707) 263–4220 ext: 409, Fax: (707) 263–4345, E-mail: *swarner@svpomo.org*, Pacific Region

Sherwood Valley Rancheria, Lorraine Laiwa, ICWA Coordinator, Indian Child & Family Preservation Program, 684 S. Orchard Avenue, Ukiah, California 95482, Phone: (707) 463–2644, Fax: (707) 459–0744, E-mail: n/a, Pacific Region

Wampanoag

Wampanoag Tribe of Gay Head (Aquinnah), Bonnie Chalifoux, Director, Department of Human Services, 20 Black Brook Road, Aquinnah, Massachusetts 02535, Phone: (508) 645–9265, E-mail: n/a, Eastern Region

Warm Springs (*see* Paiute/Wasco/Washoe)

Confederated Tribes of Warm Springs Reservation, Warms Springs Tribal Court, Chief Judge Lola Sohappy, ICWA Contact, P.O. Box 850, Warm Springs, Oregon 97761, Phone; (541) 553–3454, Fax: (541) 553–3281, E-mail: n/a, Northwest Region

Wasco (*see* Paiute/Warm Springs/Washoe)

Confederated Tribes of Warm Springs Reservation, Warms Springs Tribal Court, Chief Judge Lola Sohappy, ICWA Contact, P.O. Box 850, Warm Springs, Oregon 97761, Phone; (541) 553–3454, Fax: (541) 553–3281, E-mail: n/a, Northwest Region

Washoe (*see* Paiute/Warm Springs/Wasco)

Confederated Tribes of Warm Springs Reservation, Warms Springs Tribal Court, Chief Judge Lola Sohappy, ICWA Contact, P.O. Box 850, Warm Springs, Oregon 97761, Phone; (541) 553–3454, Fax: (541) 553–3281, E-mail: n/a, Northwest Region

Washoe (*see* Paiute/Shoshone)

Reno-Sparks Indian Colony, Attention: Director of Social Services, 98 Colony Road, Reno, Nevada 89502, Phone: (775) 329–5071, E-mail: n/a, Western Region

Washoe

Washoe Tribe of Nevada and California, Paula White, Social Services Director, 919 HWY. 395 South, Gardnerville, Nevada 89410, Phone: (775) 265–7024, Fax: (775) 265–4593, E-mail: n/a, Western Region

Wichita

Witchita and Affiliated Tribe of Oklahoma, Indian Child Welfare, Coordinator, P.O. Box 729, Anadarko, Oklahoma 73005, Phone: (405) 247–2425, Southern Plains Region

Winnebago (*see* Ho-Chunk)

The Ho-Chunk Nation, ICWA Coordinator, P.O. Box 40, Black River Falls, Wisconsin 54615, Phone: (715) 284–2622, E-mail: n/a, Midwest Region

Winnebago

Winnebago Tribe of Nebraska, Rita Snow, ICWA Specialist, ICWA Program, P.O. Box 771, Winnebago, Nebraska 68071, Phone: (402) 878–2469, Fax: (402) 878–2981, E-mail: n/a, Great Plains Region

Wintun

Colusa Indian Community, Cachil Dehe Band of Wintun Indians, Barbie Buchanan, Community Services Manager, 3730 Highway 45, Colusa, California 95932, Phone: (530) 458–8231 ext: 276, Fax: (530) 458–8174, E-mail: *bbuchanan@colusa-nsn.gov*, Pacific Region

Wintun (*see* Nomlaki)

Cortina Rancheria, Charlie Wright, Tribal Chairman, P.O. Box 1630, Williams, California 95987, Phone: (530) 473–3274, Fax: (530) 473–3301, E-mail: *cortina2@citlink.net*, Pacific Region

Wintun (*see* Wailaki)

Grindstone Indian Rancheria, Ronald Kirk, Chairman, P.O. Box 63, Elk Creek, California 95939, Phone: (530) 968–5365, Fax: (530) 968–5366, E-mail: n/a, Pacific Region

Wintun (*see* Nomlaki)

Paskenta Band of Nomlaki Indians, Ines Crosby, Tribal Administrator, P.O. Box 398, Orland, California 95963, Phone: (530) 865–2010, Fax: (530) 865–1870, E-mail: *office@paskenta.org*, Pacific Region

Wintun (*see* Pit River/Yana)

Redding Rancheria, Director, Social Services, 2000 Rancheria Road, Redding, California 96001–5528, Phone: (530) 225–8979, E-mail: n/a, Pacific Region

Wintun (*see* Pit River/Pomo/Wailaki/, Nomlaki/Yuki)

Round Valley Reservation, ICWA Representative, 77826 Covelo Road, Covelo, California 95428, Phone: (707) 983–8008, Pacific Region

Wintun

Rumsey Rancheria, Yocha Dehe Wintun Nation, Leland Kinter—Tribal Secretary, P.O. Box 18, Brooks, California 95606, Phone: (530) 796–3400, Fax: (530) 796–2143, E-mail: n/a, Pacific Region

Wiyot

Bear River of Rhonerville Rancheria, Chairperson, 32 Bear River Drive, Loleta, California 95551, Phone: (707) 773–1900, E-mail: n/a, Pacific Region

Wiyot, (*see* Huron)

Blue Lake Rancheria, Chairperson, P.O. Box 428, Blue Lake, California 95525, Phone: (707) 668–5101 Ext: 1033, Fax: n/a, E-mail: *info@bluelakerancheria-nsn.gov*, Pacific Region

Wiyot

Wiyot Tribe, Michelle Vassel, Director of Social Services, 1000 Wiyot Drive, Loleta, California 95551, Phone: (707) 733–5055, Fax: (707) 733–5601, E-mail: *http://www.wiyot.com*, Pacific Region

Wyandotte (*see* Huron)

Wyandotte Nation, Kate RAndall, Director of Family Services, 64700 E. Hwy 60, Wyandotte, Oklahoma 74370, Phone: (918) 678–2297, Fax: (918) 678–3087, E-mail: *krandall@wyandotte-nation.org*, Eastern Oklahoma Region

Yahooskin (*see* Klamath/Modoc)

The Klamath Tribe, Jim Collins, ICWA Specialist, P.O. Box 436, Chiloquin, Oregon 97624, Phone: (541) 783–2219 Ext: 137, Fax: (541) 783–7783, E-mail: *jim.collins@klamathtribes.com*, Northwest Region

Yana (*see* Pit River/Wintun)

Redding Rancheria, Director, Social Services, 2000 Rancheria Road, Redding, California 96001–5528, Phone: (530) 225–8979, E-mail: n/a, Pacific Region

Yakama

Yakama Nation Program, Nak Nu We Sha ICWA, Attention: Ray E. Olney/ Delores Armour, Program Director/ Social Work Specialist, P.O. Box 151, Toppenish, Washington 98948–0151, Phone: (509) 865–5121, Fax: (509) 865–2598, E-mail: n/a, Northwest Region

Yaqui

Pascua Yaqui Tribe, Office of the Attorney General, Tamara Walters, Assisstant Attorney General, 4725 West Calle Tetakusim, Bldg. B, Tucson, Arizona 85757, Phone: (520) 883–5108, E-mail: n/a, Western Region

Yavapai

Fort McDowell Yavapai Tribe, Jimmy Esquirell, CPS/ICWA Coordinator, Family and Community Services, P.O. Box 17779, Fountain Hills, Arizona 85268, Phone: (480) 789–7990, Fax: (480) 837–4809, E-mail: *jesquirell@ftmcdowell.org*, Western Region

Yavapai (*see* Apache)

Yavapai-Apache Nation, Nancy B. Guzman, ICWA Coordinator, 2400 Datsi Road, Camp Verde, Arizona 86322, Phone: (928) 649–7115, Fax: (928) 567–6832, E-mail: *nguzman@yan-tribe.org*, Western Region

Yavapai

Yavapai-Prescott Indian Tribe, Elsie Watchman, Family Support Supervisor, 530 East Merritt, Prescott, Arizona 86301, Phone: (928) 515–7351, Fax: (928) 541–7945, E-mail: *ewatchman@ypit.com*, Western Region

Yokut, (*see* Tachi)

Santa Rosa Rancheria, Chairperson, P.O. Box 8, Lemoore, California 93245–0008, Phone: (559) 924–1278 Ext. 4019, Fax: (559) 925–2947, E-mail: n/a, Pacific Region

Yokut

Table Mountain Rancheria, Frank Marquez Jr., Chief of Police, P.O. Box 410, Friant, California 93626, Phone: (559) 822–2587, Fax: (559) 822–2693, E-mail: *fmarquezjr@tmr.org*, Pacific Region

Yokut (*see* Mono)

Tule River Reservation, Lolita Garfield, Director Family Social Services, P.O. Box 589, Porterville, California 93258, Phone: (559) 781–4271 ext: 1013, Fax: (559) 791–2122, E-mail: *icwa@tulerivertribe-nsn.gov*, Pacific Region

Yomba (*see* Shoshone)

Yomba Shoshone Tribe, Chairman, HC 61 Box 6275, Austin, Nevada 89310–9301, Phone: (775) 964–2463, E-mail: n/a, Western Region

Yuki (*see* Pit River/Pomo/Nomlaki/ Wailaki/Wintun)

Round Valley Reservation, ICWA Representative, 77826 Covelo Road, Covelo, California 95428, Phone: (707) 983–8008, E-mail: n/a, Pacific Region

Yurok

Big Lagoon Rancheria, Chairperson, P.O. Box 3060, Trinidad, California 95570, Phone: (707) 826–2079, Fax: (707) 826–0495, E-mail: *jstmartin@yuroktribe.nsn.us*, Pacific Region

Yurok (*see* Wiyot)

Blue Lake Rancheria, Chairperson, P.O. Box 428, Blue Lake, California 95525, Phone: (707) 668–5101 Ext: 1033, Fax: n/a, E-mail: *info@bluelakerancheria-nsn.gov*, Pacific Region

Yurok (*see* Karuk/Tolowa)

Elk Valley Rancheria, Chairperson, 2332 Howland Hill Road, Crescent City, California 95531, Phone: (707) 464–4680, Fax: (707) 465–2638, E-mail: *evrlibrary@elk-valley.com*, Pacific Region

Yurok

Resighini Rancheria, Chairperson, P.O. box 529, Klamath, California 95548, Phone: (707) 482–2431, E-mail: n/a, Pacific Region

Yurok (*see* Me-Wok/Miwok/Tolowa)

Trinidad Rancheria, Amy Atkins, ICWA Representative, P.O. Box 630, Trinidad, California 95570, Phone: (707) 677–0211, Fax: (707) 677–3921, E-mail: n/a, Pacific Region

Yurok

Yurok Tribe, Director Social Services, Attention: ICWA Coordinator, P.O. Box 1027, Klamath, California 95548, Phone: (707) 482–1350, Fax: (707) 482–1368, E-mail: *jstmartin@yuroktribe.nsn.us*, Pacific Region

2. Alaska Native Tribes and Villages

Aleut

Agdaagux Tribe of King Cove, Arthur Newman, Tribal Administrator, P.O. Box 249, King Cove, Alaska 99612, Phone: (907) 497–2648, Fax: (907) 497–2803, E-mail: *atc@arctic.net*

Grace Smith—Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 E. International Airport Rd., Anchorage, AK 99518–1408, Phone: (907) 276–2700/(907) 222–4236, Fax: (907) 279–4351, E-mail: *graces@apiai.org*, Alaska Region

Aleut (*see* Alutiiq)

Native Village of Akhiok, David Eluska, Tribal Manager, P.O. Box 5030, Akhiok, Alaska 99615, Phone: (907) 836–2231 or (907) 836–2313, Fax: (907) 836–2345, E-mail: *david.eluska@kanaweb.org/ Sandra.zeedar@kanaweb.org*, Alaska Region

Aleut

Native Village of Akutan, Grace Smith, Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, Alaska 99518–1408, Phone: (907) 276–2700 or (907) 222–4236, Fax: (907) 279–4351, E-mail: *graces@apiai.org*, Alaska Region

Native Village of Atka, Grace Smith, Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, Alaska 99518–1408, Phone: (907) 276–2700 or (907) 222–4236, Fax: (907) 279–4351, E-mail: *graces@apiai.org*, Alaska Region

Native Village of Belkofski, Grace Smith, Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, Alaska 99518–1408, Phone: (907) 276–2700 or (907) 222–4236, Fax: (907) 279–4351, E-mail: graces@apiai.org, Alaska Region

Aleut (*see* Alutiiq)

Native Village of Chanega (aka: Chenega), Norma Selanoff, ICWA Worker, P.O. Box 8079, Chenega Bay, Alaska 99574, Phone: (907) 573–5386, Fax: (907) 573–5387, E-mail: n/a, Alaska Region

Chignik Bay Tribal Council,[1] Debbie Carlson, Administrator, P.O. Box 50, Chignik, Alaska 99564, Phone: (907) 749–2445, Fax: (907) 749–2423, E-mail: n/a, Alaska Region

Chignik Bay Tribal Council,[2] Children's Services Program Manager, Bristol Bay Native Association, P.O. Box 310, 1500 Kanakanak Road, Dillingham, Alaska 99576, Phone: (907) 842–4139,

Fax: (907) 842–4106, E-mail: *cnixon@bbna.com*, Alaska Region

Native Village of Chignik Lagoon,[1] Clemence Grunert, Jr., President, P.O. Box 09, Chignik Lagoon, Alaska 99565, Phone: (907) 840–2281, Fax: (907) 840–2217, *clagoon@gci.net,* Alaska Region

Native Village of Chignik Lagoon,[2] Children's Services Program Manager, Bristol Bay Native Association, P.O. Box 310, 1500 Kanakanak Road, Dillingham, Alaska 99576, Phone: (907) 842–4139, Fax: (907) 842–4106, *cnixon@bbna.com,* Alaska Region

Chignik Lake Village,[1] John Lind, President, P.O. Box 33, Chignik Lake, Alaska 99548, Phone: (907) 845–2212, Fax: (907) 845–2217, E-mail: n/a, Alaska Region

Chignik Lake Village,[2] Children's Services Program Manager, Bristol Bay Native Association, P.O. Box 310, 1500 Kanakanak Road, Dillingham, Alaska 99576, Phone: (907) 842–4139, Fax: (907) 842–4106, *cnixon@bbna.com,* Alaska Region

Cordova (*see* Eyak)

Egegik Village,[1] Marcia Abalama, Tribal Children's Service Worker, P.O. Box 29, Egegik, Alaska 99579, Phone: (907) 233–2207, Fax: (907) 233–2312, E-mail: n/a, Alaska Region

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English Bay (*see* Native Village of Nanwalek)

Native Village of Eyak (Cordova), Erin Kurz, ICWA Worker, P.O. Box 1388, Cordova, Alaska 99574, Phone: (907) 424–7738, Fax: (907) 424–7809, E-mail: *erin@nveyak.org,* Alaska Region

Aleut

Native Village of False Pass, Grace Smith, Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, Alaska 99518–1408, Phone: (907) 276–2700 or (907) 222–4236, Fax: (907) 279–4351, E-mail: *graces@apiai.org,* Alaska Region

Aleut (*see* Alutiiq)

Ivanoff Bay Village,[1] Edgar Shangin, Tribal President, 7926 Old Seward Hwy, Suite B–5, Anchorage, Alaska 99518, Phone: (907) 522–2263, Fax: (907) 522–2363, E-mail: *ibvc@ivanofbay.com,* Alaska Region

Ivanoff Bay Village,[2] Children's Services Program Manager, Bristol Bay Native Association, P.O. Box 310, 1500 Kanakanak Road, Dillingham, Alaska 99576, Phone: (907) 842–4139, Fax: (907) 842–4106, E-mail: *cnixon@bbna.com,* Alaska Region

Kaguyak Village, Margie Bezona, Community Development Director, Kodiak Area Native Association, 3449 E. Rezanof Drive, Kodiak, Alaska 99615, Phone: (907) 486–9816, Fax: (907) 486–9886, E-mail: *Margie.bezona@kanaweb.org,* Alaska Region

Native Village of Kanatak,[1] Tony Olivera, Tribal Administrator/ICWA Director, P.O. Box 872231, Wailla, Alaska 99687, Phone: (907) 357–5991, Fax: (907) 357–5992, *kanatak@mtaonline.net,* Alaska Region

Native Village of Kanatak,[2] Children's Services Program Manager, Bristol Bay Native Association, P.O. Box 310, 1500 Kanakanak Road, Dillingham, Alaska 99576, Phone: (907) 842–4139, Fax: (907) 842–4106, E-mail: n/a, Alaska Region

Native Village of Karluk, Joyce Jones, ICWA Worker, P.O. Box 22, Karluk, Alaska 99608, Phone: (907) 241–2218, Fax: (907) 241–2208, E-mail: n/a, Alaska Region

Aleut

King Cove (*see* Agdaagux)

King Salmon Tribe,[1] Ralph Angasan, Jr.—Tribal Administrator, Ruth Monsen—ICWA Worker, P.O. Box 68, King Salmon, Alaska 99613, Phone: (907) 246–3553/3447, Fax: (907) 246–3449, E-mail: n/a, Alaska Region

King Salmon Tribe,[2] Children's Services Program Manager, Bristol Bay Native Association, P.O. Box 310, 1500 Kanakanak Road, Dillingham, Alaska 99576, Phone: (907) 842–4139, Fax: (907) 842–4106, E-mail: *cnixon@bbna.com,* Alaska Region

Aleut (*see* Alutiiq)

Kodiak Tribal Council (*see* Sun'aq Tribe of Kodiak)

Native Village of Larsen Bay, Mary Nelson—President, Carol Katelnikoff—Vice President, P.O. Box 50, Larsen Bay, Alaska 99624, Phone: (907) 847–2207, Fax: (907) 847–2307, E-mail: n/a, Alaska Region

Lesnoi Village (aka Woody Island), Melissa Berns, Administrator, 3248 Mill Bay Road, Kodiak, Alaska 99615, Phone: (907) 486–2821, Fax: (907) 486–2738, E-mail: *village@alaska.com,* Alaska Region

Native Village of Nanwalek (aka English Bay), Alma Moonin, IRA Administrator, P.O. Box 8028, Nanwalek, Alaska 99603–6021, Phone: (907) 281–2274, Fax: (907) 281–2252, E-mail: n/a, Alaska Region

Aleut

Native Village of Nelson Lagoon,[1] Paul E. Gundersen, President, P.O. Box 913, Nelson Lagoon, Alaska 99571, Phone: (907) 989–2204, Fax: (907) 989–2233, E-mail: n/a, Alaska Region

Native Village of Nelson Lagoon,[2] Grace Smith, Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, Alaska 99518–1408, Phone: (907) 276–2700 or (907) 222–4236, Fax: (907) 279–4351, E-mail: *graces@apiai.org,* Alaska Region

Native Village of Nikolski, Grace Smith, Family Programs Coordinator, Aleutian/Pribilof Islands Association, 1131 East International Airport Road, Anchorage, Alaska 99518–1408, Phone: (907) 276–2700, Fax: (907) 279–4351, E-mail: *graces@apiai.org,* Alaska Region

Aleut (*see* Alutiiq)

Village of Old Harbor, Conrad Peterson, President, P.O. Box 62, Old Harbor, Alaska 99643–0062, Phone: (907) 286–2215, Fax: (907) 286–2277, E-mail: *conradpeterson@oldharbortribal.com,* Alaska Region

Native Village of Ouzinkie, Michelle M. Johnson, ICWA Director, P.O. Box 130, Ouzinkie, Alaska 99644–0130, Phone: (907) 680–2359, Fax: (907) 680–2214, E-mail: *icwa@ouzinkie.org,* Alaska Region

Aleut

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Aleut (*see* Alutiiq)

Native Village of Perryville,[1] Bernice O'Domin, Tribal Children's Service Worker, P.O. Box 89, Perryville, Alaska 99648–0089, Phone: (907) 853–2242, Fax: (907) 853–2229, E-mail: n/a, Alaska Region

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Native Village of Pilot Point, Lori Ann Abyo, Tribal Administrator, P.O. Box 449, Pilot Point, Alaska 99649, Phone: (907) 797–2208, Fax: (907) 797–2258, E-mail: n/a

Bristol Bay Native Association, Children's Services Program Manager, P.O. Box 310, 1500 Kanakanak Road, Dillingham, Alaska 99559, Phone: (907) 842–4139, Fax: (907) 842–4106, E-mail: *cnixon@bbna.com,* Alaska Region

Native Village of Port Graham, Mary Malchoff/Patrick Norman, ICWA Worker/Chief, P.O. Box 5510, Port Graham, Alaska 99603, Phone: (907) 284–2227, Fax: (907) 284–2222, E-mail: n/a, Alaska Region

Native Village of Port Heiden,[1] Larissa Orloff—ICWA Worker, Gerda Kosbruk—administrator, P.O. Box 49007, Port Heiden, Alaska 99549, Phone: (907) 837–2225/2296, Fax: (907) 837–2297, E-mail: *lorloff@starband.net,* Alaska Region

Native Village of Port Heiden,[2] Children's Services Program Manager, Bristol Bay Native Association, P.O. Box 310, 1500 Kanakanak Road, Dillingham, Alaska 99576, Phone: (907) 842–4139, Fax: (907) 842–4106, E-mail: *cnixon@bbna.com,* Alaska Region

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Aleut

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Native Village of Upper Kalskag (*see* Kalskag)

Dated: May 5, 2010.

Donald Laverdure,

Deputy Assistant Secretary—Indian Affairs.

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May 19, 2010

Part III

Environmental Protection Agency

40 CFR Part 180

Acephate, Cacodylic acid, Dicamba, Dicloran et al.; Proposed Tolerance Actions; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0262; FRL–8821–3]

Acephate, Cacodylic acid, Dicamba, Dicloran et al.; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke certain tolerances for the fungicides dicloran and thiophanate-methyl; the herbicides EPTC, hexazinone, picloram, and propazine; the defoliant and herbicide cacodylic acid; the plant growth regulator and herbicide diquat, the insecticides disulfoton, malathion, methamidophos, methomyl, phosmet, piperonyl butoxide, pyrethrins, and thiodicarb; the fumigant antimicrobial and insecticide methyl bromide, the nematicides/insecticides ethoprop and fenamiphos, the insecticide synergist *N*-octyl bicycloheptene dicarboximide, and the tolerance exemptions for the insecticide/miticide pyrethrum and insecticide synergist *N*-octyl bicycloheptene dicarboximide. In addition, EPA is proposing to remove certain expired tolerances for disulfoton, fenamiphos, and thiophanate-methyl. Also, EPA is proposing to modify certain tolerances for the fungicide thiophanate-methyl, herbicides dicamba, EPTC, hexazinone and picloram, and insecticide synergist *N*-octyl bicycloheptene dicarboximide. In addition, EPA is proposing to establish new tolerances for the fungicide thiophanate-methyl and the herbicides EPTC, hexazinone, and picloram. Also, EPA is proposing to reinstate specific tolerances for methamidophos residues as a result of the application of the insecticide acephate. The regulatory actions proposed in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA), section 408(q).

DATES: Comments must be received on or before July 19, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0262, 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 docket ID number EPA–HQ–OPP–2010–0262. 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: Joseph Nevola, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 308-8037; e-mail address: *nevola.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. 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.

C. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60–day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f), if needed. The order would specify data needed and the timeframes for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke, modify, and establish specific tolerances for residues of the fungicides dicloran and thiophanate-methyl; the herbicides dicamba, EPTC, hexazinone, picloram, and propazine; the defoliant and herbicide cacodylic acid; the plant growth regulator and herbicide diquat, the insecticides disulfoton, malathion, methamidophos, methomyl, phosmet, piperonyl butoxide, pyrethrins, and thiodicarb; the fumigant antimicrobial and insecticide methyl bromide, the nematicides/insecticides ethoprop and fenamiphos; and the insecticide synergist *N*-octyl bicycloheptene dicarboximide; revoke the tolerance exemptions for the insecticide/miticide pyrethrum and insecticide synergist *N*-octyl bicycloheptene dicarboximide; remove certain expired tolerances for disulfoton, fenamiphos, and thiophanate-methyl; and reinstate specific tolerances for methamidophos residues as a result of the application of the insecticide acephate in or on commodities listed in the regulatory text.

EPA is proposing these tolerance/tolerance exemption actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of "reasonable certainty of no harm" is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419; telephone number: 1–800–490–9198; fax number: 1–513–489–8695; Internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161; telephone number: 1–800–553–6847 or (703) 605–6000; Internet at *http://www.ntis.gov*. Electronic copies of REDs and TREDs are available on the Internet in public dockets; REDs for cacodylic acid (EPA–HQ–OPP–2006–0201), dicamba (EPA–HQ–OPP–2005–0479), ethoprop (EPA–HQ–OPP–2002–0269), malathion (EPA–HQ–OPP–2004–0348), *N*-octyl bicycloheptene dicarboximide (EPA–HQ–OPP–2005–0040), pyrethrum (see pyrethrins RED in EPA–HQ–OPP–2005–0043), and thiophanate-methyl (EPA–HQ–OPP–2004–0265), and TREDs for hexazinone (EPA–HQ–OPP–2002–0188) and propazine (EPA–HQ–OPP–2005-0496) at *http://www.regulations.gov* and REDs for acephate, EPTC, methamidophos, phosmet, and picloram at *http://www.epa.gov/pesticides/reregistration/status.htm*.

The selection of an individual tolerance level is based on crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies, provided that the tolerance is safe. The evaluation of whether a tolerance is safe is a separate inquiry. EPA recommends the raising of a tolerance when data show that:

- Lawful use (sometimes through a label change) may result in a higher residue level on the commodity.
- The tolerance remains safe, notwithstanding increased residue level allowed under the tolerance.

In REDs, Chapter IV on "Risk management, Reregistration, and Tolerance reassessment" typically describes the regulatory position, FQPA assessment, cumulative safety determination, determination of safety for U.S. general population, and safety for infants and children. In particular, the human health risk assessment document which supports the RED describes risk exposure estimates and whether the Agency has concerns. In TREDs, the Agency discusses its evaluation of the dietary risk associated with the active ingredient and whether it can determine that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from

aggregate exposure. EPA also seeks to harmonize tolerances with international standards set by the Codex Alimentarius Commission, as described in Unit III.

Explanations for proposed modifications in tolerances can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and electronic copies for dicamba, ethoprop (Data Requirements and Tolerance Reassessment), hexazinone, malathion, *N*-octyl bicycloheptene dicarboximide, propazine, pyrethrum (see pyrethrins), and thiophanate-methyl can be found under their respective public docket ID numbers, identified in Unit II.A. Electronic copies are also available in public dockets for acephate (EPA–HQ–OPP–2007–0445), cacodylic acid (EPA–HQ–OPP–2006–0201), methamidophos (EPA–HQ–OPP–2007–0261), and phosmet (EPA–HQ–OPP–2008–0834), and for EPTC in the public docket for this proposed rule. Electronic copies are available through EPA's electronic public docket and comment system, regulations.gov at *http://www.regulations.gov*. You may search for this proposed rule under docket ID number EPA–HQ–OPP–2010-0262, then click on that docket ID number to view its contents.

EPA has determined that the aggregate exposures and risks are not of concern for the above mentioned pesticide active ingredients based upon the data identified in the RED or TRED which lists the submitted studies that the Agency found acceptable.

EPA has found that the tolerances/tolerance exemptions that are proposed in this document to be modified, are safe; i.e., that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C). (Note that changes to tolerance nomenclature do not constitute modifications of tolerances). These findings are discussed in detail in each RED or TRED. The references are available for inspection as described in this document under **SUPPLEMENTARY INFORMATION.**

In addition, EPA is proposing to revoke certain specific tolerances/tolerance exemptions because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances/tolerance exemptions for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or legally treated domestic commodities.

1. *Acephate*. In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.108(a)(1) to read as follows:

> Tolerances are established for residues of acephate, *O,S*-dimethyl acetyl phosphoramidothioate, including its metabolites and degradates other than methamidophos, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only acephate, *O,S*-dimethyl acetyl phosphoramidothioate, in or on the commodity.

In the **Federal Register** of January 29, 2008 (73 FR 5104) (FRL–8348–8), EPA revised the tolerance expression for acephate in 40 CFR 180.108 from the combined residues of acephate, *O,S*-dimethyl acetyl phosphoramidothioate, and methamidophos, *O,S*-dimethyl phosphoramidothioate, to residues of acephate per se, removed the terminology "of which no more than 1 ppm, 0.5 ppm, or 0.1 ppm is *O,S*-dimethyl phosphoramidothioate" from tolerances on bean (succulent and dry); Brussels sprouts; cauliflower; celery; cranberry; lettuce, head; mint hay, and pepper; and footnoted that residues of the acephate metabolite, methamidophos, are regulated under 40 CFR 180.315. However, the basis for this action was in error, as methamidophos tolerances for bean, dry, seed; bean, succulent; cranberry; peppermint, tops; and spearmint, tops had not in fact been established in 40 CFR 180.315. To remedy this inadvertent error, the Agency proposes to reinstate the 40 CFR 180.108 tolerances. Consequently, EPA is proposing to separate tolerances for residues of methamidophos from the application of acephate in newly designated 40 CFR 180.108(a)(3), with the introductory text to read as follows:

> Tolerances are established for residues of methamidophos, *O,S*-dimethyl phosphoramidothioate, including its metabolites and degradates, in or on the commodities in the table in this paragraph as a result of the application of acephate. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only methamidophos, *O,S*-dimethyl phosphoramidothioate, in or on the commodity.

In addition, EPA is proposing to reinstate the tolerances in 40 CFR 180.108(a)(3) on bean, dry, seed at 1 ppm; bean, succulent at 1 ppm; Brussels sprouts at 0.5 ppm; cauliflower at 0.5 ppm (which is in harmony with the Codex maximumn residue limits (MRL) of 0.5 milligrams/kilogram (mg/kg) on cauliflower); celery 1 ppm; cranberry at 0.1 ppm; lettuce, head at 1 ppm; pepper at 1 ppm; and reinstate mint hay, revising the tolerance terminology to peppermint, tops at 1 ppm and spearmint, tops at 1 ppm. On January 29, 2008, EPA published a final rule in the **Federal Register** (73 FR 5104) (FRL–8348–8), which finalized tolerance actions for several active ingredients, including acephate, and which increased the tolerances in 40 CFR 180.108(a)(1) for acephate residues in or on mint hay (peppermint, tops and spearmint, tops) from 15.0 to 27.0 ppm. Consequently, methamidophos residues resulting from acephate application are expected by the Agency to be increased from 1.0 to 2.0 ppm in or on peppermint, tops and spearmint, tops. However, the Agency is not proposing an increase on the peppermint, tops and spearmint, tops tolerances for methamidophos residues at this time.

Based on available data that showed residues of acephate were as high as 0.02 ppm for only one of seven exposed food items following both a spot treatment and crack/crevice treatment for rooms treated with acephate at the 1x rate and residues of methamidophos were undetectable from these acephate treatments, the Agency determined that a tolerance level of 0.02 ppm for acephate residues was appropriate and that there was no expectation of methamidophos residues and therefore no methamidophos tolerance was needed concerning food handling establishments. Consequently, compliance with the tolerance at 0.02 ppm in 40 CFR 180.108(a)(2) should continue to be determined by measuring only acephate residues. However, in order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.108(a)(2), to read as follows:

> A tolerance of 0.02 ppm is established for residues of acephate, *O,S*-dimethyl acetyl phosphoramidothioate, including its metabolites and degradates other than methamidophos, in or on all food items

(other than those already covered by a higher tolerance as a result of use on growing crops) in food handling establishments where food and food products are held, processed, prepared and served, including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries, where application of acephate shall be limited solely to spot and/or crack and crevice treatment (a coarse, low-pressure spray shall be used to avoid atomization or splashing of the spray for spot treatments; equipment capable of delivering a pin-stream of insecticide shall be used for crack and crevice treatments). Spray concentration shall be limited to a maximum of 1.0 percent active ingredient. Contamination of food or food-contact surfaces shall be avoided. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only acephate, *O,S*-dimethyl acetyl phosphoramidothioate, in or on the commodity.

Because EPA is proposing to revise 40 CFR 180.108(a)(2) and include text from 40 CFR 180.108(a)(2)(i) and (a)(2)(ii), existing paragraphs (a)(2)(i) and (a)(2)(ii) are no longer needed. Therefore, EPA is proposing to remove 40 CFR 180.108(a)(2)(i) and (a)(2)(ii).

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the regional tolerance expression in 40 CFR 180.108(c) to read as follows:

A tolerance with a regional registration is established for residues of acephate, *O,S*-dimethyl acetyl phosphoramidothioate, including its metabolites and degradates other than methamidophos, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only acephate, *O,S*-dimethyl acetyl phosphoramidothioate, in or on the commodity.

Also, EPA is proposing to revise the table footnote in 40 CFR 180.108(a)(1) and add a table footnote in 40 CFR 180.108(c) to read as follows:

Where there is a direct use of methamidophos on the commodity, residues of methamidophos resulting from methamidophos application are regulated under 40 CFR 180.315.

There are Codex MRLs for acephate, including those on beans, except broad bean and soya bean at 5 mg/kg, cauliflower at 2 mg/kg, cranberry at 0.5 mg/kg, peppers, chili (dry) at 50 mg/kg, and other commodities.

2. *Cacodylic acid*. In the **Federal Register** notice of July 8, 2009 (74 FR 32596) (FRL–8422–6), EPA issued a notice regarding EPA's announcement of the receipt of requests from registrants to voluntarily cancel certain registrations, including ones for cacodylic acid (and sodium salt) and therefore terminate the last cacodylic acid (and sodium salt) uses in or on cotton. After the close of the 30–day comment period, EPA approved cancellation of certain registrations, including the cacodylic acid (and sodium salt) registrations for uses in or on cotton and issued a cancellation order in the **Federal Register** notice of September 30, 2009 (74 FR 50187)(FRL–8437–7), made them effective on September 30, 2009, and prohibited the registrants for the canceled cacodylic acid (and sodium salt) registrations to sell and distribute existing stocks after December 31, 2009. Also, EPA prohibited persons other than the registrant to sell and distribute the canceled cacodylic acid (and sodium salt) existing stocks after December 31, 2010. The Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated cotton commodities to have cleared the channels of trade by January 1, 2012. The termination of the last cacodylic acid (and sodium salt) uses in or on cotton means that the tolerance will no longer be needed and should be revoked with an expiration/revocation date. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.311(a) on cotton, undelinted seed with an expiration/revocation date of January 1, 2012.

Currently, tolerances are expressed for the defoliant cacodylic acid in 40 CFR 180.311(a) for residues of cacodylic acid (dimethylarsinic acid), expressed as As_2O_3. In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.311(a) to read as follows:

A tolerance is established for residues of the defoliant cacodylic acid, dimethylarsinic acid, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only those cacodylic acid residues convertible to As_2O_3, expressed as the stoichiometric equivalent of cacodylic acid, in or on the commodity.

There are no Codex MRLs for cacodylic acid.

3. *Dicamba*. Based on available processing data that showed an average concentration factor of 24.4X for molasses and the Highest Average Field Trial (HAFT) residue of 0.183 ppm for sugarcane, EPA determined that the expected combined dicamba residues of concern in sugarcane molasses are 4.465 ppm, and that the currently established tolerance of 2.0 ppm for sugarcane molasses should be increased from 2.0 to 5.0 ppm. Therefore, the Agency is proposing to increase the tolerance in 40 CFR 180.227(a)(1) on sugarcane, molasses to 5.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available sugarcane field trial data that showed combined dicamba residues of concern as high as 0.2 ppm in or on sugarcane harvested 87-173 days following a single layby application at 2.0 lb dicamba acid equivalents per acre (ae/A), EPA determined that the tolerance should be increased from 0.1 to 0.3 ppm. While the available data, conducted at an application rate of 2.0 lb dicamba ae/A, do not support the maximum seasonal single/yearly rate of 2.8 lb dicamba ae/A that was listed in the Dicamba Master Use Profile, the Agency determined that the available data was adequate provided the registrants revise their product labels to specify a maximum seasonal rate of 2.0 lb dicamba ae/A and an 87–day preharvest interval (PHI) for sugarcane or submit additional data on sugarcane reflecting a maximum single/yearly rate of 2.8 lb dicamba ae/A. In response to the Data Call-In (DCI) of June 27, 2008 that was issued to registrants, including the basic manufacturer BASF, BASF requested a waiver of the sugarcane study at 2.8 lb dicamba ae/A and cited MRID 44089302, and accepted rate limitations of 1 lb dicamba ae/A for single application, and an annual rate limitation of 2 lb dicamba ae/A. The Agency considers that available data to be sufficient provided product labels specify a maximum seasonal rate of 2.0 lb dicamba ae/A and an 87–day PHI for sugarcane. Therefore, because the current tolerance on sugarcane, cane at 0.1 ppm is too low, based on the available data, EPA is proposing to increase the tolerance in 40 CFR 180.227(a)(1) on sugarcane, cane to 0.3 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.227(a)(1) to read as follows:

Tolerances are established for residues of the herbicide dicamba, 3,6-dichloro-*o*-anisic

acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of dicamba, 3,6-dichloro-*o*-anisic acid, and its metabolite, 3,6-dichloro-5-hydroxy-*o*-anisic acid, calculated as the stoichiometric equivalent of dicamba, in or on the commodity.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.227(a)(2) to read as follows:

Tolerances are established for residues of the herbicide dicamba, 3,6-dichloro-*o*-anisic acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of dicamba, 3,6-dichloro-*o*-anisic acid, and its metabolite, 3,6-dichloro-2-hydroxybenzoic acid, calculated as the stoichiometric equivalent of dicamba, in or on the commodity.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.227(a)(3) to read as follows:

Tolerances are established for residues of the herbicide dicamba, 3,6-dichloro-*o*-anisic acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of dicamba, 3,6-dichloro-*o*-anisic acid, and its metabolites, 3,6-dichloro-5-hydroxy-*o*-anisic acid, and 3,6-dichloro-2-hydroxybenzoic acid, calculated as the stoichiometric equivalent of dicamba, in or on the commodity.

There are no Codex MRLs for dicamba.

4. *Dicloran (DCNA)*. On December 2, 2009, EPA published a notice in the **Federal Register** (74 FR 63151) (FRL–8800–4) that announced the Agency's receipt of requests from the registrants to voluntarily amend certain dicloran registrations and therefore terminate the last dicloran uses on carrots. EPA approved amendment of the affected DCNA registrations by publishing a cancellation order on March 31, 2010 in the **Federal Register** (75 FR 16105) (FRL–8815–8) and made them effective on November 2, 2010, and permitted the dicloran registrant to sell and distribute existing dicloran stocks (concerning the last uses for carrots) until November 2, 2010. For all affected dicloran products, the Agency permitted persons other than the registrant to sell and distribute existing stocks and use of those cancelled products until exhaustion. However, the Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated carrot commodities to have cleared the channels of trade by November 2, 2011. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.200(a)(1) for carrot, roots, postharvest with an expiration/revocation date of November 2, 2011.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.200(a)(1) to read as follows:

Tolerances are established for residues of the fungicide dicloran, 2,6-dichloro-4-nitroaniline, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only dicloran, 2,6-dichloro-4-nitroaniline, in or on the commodity. Unless otherwise specified, these tolerances prescribed in this paragraph provide for residues from preharvest application only.

There are Codex MRLs for dicloran, including an MRL on carrot at 15 mg/kg, and MRLs on other plant commodities.

5. *Diquat*. Currently, the only active registrations for diquat use on both sorghum grain and soybeans are for seed crops, and both uses have restrictions to not graze or feed treated forage to livestock and not use seed from treated plants for food, feed, or oil purposes. Given the restrictions, such uses are considered by the Agency to be non-food, and therefore the tolerances are no longer needed and should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.226(a)(1) on sorghum, grain, grain and soybean, seed.

There are Codex MRLs for diquat on sorghum at 2 mg/kg and on soybean (dry) at 0.2 mg/kg.

6. *Disulfoton*. On July 22, 2009, EPA published a notice in the **Federal Register** (74 FR 36204) (FRL–8427–2) that announced the Agency's receipt of requests from the registrants to voluntarily cancel all disulfoton and methamidophos registrations and therefore terminate the last disulfoton and methamidophos products registered for use in the United States, including the last disulfoton uses on asparagus, lima and snap beans, broccoli, Brussels sprouts, cabbage, cauliflower, coffee, cotton, and lettuce. EPA approved cancellation of the registrations by publishing a cancellation order on September 23, 2009 in the **Federal Register** (74 FR 48551) (FRL–8437–1) and made them effective on September 23, 2009, and permitted the disulfoton registrants to sell and distribute existing disulfoton stocks (concerning the last uses for asparagus, lima and snap beans, broccoli, Brussels sprouts, cabbage, cauliflower, cotton, and lettuce) until December 31, 2010 and stocks of a single registration (264-723) with the last coffee use until June 30, 2011. For all affected disulfoton products, the Agency permitted persons other than the registrant to sell and distribute existing stocks and use of those cancelled products until exhaustion. However, the Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated asparagus, lima and snap beans, broccoli, Brussels sprouts, cabbage, cauliflower, cotton, and lettuce commodities to have cleared the channels of trade by December 31, 2012 and treated coffee commodities to have cleared the channels of trade by June 30, 2013. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.183(a) for bean, lima; bean, snap, succulent; broccoli; Brussels sprouts; cabbage; cauliflower; cotton, undelinted seed; lettuce, head; and lettuce, leaf with expiration/revocation dates of December 31, 2012. Also, because there had been only active FIFRA section 24(c) registrations for use of disulfoton on asparagus, EPA is proposing to revoke the regional tolerance in 40 CFR 180.183(c) on asparagus with an expiration/revocation date of December 31, 2012. In addition, EPA is proposing to revoke the tolerance in 40 CFR 180.183(a) for coffee, green bean with an expiration/revocation date of June 30, 2013.

Because the tolerances for combined disulfoton residues of concern expired on October 14, 2009, EPA is proposing to remove the tolerances in 40 CFR 180.183(a) on spinach and tomato. Also, because the tolerances for combined disulfoton residues of concern expired on January 30, 2010, EPA is proposing to remove the tolerances in 40 CFR 180.183(a) on barley, grain; barley, straw; cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; grain, aspirated fractions; hog, fat; hog, meat; hog, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; milk; peanut; pepper; potato; sheep, fat; sheep, meat; sheep, meat byproducts; wheat, grain; wheat, hay; and wheat, straw.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the section heading in 40 CFR 180.183 from *O,O*-diethyl *S*-(2-

(ethylthio)ethyl) phosphorodithioate to disulfoton and revise the introductory text containing the tolerance expression in 40 CFR 180.183(a) to read as follows:

Tolerances are established for residues of the insecticide disulfoton, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of disulfoton, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate, and its metabolites demeton-*S,O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorothioate; disulfoton sulfoxide, *O,O*-diethyl *S*-(2-(ethylsulfinyl)ethyl) phosphorodithioate; disulfoton oxygen analog sulfoxide, *O,O*-diethyl *S*-(2-(ethylsulfinyl)ethyl) phosphorothioate, disulfoton sulfone, *O,O*-diethyl *S*-(2-(ethylsulfonyl)ethyl) phosphorodithioate; and disulfoton oxygen analog sulfone, *O,O*-diethyl *S*-(2-(ethylsulfonyl)ethyl) phosphorothioate; calculated as the stoichiometric equivalent of disulfoton, in or on the commodity.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the regional tolerance expression in 40 CFR 180.183(c) to read as follows:

A tolerance with regional registration is established for residues of the insecticide disulfoton, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of disulfoton, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate, and its metabolites demeton-*S, O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorothioate; disulfoton sulfoxide, *O,O*-diethyl *S*-(2-(ethylsulfinyl)ethyl) phosphorodithioate; disulfoton oxygen analog sulfoxide, *O,O*-diethyl *S*-(2-(ethylsulfinyl)ethyl) phosphorothioate, disulfoton sulfone, *O,O*-diethyl *S*-(2-(ethylsulfonyl)ethyl) phosphorodithioate; and disulfoton oxygen analog sulfone, *O,O*-diethyl *S*-(2-(ethylsulfonyl)ethyl) phosphorothioate; calculated as the stoichiometric equivalent of disulfoton, in or on the commodity.

There are Codex MRLs for disulfoton, including those on asparagus at 0.02 mg/kg, coffee beans at 0.2 mg/kg, common bean (pods and/or immature seeds) at 0.2 mg/kg, cotton, seed at 0.1 mg/kg, and other commodities.

7. *EPTC*. Because cotton forage is no longer considered by the Agency to be a significant livestock feed commodity as delineated in "Table 1.—Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops," which is found in Residue Chemistry Test Guidelines OPPTS 860.1000, dated August 1996 (available at *http://www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/860_Residue_Chemistry_Test_Guidelines/Series/*), EPA determined that the tolerance is no longer needed, and therefore should be revoked. Consequently, the Agency is proposing to revoke the tolerance in 40 CFR 180.117 for residues of *S*-ethyl dipropylthiocarbamate (EPTC) in or on cotton, forage.

Because there have been no active *S*-ethyl dipropylthiocarbamate registrations in the United States for use on asparagus, small fruits (including strawberries), flax seeds, and pineapples for more than 10 years, the tolerances are no longer needed and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.117 on asparagus; fruit, small; strawberry; flax, seed; and pineapple.

Because castor beans and oil products are not consumed by humans or livestock, EPA determined that the tolerance is no longer needed and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerance in 40 CFR 180.117 on castorbean, seed.

EPA is proposing, in 40 CFR 180.117, to remove the "(N)" designation from all entries to conform to current Agency administrative practice ("N" designation means negligible residues). Also, tolerances are currently established in 40 CFR 180.117 for negligible residues of the herbicide *S*-ethyl dipropylthiocarbamate, also called EPTC. EPA determined that EPTC plant residues of toxicological concern are EPTC, EPTC sulfoxide, EPTC sulfone, and the EPTC conjugates (glutathione, cysteine, *N*-malonyl cysteine, *S*-lactic acid, and *O*-malonyl *S*-lactic acid conjugates). However, the Agency concurred with the registrant's position that development of a single enforcement analytical method that can detect each of these residues was not feasible. Because development of an enforcement analytical method for the hydroxylated metabolites (*S*-ethyl (2-hydroxypropyl)propylcarbamothioate, *S*-(2-hydroxyethyl)dipropyl carbamothioate, and *S*-ethyl (3-hydroxypropyl)propylcarbamothioate) was feasible, the Agency concurred with the registrant's recommendation that EPTC and its hydroxylated metabolites be used as marker residues of EPTC residues of toxicological concern. Therefore, in order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to redesignate the existing paragraph from 40 CFR 180.117 to 180.117(a) and revise the introductory text containing the tolerance expression in newly designated 40 CFR 180.117(a) to include its hydroxylated metabolites as marker residues of S-ethyl dipropylthiocarbamate residues of toxicological concern (i.e., markers of EPTC, EPTC sulfoxide, EPTC sulfone, and the EPTC conjugates resulting from the glutathione-*S*-transferase pathway), to read as follows:

Tolerances are established for residues of the herbicide *S*-ethyl dipropylthiocarbamate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of *S*-ethyl dipropylthiocarbamate, *S*-ethyl (2-hydroxypropyl)propylcarbamothioate, *S*-(2-hydroxyethyl)dipropylcarbamothioate, and *S*-ethyl (3-hydroxypropyl)propylcarbamothioate, calculated as the stoichiometric equivalent of *S*-ethyl dipropylthiocarbamate, in or on the commodity.

The majority of the current crop groupings for residues of EPTC are based on obsolete crop groupings and, for many, the minimum data requirements for the establishment of crop group tolerances were not satisfied. Therefore, in the EPTC RED, the Agency recommended revocation of crop group tolerances, concomitant with the establishment of individual tolerances for the affected commodities.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate and its hydroxylated metabolites were <0.09 ppm in or on potatoes and <0.11 ppm in on sugar beet roots, the Agency determined that the tolerance for the obsolete group, vegetable, root, should be revoked and individual tolerances should be established for beet, garden, roots; beet, sugar, roots; potato; and sweet potato (based on translation of available data from potatoes). Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to revoke the tolerance on vegetable, root at 0.1 ppm and establish tolerances on beet, garden, roots at 0.1 ppm; beet, sugar, roots at 0.1 ppm; potato at 0.1 ppm; and sweet potato, roots at 0.1 ppm. Also, based on processing data that showed combined residues of EPTC and its hydroxylated metabolites were as high as <0.80 ppm in molasses that was processed from the raw agricultural commodity (sugar beet roots) with residues as high as <0.2 ppm (after application at 2X the maximum exposure rate), the Agency determined that combined residues had concentrated in molasses by a factor of 4X and that after a 1X application on sugar beet roots, residues in molasses

would be expected at <0.1 ppm. Therefore, EPA is proposing to establish a tolerance in newly designated and revised 40 CFR 180.117(a) on beet, sugar, molasses at 0.4 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate and its hydroxylated metabolites were non-detectable (<0.05 ppm and <0.01 ppm for each of the three hydroxylated metabolites; i.e., the Limit of Quantitation (LOQ) of the enforcement method for EPTC and its hydroxylated metabolites, respectively) in or on almond nutmeats and hulls, and walnut nutmeats, the Agency determined that the tolerance for the obsolete group, nut, should be revoked and individual tolerances should be established for almond, nutmeat and walnut, nutmeat; each at 0.08 ppm (0.05 ppm for EPTC and 0.03 ppm for the combined hydroxylated metabolites), and decrease almond, hulls from 0.1 ppm to 0.08 ppm. Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to revoke the tolerance on nut at 0.1 ppm and establish tolerances on almond at 0.08 ppm and walnut at 0.08 ppm, and decrease the tolerance on almond, hulls to 0.08 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate and its hydroxylated metabolites were non-detectable (<0.05 ppm and <0.01 ppm for each of the three hydroxylated metabolites; i.e., the LOQ of the enforcement method for EPTC and its hydroxylated metabolites, respectively) in or on tomatoes, the Agency determined that the tolerance for the obsolete group, vegetable, fruiting, should be revoked and an individual tolerance should be established for tomato at 0.08 ppm (0.05 ppm for EPTC and 0.03 ppm for the combined hydroxylated metabolites). Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to revoke the tolerance on vegetable, fruiting at 0.1 ppm and establish a tolerance on tomato at 0.08 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropyl thiocarbamate were non-detectable (<0.05 ppm) in or on alfalfa forage and hay, and clover forage and hay, and maximum total residues of EPTC hydroxylated metabolites were 0.18 ppm in or on alfalfa forage, 0.61 ppm in or on alfalfa hay, 0.01 ppm in or on clover forage, and 0.05 ppm in or on clover hay, the Agency determined that the tolerance for the obsolete group, legume, forage, should be revoked and individual tolerances should be established for alfalfa, forage at 0.2 ppm and alfalfa, hay at 0.6 ppm, clover, forage at 0.1 ppm, and clover, hay at 0.1 ppm. Also, the Agency determined that the data for clover forage and hay can be translated to the forage and hay of trefoil and lespedeza, and therefore individual tolerances for each of them should be established at 0.1 ppm. Consequently, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to revoke the tolerance on legume, forage at 0.1 ppm and establish tolerances on alfalfa, forage at 0.2 ppm, alfalfa, hay at 0.6 ppm, clover, forage at 0.1 ppm, clover, hay at 0.1 ppm, lespedeza, forage at 0.1 ppm, lespedeza, hay at 0.1 ppm, trefoil, forage at 0.1 ppm, and trefoil, hay at 0.1 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate were non-detectable (<0.05 ppm) in or on sugar beet tops, and maximum total residues of EPTC and its hydroxylated metabolites were <0.47 ppm in or on sugar beet tops, the Agency determined that the tolerance for the obsolete group, vegetable, leafy, should be revoked and individual tolerances should be established for beet, garden, tops at 0.5 ppm and beet, sugar, tops at 0.5 ppm. Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to revoke the tolerance on vegetable, leafy at 0.1 ppm and establish tolerances on beet, garden, tops at 0.5 ppm and beet, sugar, tops at 0.5 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate and its hydroxylated metabolites were non-detectable (<0.05 ppm and <0.01 ppm for each of the three hydroxylated metabolites; i.e., the LOQ of the enforcement method for EPTC and its hydroxylated metabolites, respectively) in or on beans (succulent and dry), the Agency determined that the tolerance for the obsolete group, vegetable, seed and pod, should be revoked and individual tolerances should be established for bean, dry, seed; bean, succulent; and pea, succulent (based on translation of available data from succulent beans); each at 0.08 ppm (0.05 ppm for EPTC and 0.03 ppm for the combined hydroxylated metabolites). Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to revoke the tolerance on vegetable, seed and pod at 0.1 ppm and establish tolerances on bean, dry, seed at 0.08 ppm, bean, succulent at 0.08 ppm, and pea, succulent at 0.08 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate and its hydroxylated metabolites were non-detectable (<0.05 ppm and <0.01 ppm for each of the three hydroxylated metabolites; i.e., the LOQ of the enforcement method for EPTC and its hydroxylated metabolites, respectively) in or on field corn grain or sweet corn ear, the Agency determined that the tolerance for the obsolete group, grain, crop, should be revoked, data could be translated from field corn grain to popcorn grain, and individual tolerances should be established for corn, field, grain; corn, pop, grain; and corn, sweet, kernel plus cob with husks removed; each at 0.08 ppm (0.05 ppm for EPTC and 0.03 ppm for the combined hydroxylated metabolites). Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to revoke the tolerance on grain, crop at 0.1 ppm and establish tolerances on corn, field, grain at 0.08 ppm, corn, pop, grain at 0.08 ppm, and corn, sweet, kernel plus cob with husks removed at 0.08 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate and its hydroxylated metabolites were non-detectable (<0.05 ppm and <0.01 ppm for each of the three hydroxylated metabolites; i.e., the LOQ of the enforcement method for EPTC and its hydroxylated metabolites, respectively) in or on field corn forage and stover, and sweet corn forage and ears, the Agency determined that the tolerance for the obsolete group, grass, forage, should be revoked, data could be translated from field corn stover to popcorn stover, and individual tolerances should be established for corn, field, forage; corn, field, stover; corn, pop, stover; corn, sweet, forage; and corn, sweet, stover; each at 0.08 ppm (0.05 ppm for EPTC and 0.03 ppm for the combined hydroxylated metabolites). Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to revoke the tolerance on grass, forage at 0.1 ppm and establish tolerances on corn, field, forage at 0.08 ppm, corn, field, stover at 0.08 ppm, corn, pop, stover at 0.08 ppm, corn, sweet, forage at 0.08 ppm, and corn, sweet, stover at 0.08 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate and its hydroxylated metabolites were non-detectable (<0.05 ppm and <0.01 ppm for each of the three hydroxylated metabolites; i.e., the LOQ of the enforcement method for EPTC and its hydroxylated metabolites, respectively) in or on cottonseed, safflower seeds, and sunflower seeds, the Agency determined that the tolerances on cottonseed, safflower seed, and sunflower seed should be decreased from 0.1 to 0.08

ppm (0.05 ppm for EPTC and 0.03 ppm for the combined hydroxylated metabolites). Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to decrease the tolerances on cotton, undelinted seed to 0.08 ppm; safflower, seed to 0.08 ppm; and sunflower, seed to 0.08 ppm.

Based on available field trial data that showed residues of *S*-ethyl dipropylthiocarbamate and its hydroxylated metabolites were <0.05 ppm for EPTC and each of the three hydroxylated metabolites (total combined residues were <0.20 ppm) in or on cotton gin byproducts, the Agency determined that a tolerance should be established at 0.20 ppm. Therefore, EPA is proposing in newly designated and revised 40 CFR 180.117(a) to establish a tolerance on cotton, gin byproducts at 0.20 ppm.

In accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.117 by adding separate paragraphs (b), (c), and (d), and reserving those paragraphs with tolerance exemptions for section 18 emergency exemptions, tolerances with regional registrations, and tolerances with indirect or inadvertent residues, respectively. Also EPA is proposing to revise the nomenclature and tolerance in newly designated and revised 40 CFR 180.117(a) from "fruit, citrus" to "fruit, citrus, group 10."

There are no Codex MRLs for EPTC.

8. *Ethoprop*. On May 27, 2009, EPA published a notice in the **Federal Register** (74 FR 25237) (FRL–8418–2) that announced the Agency's receipt of request from the registrant to voluntarily amend a registration and therefore terminate the last ethoprop use in the United States on pineapple. EPA approved amendment of the registration by issuing a cancellation order on July 9, 2009 to the registrant, made it effective on July 23, 2009, and permitted the registrant to sell and distribute existing ethoprop stocks of the amended registration (concerning pineapple use deletion) for 18 months after July 9, 2009; i.e., until January 9, 2011. The Agency permitted persons other than the registrant to sell and distribute existing stocks and use of the affected ethoprop product until exhaustion. However, the Agency believes that end users will have had sufficient time to exhaust those existing stocks and for ethoprop treated pineapple commodities to have cleared the channels of trade by January 9, 2012. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.262(a) for pineapple with an expiration/revocation date of January 9, 2012.

Because there have been no active registrations in the United States for ethoprop use on popcorn for more than 10 years, and therefore, tolerances covering popcorn use are no longer needed, EPA is proposing to revoke the tolerances in 40 CFR 180.262(a) on corn, pop, grain and corn, pop, stover.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.262(a) to read as follows:

Tolerances are established for residues of the nematocide and insecticide ethoprop, *O*-ethyl *S,S*-dipropyl phosphorodithioate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only ethoprop, *O*-ethyl *S,S*-dipropyl phosphorodithioate, in or on the commodity.

There are no Codex MRLs for ethoprophos on pineapple or corn, but there are MRLs for ethoprophos on other commodities.

9. *Fenamiphos*. There have been no active food use registrations for fenamiphos in the United States since 2007. In a proposed rule that EPA published in the **Federal Register** on February 6, 2008 (73 FR 6867) (FRL–8345–2), the Agency proposed specific tolerances for multiple pesticide active ingredients, including fenamiphos, and stated that Bayer CropScience informed the Agency that it would support fenamiphos tolerances on citrus and garlic, among others, for import purposes since there were no active domestic registrations for those uses. In January 2010, Bayer CropScience informed EPA that it no longer was interested in supporting import tolerances for residues of fenamiphos in or on citrus and garlic, but would continue to support import tolerances for residues of fenamiphos in or on banana, grape, and pineapple. Because no one other than Bayer CropScience expressed an interest in retaining the fenamiphos tolerances on citrus and garlic, there is no longer a need for them. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.349(a) on citrus, dried pulp; citrus, oil; fruit, citrus, group 10; and garlic; add a missing footnote to the tolerance for grape, raisin to reflect that it has no U.S. registrations, and revise the footnoted information for all remaining tolerances to reflect the effective cancellation date of the last fenamiphos registrations in the United States to be as of May 31, 2007.

Because the tolerances expired on December 31, 2009, EPA is proposing to remove the tolerances in 40 CFR 180.349(a) on apple; Brussels sprouts; cabbage; cherry, sweet; cherry, tart; eggplant; okra; peach; peanut; raspberry; and strawberry; in 180.349(c) on asparagus; beet, garden, roots; beet, garden, tops; cabbage, Chinese, bok choy; kiwifruit; and pepper, nonbell; and reserve paragraph (c).

Also, in order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.349(a) to read as follows:

Tolerances are established for residues of the nematicide/insecticide fenamiphos, ethyl 3-methyl-4-(methylthio)phenyl 1-(methylethyl)phosphoramidate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of fenamiphos, ethyl 3-methyl-4-(methylthio)phenyl 1-(methylethyl)phosphoramidate, and its cholinesterase inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl)phenyl 1-(methylethyl)phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl)phenyl 1-(methylethyl)phosphoramidate, calculated as the stoichiometric equivalent of fenamiphos, in or on the commodity.

There are Codex MRLs for fenamiphos, including those on apple; banana; Brussels sprouts; cabbages, head; and peanut at 0.05 mg/kg, and other commodities.

10. *Hexazinone*. Currently, tolerances are expressed for the herbicide hexazinone in 40 CFR 180.396(a)(1) for the combined residues of hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione) and its plant metabolites; A (3-(4-hydroxycyclohexyl)-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, B (3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3H)-dione), C (3-(4-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione), D (3-cyclohexyl)-1-methyl-1,3,5-triazine-2,4,6-(1*H*, 3*H*, 5H)-trione), and E (3-(4-hydroxycyclohexyl)-1-methyl-1,3,5-triazine-2,4,6-(1*H*, 3*H*, 5*H*)-trione) (calculated as hexazinone). In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.396(a)(1) to read as follows:

Tolerances are established for residues of the herbicide hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, including its metabolites and degradates, in or on the commodities in the

table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and its plant metabolites: metabolite A, 3-(4-hydroxycyclohexyl)-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite B, 3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite C, 3-(4-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite D, 3-cyclohexyl-1-methyl-1,3,5-triazine-2,4,6-(1*H*, 3*H*, 5*H*)-trione, and metabolite E, 3-(4-hydroxycyclohexyl)-1-methyl-1,3,5-triazine-2,4,6-(1H, 3*H*, 5*H*)-trione, calculated as the stoichiometric equivalent of hexazinone, in or on the commodity.

Based on available field trial data that showed combined hexazinone residues of concern as high as 183 ppm in or on grass forage at a 0–day PHI and 133 ppm in or on grass, hay at a 14 to 38–day PHI, EPA determined that the tolerance for grass forage should be increased from 10 to 250 ppm, and a tolerance for grass hay should be established at 230 ppm. Therefore, EPA is proposing to increase the tolerance in 40 CFR 180.396(a)(1) on grass, forage to 250 ppm and establish a tolerance in 40 CFR 180.396(a)(1) on grass, hay at 230 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available field trial data that showed combined hexazinone residues of concern as high as <3.33 ppm in or on alfalfa hay, EPA determined that the tolerance on alfalfa hay should be decreased from 8.0 to 4.0 ppm. Therefore, the Agency is proposing in 40 CFR 180.396(a)(1) to decrease the tolerance on alfalfa, hay to 4.0 ppm.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.396(a)(2) to read as follows:

Tolerances are established for residues of the herbicide hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and its animal tissue metabolites: metabolite B, 3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and metabolite F, 3-cyclohexyl-6-amino-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, calculated as the stoichiometric equivalent of hexazinone, in or on the commodity.

In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.396(a)(3) to read as follows:

A tolerance is established for residues of the herbicide hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and its metabolites: metabolite B, 3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite C, 3-(4-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite C-2, 3-(3-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and metabolite F, 3-cyclohexyl-6-amino-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, calculated as the stoichiometric equivalent of hexazinone, in or on the commodity.

In the **Federal Register** of September 27, 2006 (71 FR 56392) (FRL–8089–6), EPA published a final tolerance rule for several active pesticide ingredients, including hexazinone. Because the Agency received a comment from DuPont Crop Protection which stated that it would be submitting grass residue data and expected increased residues that would warrant revision of existing tolerances for both grass and hay as livestock feed commodities, EPA did not finalize revocation of certain livestock tolerances for hexazinone, in 40 CFR 180.396, at that time. Upon review of the submitted data, EPA has determined that tolerances on the fat of cattle, goats, hogs, horses, and sheep should be maintained at 0.1 ppm. However, based on available field trial data for grass and hay, and a recalculation of dietary burden that show the maximum total hexazinone residues were 3.85 ppm in liver, 2.19 ppm in kidney, 0.32 ppm in muscle, <0.1 ppm in fat, and 11.09 ppm in milk, the Agency determined that meat byproduct tolerances of cattle, goats, hogs, horses, and sheep should be increased from 0.1 to 4.0 ppm; meat tolerances of cattle, goats, hogs, horses, and sheep should be increased from 0.1 to 0.5 ppm, and the milk tolerance should be increased from 0.2 to 11 ppm. Therefore, EPA is proposing to increase the tolerances in 40 CFR 180.396(a)(2) on cattle, meat byproducts; goat, meat byproducts; hog, meat byproducts; horse, meat byproducts; and sheep, meat byproducts; each to 4.0 ppm; and on cattle, meat; goat, meat; hog, meat; horse, meat; and sheep, meat; each to 0.5 ppm. Also, EPA is proposing to increase the tolerance in 40 CFR 180.396(a)(3) on milk to 11 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Also, in the **Federal Register** of September 27, 2006 (71 FR 56392), EPA agreed with a comment from DuPont Crop Protection which stated that registrations for use of hexazinone on sugarcane in Florida are active and that the current regional tolerances for sugarcane be designated as general tolerances. Therefore, EPA is proposing to revoke the regional tolerances in 40 CFR 180.396(c) on sugarcane, cane at 0.6 ppm and sugarcane, molasses at 4.0 ppm, reserve paragraph (c) for tolerances with regional registrations, and establish tolerances in 40 CFR 180.396(a)(1) on sugarcane, cane at 0.6 ppm and sugarcane, molasses at 4.0 ppm.

There are no Codex MRLs for hexazinone.

11. *Malathion*. Based on available ruminant and poultry metabolism data at exaggerated feeding rates of malathion–treated livestock feeds and that no active registrations for direct animal treatment with malathion have existed since March 2005, EPA determined that there is no reasonable expectation of finite residues of malathion in fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; milk fat; and eggs. These tolerances are no longer needed under 40 CFR 180.6(a)(3). Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.111(a)(3) for residues of malathion in or on egg; milk, fat; cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; hog, fat; hog, meat; hog, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; poultry, fat; poultry, meat; poultry, meat byproducts; sheep, fat; sheep, meat; and sheep, meat byproducts; and therefore, remove paragraph (a)(3) in its entirety, including its footnote.

On May 20, 2009, EPA published a notice in the **Federal Register** (74 FR 23708) (FRL–8414–2) that announced the Agency's receipt of requests from the registrants to voluntarily cancel or amend specific malathion registrations and therefore terminate specific uses, including the last use on cranberries for malathion products registered for use in the United States. EPA approved cancellation of these registrations and uses by publishing a cancellation order on July 15, 2009 in the **Federal Register** (74 FR 34345) (FRL–8425–3) and made

them effective on July 15, 2009, and permitted the malathion registrants, including the registrant who requested to amend to terminate the use on cranberry, to sell and distribute existing malathion stocks (concerning the last use for cranberry) for 1 year from the effective date of July 15, 2009; i.e., until July 15, 2010. The Agency permitted persons other than the registrant to sell and distribute existing stocks and use of those cancelled products until exhaustion. However, the Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated cranberry commodities to have cleared the channels of trade by July 15, 2011. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.111(a)(1) on cranberry with an expiration/revocation date of July 15, 2011.

Based on available processing data that showed combined residues of malathion and malaoxon on whole grapes were higher than those on raisins from pre-harvest grapes treated at 5X the maximum single application rate, the Agency determined that malathion residues of concern did not concentrate in raisins. Also, while there are active registrations for the pre-harvest use of malathion on grapes, covered by the tolerance on grapes at 8 ppm in 40 CFR 180.111(a)(1), there have been no active malathion registrations in the United States for malathion use on raisins or paper trays for drying grapes to raisins for more than 10 years. Therefore, the tolerance in currently existing 40 CFR 180.111(a)(4) on raisin at 12 ppm is no longer needed and should be revoked. Consequently, EPA is proposing to revoke the tolerance in currently existing 40 CFR 180.111(a)(4) on raisins at 12 ppm resulting from drying of grape on treated trays and from application to grape before harvest, and remove paragraphs (a)(4) and (a)(6) in their entireties.

Because there have been no active malathion registrations in the United States for use on paper used in packaging non-medicated cattle feed concentrate blocks since 1997, use on bagged citrus pulp since 1997, use on sunflower commodities since 2002, safflower commodities since 2003, and peanut commodities since early 2007, the tolerances are no longer needed and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.111(a)(1) on sunflower, seed, postharvest; safflower, seed; peanut, hay; peanut, postharvest; the tolerance in currently existing 40 CFR 180.111(a)(5) on safflower, refined oil, and remove paragraph (a)(5) in its entirety; and the tolerances in currently existing 40 CFR 180.111(a)(7)(i) on citrus, dried pulp as the result of the application to bagged citrus pulp during storage, and in currently existing 40 CFR 180.111(a)(7)(ii) on non-medicated cattle feed concentrate blocks as the result of application to paper used in its packaging, and remove paragraph (a)(7) in its entirety.

In order to conform to current Agency practice in 40 CFR 180.111(a)(1), EPA is proposing to revise the commodity terminology from "bean, dry seed" to "bean, dry, seed."

There are no Codex MRLs for malathion on egg, milk, or animal commodities; however, there are Codex MRLs for malathion on citrus fruits and other specific plant commodities.

12. *Methamidophos*. On July 22, 2009, EPA published a notice in the **Federal Register** (74 FR 36204) (FRL–8427–2) that announced the Agency's receipt of requests from the registrants to voluntarily cancel all disulfoton and methamidophos registrations and therefore terminate the last disulfoton and methamidophos products registered for use in the United States, including the last methamidophos uses on cotton, potato, and tomato. EPA approved cancellation of the registrations by publishing a cancellation order on September 23, 2009 in the **Federal Register** (74 FR 48551) (FRL–8437–1) and made them effective on September 23, 2009, and permitted the methamidophos registrant to sell and distribute existing methamidophos stocks (concerning cotton, potato, and tomato use) until December 31, 2010. For all affected methamidophos products, the Agency permitted persons other than the registrant to sell and distribute existing stocks and use of those cancelled products until exhaustion. However, the Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated cotton, potato, and tomato commodities to have cleared the channels of trade by December 31, 2012. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.315(a) on cotton, undelinted seed, potato, and tomato with expiration/revocation dates of December 31, 2012. Also, because the last registrations for use of methamidophos on tomatoes were FIFRA section 24(c) registrations and there are no active registrations for use of acephate on tomatoes, the Agency has determined that the tomato tolerance should be redesignated as a regional tolerance. In addition, on May 23, 2007 (72 FR 28912) (FRL–8130–8), EPA published a proposed rule in the **Federal Register** concerning a number of pesticide active ingredients and proposed tolerance actions, including the proposed recodification of the methamidophos tolerance in 40 CFR 180.315 on tomato as a regional tolerance and an increase from 1.0 to 2.0 ppm based on data that showed residues as high as 1.4 ppm. During the public comment period, the Agency received comment from the California Department of Pesticide Regulation (CDPR), who asked that the tolerance in 40 CFR 180.315 on tomato be decreased to 0.3 ppm in order to be health protective. The suggested decrease was based on CDPR's dietary risk assessments for methamidophos at the 95th percentile for exposure and a tolerance level of 1 ppm, and not using a percent crop treated (PCT) adjustment for tomato. On September 26, 2007 (72 FR 54574) (FRL–8147–6), EPA published a final rule in the **Federal Register** in follow-up to the proposed rule of May 23, 2007 (72 FR 28912) and announced that it would not take action on methamidophos tolerances at that time based upon comments and issues concerning several commodities. However, EPA estimates dietary risks based on tolerance levels only as a screening tool. If risks are unacceptable using tolerance levels, a number of refinements can be made including the use of the entire distribution of field trial data, monitoring data, average residue levels for blended commodities, and PCT data. When using PCT data in dietary risk assessment, it is the Agency's policy to regulate at a higher percentile of exposure, typically the 99.9th percentile, to assure protection of public health. Using these refinements provides more accurate estimates of the level of pesticide residues present at the time of consumption and therefore more realistic dietary risk estimates. Since tolerances are established based solely on the available field trial residue data, and dietary risks can be refined in the ways described, which are not necessarily directly correlated with the tolerance level, the Agency does not agree that decreasing the current tolerance for tomato will provide any additional health protection. The Agency believes that the recommended tolerance of 2.0 ppm on tomato and the dietary risk assessment performed for methamidophos are protective of public health. Therefore, the Agency is proposing to redesignate 40 CFR 180.315(b) as 40 CFR 180.315(c), remove the tolerance on tomato from 40 CFR 180.315(a) and transfer it to newly designated and revised 40 CFR 180.315(c), revoke the tolerance on tomato with an expiration/revocation

date of December 31, 2012, and increase the tolerance from 1.0 to 2.0 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Also, currently, tolerances for the insecticide methamidophos are expressed in 40 CFR 180.315(a) and newly designated and revised 180.315(c) for residues of methamidophos, *O,S*-dimethyl phosphoramidothioate. In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.315(a) to read as follows:

> Tolerances are established for residues of methamidophos, *O,S*-dimethyl phosphoramidothioate, including its metabolites and degradates, in or on the commodities in the table in this paragraph as a result of the application of methamidophos. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only methamidophos, *O,S*-dimethyl phosphoramidothioate, in or on the commodity.

In addition, EPA is proposing to revise the introductory text containing the tolerance expression in newly designated and revised 40 CFR 180.315(c) to read as follows:

> A tolerance with a regional registration is established for residues of methamidophos, *O,S*-dimethyl phosphoramidothioate, including its metabolites and degradates, in or on the commodity in the table in this paragraph as a result of the application of methamidophos. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only methamidophos, *O,S*-dimethyl phosphoramidothioate, in or on the commodity.

Because there are no active registrations in the United States for methamidophos on Brussels sprouts and cauliflower since 1989; celery since 1998; and lettuce and peppers since 2001; the tolerances are no longer needed and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.315(a) on Brussels sprouts; cauliflower; lettuce; and pepper; and the regional tolerance in newly designated and revised 40 CFR 180.315(c) on celery.

On May 23, 2007 (72 FR 28912), EPA published a proposed rule in the **Federal Register** concerning a number of pesticide active ingredients and proposed tolerance actions, including the proposed revocation of methamidophos tolerances in 40 CFR 180.315 on broccoli and cabbage because there are no active registrations for uses of either methamidophos or acephate on broccoli and cabbage in the United States and therefore, the tolerances were no longer needed. However, during the public comment period, the Agency received comment from Bayer CropScience Inc. and the Canadian Horticultural Council, who each asked that the tolerances in 40 CFR 180.315 on broccoli and cabbage not be revoked to allow continuation of the importation of methamidophos-treated broccoli and cabbage commodities from Canada into the United States. On September 26, 2007 (72 FR 54574), EPA published a final rule in the **Federal Register** in follow-up to the proposed rule of May 23, 2007 and announced that it would not take action on methamidophos tolerances at that time. Since then, Bayer CropScience Inc. has notified the Agency of a phase-out schedule they negotiated with the Pest Management Regulatory Agency (PMRA) in Canada where the last date of methamidophos product sale (Monitor 480) by Bayer CropScience Inc. is December 31, 2010, last date of methamidophos product sale (Monitor 480) by retailers is December 31, 2011, and last date of permitted use and expiration of Monitor 480 registration in Canada is December 31, 2012. In addition, Bayer CropScience Inc. has requested that EPA maintain U.S. tolerances on broccoli and cabbage until December 31, 2012 in order to allow imports into the U.S. of broccoli and cabbage treated with methamidophos product. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.315(a) on broccoli and cabbage with expiration/revocation dates of December 31, 2012.

In accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.315 by adding paragraphs (b) and (d), and reserving those paragraphs for tolerances with section 18 emergency exemptions and indirect or inadvertent residues, respectively.

There are Codex MRLs for methamidophos, including those on cottonseed at 0.2 mg/kg and potato at 0.05 mg/kg, and other commodities.

13. *Methomyl*. On April 25, 2007, EPA published a notice in the **Federal Register** (72 FR 20541) (FRL–8125–6) that announced the Agency's receipt of requests from the registrants for amendments to delete uses, including the last methomyl uses on strawberry. After a 180–day public comment period, EPA approved the use deletions and made them effective on March 10, 2008, and permitted the methomyl registrant to sell and distribute existing methomyl stocks (concerning strawberry use) for a period of 18 months after approval of the revision; i.e., until September 10, 2009. For all affected methomyl products, the Agency permitted persons other than the registrant to sell and distribute existing stocks and use of those cancelled products until exhaustion. However, the Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated strawberry commodities to have cleared the channels of trade by September 10, 2010. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.253(a) on strawberry on the date a final rule, in follow-up to this proposed rule, publishes in the **Federal Register** (which the Agency expects to occur after September 10, 2010). In addition, there have been no active food-use registrations for use of methomyl on leeks for more than 10 years and watercress since 1991, and therefore the tolerances are no longer needed and should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.253(a) on leek and watercress.

There are no Codex MRLs on leek, strawberry, or watercress for methomyl.

14. *Methyl bromide*. On September 30, 2009, EPA published a notice in the **Federal Register** (74 FR 50199) (FRL–8792–8) that announced the Agency's receipt of requests from the registrants for amendments to delete uses, including the last methyl bromide postharvest uses on alfalfa hay and cottonseed. On February 3, 2010 (75 FR 5582) (FRL–8805–9), EPA approved the use deletions and made them effective on February 3, 2010, and permitted the methyl bromide registrant to sell and distribute existing methyl bromide stocks (concerning alfalfa hay and cottonseed postharvest uses) until October 31, 2009. For all affected methyl bromide products, the Agency permitted persons other than the registrant to sell and distribute existing stocks until October 31, 2010, and use of those cancelled products until exhaustion. However, the Agency believes that end users will have had sufficient time to exhaust those existing stocks and for treated alfalfa hay and cottonseed commodities to have cleared the channels of trade by October 31, 2011. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.123(a)(1) on alfalfa, hay, postharvest and cotton, undelinted seed, postharvest with expiration/revocation dates of October 31, 2011.

Because there have been no active methyl bromide registrations in the

United States for postharvest use on mangos and papayas for more than 10 years, the tolerances are no longer needed and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.123(a)(1) on mango, postharvest and papaya, postharvest. Also, because there have been no active methyl bromide registrations in the United States for postharvest use on timothy hay since October 19, 2009, when one FIFRA section 24(c), special local need registration in California was amended to delete use on timothy hay, the tolerance is no longer needed and therefore should be revoked. The Agency believes that there will be sufficient time for product in channels of trade to be distributed and sold to users and for end users to exhaust those existing stocks and for treated timothy hay commodities to have cleared the channels of trade by October 19, 2010. Consequently, EPA is proposing to revoke the tolerance in 40 CFR 180.123(a)(1) on timothy, hay, postharvest with an expiration/revocation date of October 19, 2010.

While there are no Codex MRLs for methyl bromide, there are MRLs for the bromide ion on specific commodities, but none on alfalfa, cottonseed, mango, papaya, or timothy hay.

15. *N-octyl bicycloheptene dicarboximide (MGK-264)*. Currently, there are tolerances in 40 CFR 180.367(a)(2) for residues of MGK-264, piperonyl butoxide, and pyrethrins at 10 ppm, 10 ppm, and 1 ppm, respectively, when these pesticides are used in combination in or on food resulting from applications in food-processing and food-storage areas, provided that the food is removed or covered prior to such use. Based on available residue data for uncovered bagged foods that showed levels of MGK-264 at <5.0 ppm, the Agency determined that the tolerance for residues of MGK-264 in or on food in food-processing and food-storage areas (where food is removed or covered prior to MGK-264 treatment) should be decreased from 10 ppm to 5 ppm, that bagged foods in warehouse storage need not be removed or covered prior to applications of formulations containing MGK-264, and that while covered or removed foods in food processing/handling establishments are not likely to have detectable residues of MGK-264, uncovered foods showed residues at >5 ppm. Also, given that a proposed food handling establishment tolerance of 5 ppm in 40 CFR 180.367(a)(2) would cover the individual fat tolerances for residues resulting from dermal application at 0.3 ppm in § 180.367(a)(1), the Agency determined that there is no longer a need for the fat tolerances at 0.3 ppm and they should be revoked. In addition, because tolerances for residues in or on food from applications in food-processing and food-storage areas currently exist in 40 CFR 180.127(a)(2)(iii) for piperonyl butoxide at 10 ppm and in 40 CFR 180.128(a)(3) for pyrethrins at 1.0 ppm, the Agency determined that the tolerances for piperonyl butoxide and pyrethrins in 40 CFR 180.367(a)(2) are duplicates which are no longer needed and should be revoked since the use would be covered by the other tolerances. Therefore, EPA is proposing to revoke the tolerances at 0.3 ppm in 40 CFR 180.367(a)(1) for *N*-octyl bicycloheptene dicarboximide residues resulting from dermal application in or on cattle, fat; goat, fat; hog, fat; horse, fat; milk, fat; and sheep, fat; and remove existing paragraph (a)(1) in its entirety, revoke the tolerances for piperonyl butoxide at 10 ppm and pyrethrins at 1 ppm in 40 CFR 180.367(a)(2)(ii), remove existing introductory text in 40 CFR 180.367(a)(2), (a)(2)(i), and (a)(2)(iii); decrease the tolerance in 40 CFR 180.367(a)(2)(ii) to 5 ppm and redesignate it as 40 CFR 180.367(a), and revise newly designated paragraph (a), as follows:

> A tolerance of 5 parts per million is established for residues of the insecticide synergist *N*-octyl bicycloheptene dicarboximide, including its metabolites and degradates, in or on all food items in food handling establishments where food and food products are held, processed, prepared and/or served, provided that the food is removed or covered prior to such use, except for bagged food in warehouse storage which need not be removed or covered prior to applications of formulations containing *N*-octyl bicycloheptene dicarboximide. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only *N*-octyl bicycloheptene dicarboximide, in or on the commodity.

Because there have been no uses of *N*-octyl bicycloheptenedicarboximide, MGK-264, in or on growing agricultural crops for more than 10 years, the tolerance exemption is no longer needed and therefore should be revoked. Consequently, EPA is proposing to revoke the tolerance exemption in 40 CFR 180.905(a)(2) for *N*-octyl bicyclo(2,2,1)-5-heptene-2,3-dicarboximide, when applied to growing crops. In addition, EPA is proposing to revise 40 CFR 180.905(a) as described herein under proposals for pyrethrum.

There are no Codex MRLs for *N*-octyl bicycloheptene dicarboximide.

16. *Phosmet*. On November 4, 2005, EPA published a notice in the **Federal Register** (70 FR 67167) (FRL–7744–7) that announced the Agency's receipt of requests from the registrants for amendments to delete uses in certain pesticide registrations, including the last phosmet uses on cotton. No comments were received by EPA and the Agency approved the use deletions on December 5, 2005, and permitted the registrants to sell and distribute existing stocks for a period of 18 months after approval; i.e., until June 5, 2007. The Agency believes that end users have had sufficient time to exhaust those existing stocks and for treated cotton to have cleared the channels of trade. Therefore, EPA is proposing to revoke the tolerances in 40 CFR 180.261(a) on cotton, refined oil and cotton, undelinted seed.

Also, in order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the section heading in 40 CFR 180.261 from *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog to phosmet and revise the introductory text containing the tolerance expression in 40 CFR 180.261(a) to read as follows:

> Tolerances are established for residues of the insecticide phosmet, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate), including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of phosmet, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate), and its oxygen analog, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorothioate, calculated as the stoichiometric equivalent of phosmet, in or on the commodity.

In addition, EPA is proposing to revise the introductory text containing the tolerance expression for regional tolerances in 40 CFR 180.261(c) to read as follows:

> Tolerances with regional registration are established for residues of the insecticide phosmet, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethylp phosphorodithioate), including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of phosmet, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate), and its oxygen analog, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorothioate, calculated as the stoichiometric equivalent of phosmet, in or on the commodity.

There are Codex MRLs on certain commodities for phosmet, including an MRL on cottonseed.

17. *Picloram*. As a post-RED action, EPA made certain tolerance determinations for picloram on November 19, 2009 in a document made available in the public docket of this proposed rule. Because there is no need for a different tolerance expression for the existing tolerances for picloram residues in processed grain commodities in 40 CFR 180.292(a)(2), EPA determined that paragraph (a)(2) should be removed and the tolerances there should be moved into the table in § 180.292(a)(1), which therefore should be redesignated as paragraph (a).

Also, in order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in newly designated 40 CFR 180.292(a) to read as follows:

> Tolerances are established for residues of the herbicide picloram, 4-amino-3,5,6-trichloropicolinic acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph from its application in the acid form or in the form of its salts. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only picloram, 4-amino-3,5,6-trichloropicolinic acid, in or on the commodity.

Based on available field trial data that showed picloram residues of 195 ppm in or on grass forage at an application rate of 0.5 lb ae/A with a 0–day PHI, EPA determined that the existing tolerance should be increased from 80.0 to 400 ppm, which is an appropriate tolerance level for grass forage for the existing maximum approved rate of 1.0 lb ae/A. Also, based on available data that showed picloram residues as high as 170 ppm in or on grass hay at an application rate of 2.0 lb ae/A with a 14–day PHI and 213 ppm in or on grass hay at an application rate of 0.5 lb ae/A with a 0–day PHI, EPA determined that a tolerance should be established on grass hay at 225 ppm. Therefore, EPA is proposing to increase the tolerance in 40 CFR 180.292(a) on grass, forage to 400 ppm and establish a tolerance in 40 CFR 180.292(a) on grass, hay at 225 ppm. The Agency determined that the increased tolerance is safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on available cattle exaggerated feeding data at 1.39X the Maximum Theoretical Dietary Burden (MTDB) that showed picloram residues at 0.5 ppm in fat, 0.5 ppm in muscle, 18 ppm in kidney, 2.0 ppm in liver, and 0.29 ppm in milk, EPA calculated that the maximum expected residues in fat, muscle, meat byproducts, and milk at 1X MTDB to be 0.36 ppm, 0.36 ppm, 12.95 ppm, and 0.21 pm, respectively. Therefore, the Agency determined that the tolerances for the fat and meat of cattle, goats, horses, and sheep should be increased from 0.2 to 0.4 ppm, the tolerance for milk should be increased from 0.05 to 0.25 ppm; the separate tolerances for the kidney of cattle, goats, horses, and sheep, and liver of cattle, goats, horses, and sheep should be revoked because they will be covered by redefined meat byproduct tolerances for cattle, goats, horses, and sheep, and the redefined meat byproduct tolerances should be increased to 15 ppm. Consequently, EPA is proposing to increase the tolerances in 40 CFR 180.292(a) on cattle, fat; cattle, meat; goat, fat; goat, meat; horse, fat; horse, meat; sheep, fat; and sheep, meat to 0.4 ppm, and milk to 0.25 ppm. Also, EPA is proposing to revoke the individual tolerances in 40 CFR 180.292(a) on cattle, kidney; cattle, liver; goat, kidney; goat, liver; horse, kidney, horse, liver; sheep kidney; and sheep, liver. In addition, EPA is proposing to revise the tolerances in 40 CFR 180.292(a) on "cattle, meat byproducts, except kidney and liver" to "cattle, meat byproducts;" "goat, meat byproducts, except kidney and liver" to "goat, meat byproducts;" "horse, meat byproducts, except kidney and liver" to "horse, meat byproducts;" and "sheep, meat byproducts, except kidney and liver" to "sheep, meat byproducts;" and increase them to 15 ppm. The Agency determined that the increased tolerances are safe; i.e., there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Although grass commodities are not significant feed items for swine, wheat milled byproduct feed items which have picloram tolerances show that the MTDB for swine is low (1.5 ppm). The lowest levels of picloram fed to cattle and sheep (200 and 30 ppm) were well above the anticipated exposure for hogs and the 30 ppm dose showed picloram residues in kidney, liver, fat, and muscle of sheep were 0.38 ppm, <0.05 ppm, <0.05 ppm, and <0.05 ppm, respectively. Based on the available data, the Agency determined that the tolerances for hog, fat; hog, meat; and hog, meat byproducts should be decreased from 0.2 to 0.05 ppm, and hog, kidney and hog, liver should be decreased to 0.05 ppm. However, these separate kidney and liver tolerances are no longer needed since they will be covered by redefined meat byproduct tolerances. Therefore, EPA is proposing to decrease the tolerances in 40 CFR 180.292(a) on hog, fat and hog, meat, each to 0.05 ppm. Also EPA is proposing to revoke the individual tolerances in 40 CFR 180.292(a) on hog, kidney and hog, liver. In addition, EPA is proposing to revise the tolerance in 40 CFR 180.292(a) on "hog, meat byproducts, except kidney and liver" to "hog, meat byproducts" and decrease it to 0.05 ppm.

There are no Codex MRLs for picloram.

18. *Propazine*. Because there have been no active registrations for propazine use on sweet sorghum for more than 4 years, EPA is proposing to revoke the tolerance in 40 CFR 180.243 on sorghum, sweet.

Tolerances established in 40 CFR 180.243 are currently defined for residues of propazine (the parent compound) only. Based on the results of sorghum metabolism data, the Agency determined that two chlorinated degradates should be included in the residue definition. Therefore, in order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.243, and designate it as paragraph (a), to read as follows:

> Tolerances are established for residues of the herbicide propazine, 2-chloro-4,6-bis(isopropylamino)-*s*-triazine, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of propazine, 2-chloro-4,6-bis(isopropylamino)-*s*-triazine, and its two chlorinated degradates, 2-amino-4-chloro-6-isopropylamino-*s*-triazine and 2,4-diamino-6-chloro-*s*-triazine, calculated as the stoichiometric equivalent of propazine, in or on the commodity.

Also, in newly designated 40 CFR 180.243(a), EPA is removing the "(N)" designation from all entries to conform to current Agency administrative practice, where the "N" designation means negligible residues, and revising commodity terminology to conform to current Agency practice as follows: "sorghum, forage" to "sorghum, grain, forage."

In accordance with current Agency practice, EPA is proposing to revise 40 CFR 180.243 by adding separate paragraphs (b), (c), and (d), and reserving those sections for tolerances with section 18 emergency exemptions, regional registrations, and indirect or inadvertent residues, respectively.

There are no Codex MRLs for propazine.

19. *Pyrethrum*. Currently, there are tolerance exemptions in 40 CFR 180.905(a)(6) for pyrethrum and pyrethrins when applied to growing crops in accordance with good agricultural practice. Because there have been no active registrations in the United States for pyrethrum since 1991, there is no longer a need for a tolerance exemption on pyrethrum and the tolerance exemption for it should be revoked. Consequently, EPA is proposing to revoke the tolerance exemption for pyrethrum in 40 CFR 180.905(a)(6). While the tolerance exemption for pyrethrins will be maintained, EPA is proposing to revise 40 CFR 180.905(a) in accordance with the proposed revocation of the tolerance exemption for *N*-octylbicyclo(2,2,1)-5-heptene-2,3-dicarboximide in 40 CFR 180.905(a)(2) as described elsewhere in this rule and transfer the entry for petroleum oils from 40 CFR 180.905(a)(3) to 40 CFR 180.905(a)(1), which had been reserved, transfer the entry for piperonyl butoxide from 40 CFR 180.905(a)(4) to 40 CFR 180.905(a)(2), transfer the entry for pyrethrins from 40 CFR 180.905(a)(6) to 40 CFR 180.905(a)(3), transfer the entry for rotenone or derris or cube roots from 40 CFR 180.905(a)(7) to 40 CFR 180.905(a)(4), transfer the entry for Sabadilla from 40 CFR 180.905(a)(8) to 40 CFR 180.905(a)(5), which had been reserved, and remove paragraphs (a)(6), (a)(7), and (a)(8).

There are no Codex MRLs for pyrethrum. However, there are Codex MRLs for pyrethrins concerning specific commodities.

20. *Thiodicarb*. Based on available field trial at 5X the maximum label rate and processing data that showed combined thiodicarb residues of concern as high as 0.215 ppm on cottonseed and 0.228 in cottonseed hulls, EPA calculated that the residues in cottonseed hulls are unlikely to exceed both the current tolerance of 0.4 ppm on the raw agricultural commodity (cotton, undelinted seed) and a tolerance of 0.2 ppm recommended for cottonseed in the 1998 RED for thiodicarb. Because thiodicarb residues of concern concentrated by only 1.1X in cottonseed hulls (based on average residues of 0.200 ppm in cottonseed and 0.223 ppm in cottonseed hulls), the Agency determined that residues in cottonseed hulls will be covered by the tolerance on the raw agricultural commodity and that the existing tolerance of 0.8 ppm on cottonseed hulls is no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.407(a) on cotton, hulls.

There are no Codex MRLs for thiodicarb.

21. *Thiophanate-methyl*. Currently, tolerances for the fungicide thiophanate-methyl are expressed in 40 CFR 180.371(a) and 180.371(c) for the combined residues of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), and its metabolite methyl 2-benzimidazoyl carbamate (MBC), calculated as thiophanate-methyl. In order to describe more clearly the measurement and scope or coverage of the tolerances, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.371(a) to read as follows:

> Tolerances are established for residues of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), and its metabolite, methyl 2-benzimidazoyl carbamate (MBC), calculated as the stoichiometric equivalent of thiophanate-methyl, in or on the commodity.

In addition, EPA is proposing to revise the introductory text containing the tolerance expression in 40 CFR 180.371(c) to read as follows:

> A tolerance with a regional registration is established for residues of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), and its metabolite, methyl 2-benzimidazoyl carbamate (MBC), calculated as the stoichiometric equivalent of thiophanate-methyl, in or on the commodity.

Because tolerances for FIFRA section 18 emergency exemptions in 40 CFR 180.371(b) for cotton, gin byproducts and cotton, undelinted seed expired on December 31, 2008, blueberry expired on June 30, 2009, and citrus, mushroom, and vegetable, fruiting, group 8 expired on December 31, 2009, they should be removed. Therefore, EPA is proposing to remove the expired tolerances in 40 CFR 180.371(b) for blueberry; citrus; cotton, gin byproducts; cotton, undelinted seed; mushroom; and vegetable, fruiting, group 8. Consequently, because no tolerances will remain there, EPA is also proposing to reserve 40 CFR 180.371(b).

Because sugar beet tops are no longer considered by the Agency to be a significant feed item that will contribute to the overall dietary burden of livestock, the tolerance is no longer needed and should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.371(a) on beet, sugar, tops.

Because there have been no active registrations in the United States for thiophanate-methyl use on sugarcane for more than 9 years, the tolerance should be revoked. Therefore, EPA is proposing to revoke the tolerance in 40 CFR 180.371(a) on sugarcane, cane.

Based on available cattle feeding data at exaggerated pesticide dose levels and MTDB for cattle, the Agency determined that there is no reasonable expectation of detecting finite residues of thiophanate-methyl residues of concern in the milk and fat, meat, and meat byproducts of cattle, goats, horses and sheep. Therefore, these tolerances are no longer needed under 40 CFR 180.6(a)(3). Consequently, EPA is proposing to revoke the tolerances in 40 CFR 180.371(a) on cattle, fat; cattle, meat; cattle, meat byproducts; goat, fat; goat, meat; goat, meat byproducts; horse, fat; horse, meat; horse, meat byproducts; sheep, fat; sheep, meat; and sheep, meat byproducts; and milk.

Based on available data provided to support reregistration that showed thiophanate-methyl residues of concern, the Agency determined that tolerances should be established on aspirated grain fractions (based on soybean) at 12 ppm and wheat forage at 1.1 ppm. Therefore, EPA is proposing to establish tolerances in 40 CFR 180.371(a) on grain, aspirated fractions at 12 ppm and wheat, forage at 1.1 ppm.

In the **Federal Register** of July 11, 2007 (72 FR 37646)(FRL–8131–6), EPA issued a final rule which revoked, modified, and established certain tolerances for specific pesticide active ingredients, including thiophanate-methyl, for which the Agency revised the commodity terminology in 40 CFR 180.371(a) for bean (snap and dry) into bean, dry, seed and bean, snap, succulent, and inadvertently decreased the tolerance for bean, snap, succulent from 2.0 to 0.2 ppm. However, in the **Federal Register** of September 20, 2006 (71 FR 54953)(FRL–8078–2), EPA issued a proposed rule which proposed to revise the tolerance in 40 CFR 180.371(a) for bean (snap and dry) into bean, dry, seed and bean, snap, succulent, and stated that the tolerance for bean, snap, succulent would be maintained at 2.0 ppm. Consequently, the Agency is proposing to reinstate the correct tolerance level for the tolerance in 40 CFR 180.371(a) on bean, snap, succulent to 2.0 ppm.

There are no Codex MRLs for thiophanate-methyl.

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

A "tolerance" represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore "adulterated" under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA is proposing these tolerance/tolerance exemption actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances/tolerance exemptions meets the safety standard of FQPA. The safety finding determination is discussed in detail in each post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance/tolerance exemption actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued REDs for acephate, cacodylic acid, ethoprop, hexazinone, methamidophos, *N*-octyl bicycloheptene dicarboximide, phosmet, picloram, pyrethrum (see pyrethrins RED), and thiophanate-methyl, and TREDs for hexazinone and propazine, as noted in Unit II.A., and made a safety finding which reassessed picloram tolerances according to the FFDCA standard, maintaining them when new picloram tolerances were established on January 5, 1999 (64 FR 418) (FRL–6039–4), and since then made certain tolerance determinations for picloram on November 19, 2009 in a document made available in the public docket of this proposed rule, as noted in Unit II.A. REDs and TREDs contain the Agency's evaluation of the database for these pesticides, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and in REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances/tolerance exemptions. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of "reasonable certainty of no harm." However, tolerance revocations recommended in REDs and TREDs that are proposed in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to propose revocation of tolerances/tolerance exemptions for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as "import tolerances," are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of FFDCA, a tolerance/tolerance exemption may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances/tolerance exemptions for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances/tolerance exemptions. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances/tolerance exemptions should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance/tolerance exemption at issue.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry, and/or eggs.

2. There is a reasonable expectation that finite residues will exist.

3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

EPA has evaluated certain specific meat, milk, poultry, and egg tolerances proposed for revocation in this document and has concluded that there is no reasonable expectation of finite pesticide residues of concern in or on those commodities.

C. When Do These Actions Become Effective?

With the exception of certain tolerances for cacodylic acid, dicloran, disulfoton, ethoprop, malathion, methamidophos, and methyl bromide for which EPA is proposing specific expiration/revocation dates, the Agency is proposing that these revocations, modifications, establishment of tolerances, and revisions of tolerance nomenclature become effective on the date of publication of the final rule in the **Federal Register**. With the exception of the proposed revocation of specific tolerances for cacodylic acid, dicloran, disulfoton, ethoprop, malathion, methamidophos, and methyl bromide, the Agency believes that existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have been completely exhausted and that treated commodities have cleared the channels of trade. EPA is proposing expiration/revocation dates of January 1, 2012 for the cacodylic acid tolerance on cotton, undelinted seed; November 2, 2011 for the dicloran tolerance on carrot, roots, postharvest; December 31, 2012 for the disulfoton tolerances on bean, lima; bean, snap, succulent; broccoli; Brussels sprouts; cabbage; cauliflower; cotton, undelinted seed; lettuce, head; lettuce, leaf; and asparagus; June 30, 2013 for the disulfoton tolerance on coffee, green bean; January 9, 2012 for the ethoprop tolerance on pineapple; July 15, 2011 for the malathion tolerance on cranberry; December 31, 2012 for the methamidophos tolerances on broccoli; cabbage; cotton, undelinted seed; tomato; and potato; October 19, 2010 for the methyl bromide tolerance on timothy, hay, postharvest; and October 31, 2011 for the methyl bromide tolerances on alfalfa, hay, postharvest and cotton, undelinted seed, postharvest. The Agency believes that these revocation dates allow users to exhaust stocks and allows sufficient time for passage of treated commodities through the channels of trade. However, if EPA is presented with information that existing stocks would still be available and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(l)(5), as established by FQPA. Under this unit, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of the Food and Drug Administration that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

III. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international MRLs established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for cacodylic acid, dicamba, EPTC, hexazinone, *N*-octyl bicycloheptene dicarboximide, picloram, propazine, pyrethrum, thiodicarb, and thiophanate-methyl, or MRL in or on corn, pop, grain; corn, pop, stover; or pineapple for ethoprop; or MRL in or on citrus, dried pulp; citrus, oil; fruit, citrus, group 10; or garlic for fenamiphos; or MRL for citrus, dried pulp; cranberry; peanut, hay; peanut, postharvest; raisins; safflower, seed; safflower, refined oil; sunflower, seed, postharvest; fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep; egg; milk, fat; or nonmedicated cattle feed concentrate blocks for malathion; or MRL in or on alfalfa, hay, postharvest; cotton, undelinted seed; mango, postharvest; papaya, postharvest; or timothy, hay, postharvest for bromide ion or methyl bromide; or MRL in or on leek; strawberry; or watercress for methomyl; or MRL in or on broccoli; Brussels sprouts; cabbage; lettuce; or tomato for methamidophos.

The Codex has established MRLs for dicloran in or on commodities including carrot, postharvest at 15 mg/kg. This MRL is different than the current tolerance established for dicloran at 10 ppm in the United States, which EPA is proposing herein to revoke. The tolerance was reassessed in the RED at 10 ppm and was harmonized with Codex at that time.

The Codex has established MRLs for diquat in or on commodities including sorghum at 2 mg/kg and soya bean (dry) at 0.2 mg/kg. These MRLs are the same as the current tolerances for diquat in or on sorghum, grain, grain and soybean, seed in the United States, which EPA is proposing herein to revoke.

The Codex has established MRLs for disulfoton in or on commodities including asparagus at 0.02 mg/kg; cotton seed at 0.1 mg/kg. These MRLs are different than the current tolerances established for disulfoton in or on asparagus at 0.1 ppm and cotton, undelinted seed at 0.75 ppm in the United States, both of which EPA is proposing herein to revoke. The tolerances were reassessed in the RED and were not harmonized with Codex levels because of differences in good agricultural practices. The Codex MRL for disulfoton in or on coffee beans is the same as the current tolerance for disulfoton in or on coffee, green bean, which EPA is proposing herein to revoke.

The Codex has established MRLs for methamidophos in or on commodities including cauliflower at 0.5 mg/kg; cotton seed at 0.2 mg/kg; chili peppers at 2 mg/kg; sweet peppers at 1 mg/kg; and potato at 0.05 mg/kg. These MRLs are different than the current tolerances established for methamidophos from methamidophos application in or on cauliflower at 1.0 ppm; cotton, undelinted seed at 0.1 ppm; pepper at 1.0 ppm; and potato at 0.1 ppm in the United States, all of which EPA is proposing herein to revoke. The tolerances were reassessed in the RED and were not harmonized with the Codex levels because of differences in good agricultural practices. While methamidophos is a metabolite of acephate and EPA is proposing herein the re-instatement of certain methamidophos tolerances as a result of the application of acephate, Codex has

established MRLs for acephate but for compliance purposes has defined them as only acephate residues.

The Codex has established MRLs for phosmet in or on commodities including cotton seed at 0.05 mg/kg. This MRL is different than the current tolerance established for phosmet in or on cotton, undelinted seed at 0.1 ppm in the United States, which EPA is proposing herein to revoke. The tolerance was reassessed in the RED and was not harmonized with the Codex level because of differences in good agricultural practices and tolerance expression where total residues for U.S. tolerances included phosmet's oxygen analog.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances/tolerance exemptions established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (e.g., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020) (FRL–5753–1), respectively, and were provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed rule will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. (This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticides named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This proposed rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 5, 2010.

Steven Bradbury,

Acting Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.108 is amended as follows:

a. Revise the introductory text to paragraph (a)(1).
b. Revise footnote 1 to the table in paragraph (a)(1).
c. Revise paragraph (a)(2).
d. Add paragraph (a)(3).
e. Revise paragraph (c).

§ 180.108 Acephate; tolerances for residues.

(a) * * * (1) Tolerances are established for residues of acephate, *O,S*-dimethyl acetyl phosphoramidothioate, including its metabolites and degradates other than methamidophos, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only acephate, *O,S*-dimethyl acetyl phosphoramidothioate, in or on the commodity.

Commodity[1]	Parts per million
* * *	* *

[1] Where there is a direct use of methamidophos on the commodity, residues of methamidophos resulting from methamidophos application are regulated under 40 CFR 180.315.

(2) A tolerance of 0.02 ppm is established for residues of acephate, *O,S*-dimethyl acetyl phosphoramidothioate, including its metabolites and degradates other than methamidophos, in or on all food items (other than those already covered by a higher tolerance as a result of use on growing crops) in food handling establishments where food and food products are held, processed, prepared and served, including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries, where application of acephate shall be limited solely to spot and/or crack and crevice treatment (a coarse, low-pressure spray shall be used to avoid atomization or splashing of the spray for spot treatments; equipment capable of delivering a pin-stream of insecticide shall be used for crack and crevice treatments). Spray concentration shall be limited to a maximum of 1.0 percent active ingredient. Contamination of food or food-contact surfaces shall be avoided. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only acephate, *O,S*-dimethyl acetyl phosphoramidothioate, in or on the commodity.

(3) Tolerances are established for residues of methamidophos, *O,S*-dimethyl phosphoramidothioate, including its metabolites and degradates, in or on the commodities in the table in this paragraph as a result of the application of acephate. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only methamidophos, *O,S*-dimethyl phosphoramidothioate, in or on the commodity.

Commodity	Parts per million
Bean, dry, seed	1
Bean, succulent	1
Brussels sprouts	0.5
Cauliflower	0.5
Celery	1
Cranberry	0.1
Lettuce, head	1
Pepper	1
Peppermint, tops	1
Spearmint, tops	1

* * * * *

(c) *Tolerances with regional registrations.* A tolerance with a regional registration is established for residues of acephate, *O,S*-dimethyl acetyl phosphoramidothioate, including its metabolites and degradates other than methamidophos, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only acephate, *O,S*-dimethyl acetyl phosphoramidothioate, in or on the commodity.

Commodity[1]	Parts per million
Nut, macadamia	0.05

[1] Where there is a direct use of methamidophos on the commodity, residues of methamidophos resulting from methamidophos application are regulated under 40 CFR 180.315.

* * * * *

3. Amend § 180.111 as follows:
a. Revise the table in paragraph (a)(1).
b. Remove paragraphs (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7).

§ 180.111 Malathion; tolerances for residues.

(a) * * * (1) * * *

Commodity	Parts per million	Expiration/ Revocation Date
Alfalfa, forage	135	None
Alfalfa, hay	135	None
Almond, hulls	50	None
Almond, postharvest	8	None
Apple	8	None
Apricot	8	None
Asparagus	8	None
Avocado	8	None
Barley, grain, postharvest	8	None
Bean, dry, seed	8	None
Bean, succulent	8	None
Beet, garden, roots	8	None
Beet, garden, tops	8	None
Beet, sugar, roots	1	None
Beet, sugar, tops	8	None
Blackberry	8	None
Blueberry	8	None
Boysenberry	8	None
Carrot, roots	8	None
Chayote, fruit	8	None
Chayote, roots	8	None
Cherry	8	None
Chestnut	1	None
Clover, forage	135	None
Clover, hay	135	None
Corn, field, forage	8	None
Corn, field, grain, postharvest	8	None
Corn, pop, grain, postharvest	8	None
Corn, sweet, forage	8	None
Corn, sweet, kernel plus cob with husks removed	2	None
Cowpea, forage	135	None
Cowpea, hay	135	None
Cranberry	8	7/15/11
Cucumber	8	None
Currant	8	None
Date, dried fruit	8	None
Dewberry	8	None
Eggplant	8	None
Fig	8	None
Flax, seed	0.1	None
Garlic, bulb	8	None
Gooseberry	8	None
Grape	8	None
Grapefruit	8	None
Guava	8	None
Hazelnut	1	None
Hop, dried cones	1	None
Horseradish	8	None
Kumquat	8	None
Leek	8	None
Lemon	8	None
Lentil, seed	8	None
Lespedeza, hay	135	None
Lime	8	None
Loganberry	8	None
Lupin, seed	8	None
Mango	8	None
Melon	8	None
Mushroom	8	None
Nectarine	8	None
Nut, macadamia	1	None
Oat, grain, postharvest	8	None
Okra	8	None

Commodity	Parts per million	Expiration/ Revocation Date
Onion, bulb	8	None
Onion, green	8	None
Orange	8	None
Papaya	1	None
Parsnip	8	None
Passionfruit	8	None
Pea	8	None
Pea, field, hay	8	None
Pea, field, vines	8	None
Peach	8	None
Pear	8	None
Pecan	8	None
Pepper	8	None
Peppermint, tops	8	None
Pineapple	8	None
Plum	8	None
Plum, prune	8	None
Potato	8	None
Pumpkin	8	None
Quince	8	None
Radish	8	None
Raspberry	8	None
Rice, grain, postharvest	8	None
Rice, wild	8	None
Rutabaga	8	None
Rye, grain, postharvest	8	None
Salsify, roots	8	None
Salsify, tops	8	None
Shallot, bulb	8	None
Sorghum, grain, forage	8	None
Sorghum, grain, grain, postharvest	8	None
Soybean, forage	135	None
Soybean, hay	135	None
Soybean, seed	8	None
Soybean, vegetable, succulent	8	None
Spearmint, tops	8	None
Squash, summer	8	None
Squash, winter	8	None
Strawberry	8	None
Sweet potato, roots	1	None
Tangerine	8	None
Tomato	8	None
Trefoil, forage	135	None
Trefoil, hay	135	None
Turnip, greens	8	None
Turnip, roots	8	None
Vegetable, brassica, leafy, group 5	8	None
Vegetable, leafy, except brassica, group 4	8	None
Vetch, hay	135	None
Walnut	8	None
Wheat, grain, postharvest	8	None

* * * * *

4. Revise § 180.117 to read as follows:

§ 180.117 *S*-Ethyl dipropylthiocarbamate; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide *S*-ethyl dipropylthiocarbamate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of *S*-ethyl dipropylthiocarbamate, *S*-ethyl (2-hydroxypropyl)propylcarbamothioate, *S*-(2-hydroxyethyl)dipropylcarbamothioate, and *S*-ethyl (3-hydroxypropyl)propylcarbamothioate, calculated as the stoichiometric equivalent of *S*-ethyl dipropylthiocarbamate, in or on the commodity.

Commodity	Parts per million
Alfalfa, forage	0.2
Alfalfa, hay	0.6
Almond	0.08
Almond, hulls	0.08
Bean, dry, seed	0.08
Bean, succulent	0.08
Beet, garden, roots	0.1
Beet, garden, tops	0.5
Beet, sugar, molasses	0.4
Beet, sugar, roots	0.1
Beet, sugar, tops	0.5
Clover, forage	0.1
Clover, hay	0.1
Corn, field, forage	0.08
Corn, field, grain	0.08
Corn, field, stover	0.08
Corn, pop, grain	0.08
Corn, pop, stover	0.08
Corn, sweet, forage	0.08
Corn, sweet, kernel plus cob with husks removed	0.08
Corn, sweet, stover	0.08
Cotton, gin byproducts	0.20
Cotton, undelinted seed	0.08
Fruit, citrus, group 10	0.1
Lespedeza, forage	0.1
Lespedeza, hay	0.1
Pea, succulent	0.08
Potato	0.1
Safflower, seed	0.08
Sunflower, seed	0.08
Sweet potato, roots	0.1
Tomato	0.08
Trefoil, forage	0.1
Trefoil, hay	0.1
Walnut	0.08

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

5. In § 180.123 revise the table in paragraph (a)(1) to read as follows:

§ 180.123 Inorganic bromide residues resulting from fumigation with methyl bromide; tolerances for residues.

(a) * * * (1) * * *

Commodity	Parts per million	Expiration/ Revocation Date
Alfalfa, hay, postharvest	50.0	10/31/11
Almond, postharvest	200.0	None
Apple, postharvest	5.0	None
Apricot, postharvest	20.0	None
Artichoke, jerusalem, postharvest	30.0	None
Asparagus, postharvest	100.0	None
Avocado, postharvest	75.0	None
Barley, grain, postharvest	50.0	None
Bean, lima, postharvest	50.0	None
Bean, postharvest	50.0	None
Bean, snap, succulent, postharvest	50.0	None
Bean, succulent, postharvest	50.0	None
Beet, garden, roots, postharvest	30.0	None
Beet, sugar, roots, postharvest	30.0	None
Blueberry, postharvest	20.0	None
Butternut, postharvest	200.0	None
Cabbage, postharvest	50.0	None
Cacao bean, roasted bean, postharvest	50.0	None
Cantaloupe, postharvest	20.0	None
Carrot, roots, postharvest	30.0	None
Cashew, postharvest	200.0	None
Cherry, sweet, postharvest	20.0	None
Cherry, tart, postharvest	20	None
Chestnut, postharvest	200.0	None
Cippolini, bulb, postharvest	50.0	None
Citron, citrus, postharvest	30.0	None
Coconut, copra, postharvest	100.0	None
Coffee, bean, green, postharvest	75.0	None
Corn, field, grain, postharvest	50.0	None
Corn, pop, postharvest	240.0	None

Commodity	Parts per million	Expiration/ Revocation Date
Corn, sweet, kernel plus cob with husks removed, postharvest	50.0	None
Cotton, undelinted seed, postharvest	200.0	10/31/11
Cucumber, postharvest	30.0	None
Cumin, seed, postharvest	100.0	None
Eggplant, postharvest	20.0	None
Garlic, postharvest	50.0	None
Ginger, postharvest	100.0	None
Grape, postharvest	20.0	None
Grapefruit, postharvest	30.0	None
Hazelnut, postharvest	200.0	None
Horseradish, postharvest	30.0	None
Kumquat, postharvest	30.0	None
Lemon, postharvest	30.0	None
Lime, postharvest	30.0	None
Melon, honeydew, postharvest	20.0	None
Muskmelon, postharvest	20.0	None
Nectarine, postharvest	20.0	None
Nut, brazil, postharvest	200.0	None
Nut, hickory, postharvest	200.0	None
Nut, macadamia, postharvest	200.0	None
Oat, postharvest	50.0	None
Okra, postharvest	30.0	None
Onion, bulb, postharvest	20.0	None
Onion, green, postharvest	20.0	None
Orange, postharvest	30.0	None
Parsnip, roots, postharvest	30.0	None
Peach, postharvest	20.0	None
Peanut, postharvest	200.0	None
Pear, postharvest	5.0	None
Pea, blackeyed, postharvest	50.0	None
Pea, postharvest	50.0	None
Pecan, postharvest	200.0	None
Pepper, postharvest	30.0	None
Pimento, postharvest	30.0	None
Pineapple, postharvest	20.0	None
Pistachio, postharvest	200.0	None
Plum, postharvest	20.0	None
Pomegranate, postharvest	100.0	None
Potato, postharvest	75.0	None
Pumpkin, postharvest	20.0	None
Quince, postharvest	5.0	None
Radish, postharvest	30.0	None
Rice, grain, postharvest	50.0	None
Rutabaga, roots, postharvest	30.0	None
Rutabaga, tops, postharvest	30.0	None
Rye, grain, postharvest	50.0	None
Salsify, roots, postharvest	30.0	None
Sorghum, grain, grain, postharvest	50.0	None
Soybean, postharvest	200.0	None
Squash, summer, postharvest	30.0	None
Squash, winter, postharvest	20.0	None
Squash, zucchini, postharvest	20.0	None
Strawberry, postharvest	60.0	None
Sweet potato, postharvest	75.0	None
Tangerine, postharvest	30.0	None
Timothy, hay, postharvest	50.0	10/19/10
Tomato, postharvest	20.0	None
Turnip, roots, postharvest	30.0	None
Walnut, postharvest	200.0	None
Watermelon, postharvest	20.0	None
Wheat	50.0	None

* * * * *

6. In § 180.183 revise the section heading, and paragraphs (a) and (c) to read as follows:

§ 180.183 Disulfoton; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide disulfoton, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of disulfoton, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate, and its metabolites demeton-*S*, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorothioate; disulfoton sulfoxide, *O,O*-diethyl *S*-(2-(ethylsulfinyl)ethyl) phosphorodithioate; disulfoton oxygen analog sulfoxide, *O,O*-diethyl *S*-(2-(ethylsulfinyl)ethyl) phosphorothioate, disulfoton sulfone, *O,O*-diethyl *S*-(2-(ethylsulfonyl)ethyl) phosphorodithioate; and disulfoton oxygen analog sulfone, *O,O*-diethyl *S*-(2-(ethylsulfonyl)ethyl) phosphorothioate; calculated as the stoichiometric equivalent of disulfoton, in or on the commodity.

Commodity	Parts per million	Expiration/ Revocation Date
Bean, lima	0.75	12/31/12
Bean, snap, succulent	0.75	12/31/12
Broccoli	0.75	12/31/12
Brussels sprouts	0.75	12/31/12
Cabbage	0.75	12/31/12
Cauliflower	0.75	12/31/12
Coffee, green bean	0.2	6/30/13
Cotton, undelinted seed	0.75	12/31/12
Lettuce, head	0.75	12/31/12
Lettuce, leaf	2	12/31/12

* * * * *

(c) *Tolerances with regional registrations.* A tolerance with regional registration is established for residues of the insecticide disulfoton, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of disulfoton, *O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorodithioate, and its metabolites demeton-*S*,*O,O*-diethyl *S*-(2-(ethylthio)ethyl) phosphorothioate; disulfoton sulfoxide, *O,O*-diethyl *S*-(2-(ethylsulfinyl)ethyl) phosphorodi thioate; disulfoton oxygen analog sulfoxide, *O,O*-diethyl *S*-(2-(ethylsulfinyl)ethyl) phosphorothioate, disulfoton sulfone, *O,O*-diethyl *S*-(2-(ethylsulfonyl)ethyl) phosphorodi thioate; and disulfoton oxygen analog sulfone, *O,O*-diethyl *S*-(2-(ethylsulfonyl)ethyl)p phosphorothioate; calculated as the stoichiometric

equivalent of disulfoton, in or on the commodity.

Commodity	Parts per million	Expiration/ Revocation Date
Asparagus	0.1	12/31/12

* * * * *

7. In § 180.200 revise paragraph (a)(1) to read as follows:

§ 180.200 Dicloran; tolerances for residues.

(a) *General*. (1) Tolerances are established for residues of the fungicide dicloran, 2,6-dichloro-4-nitroaniline, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only dicloran, 2,6-dichloro-4-nitroaniline, in or on the commodity. Unless otherwise specified, the tolerances prescribed in the following table provide for residues from preharvest application only.

Commodity	Parts per million	Expiration/ Revocation Date
Apricot, postharvest	20	None
Bean, snap, succulent	20	None
Carrot, roots, postharvest	10	11/2/11
Celery	15	None
Cherry, sweet, postharvest	20	None
Cucumber	5	None
Endive	10	None
Garlic	5	None
Grape	10	None
Lettuce	10	None
Nectarine, postharvest	20	None
Onion	10	None
Peach, postharvest	20	None
Plum, prune, fresh, postharvest	15	None
Potato	0.25	None
Rhubarb	10	None
Sweet potato, postharvest	10	None
Tomato	5	None

* * * * *

§ 180.226 [Amended]

8. In § 180.226 remove the entries for "sorghum, grain, grain" and "soybean, seed" from the table in paragraph (a)(1).

9. In § 180.227 revise paragraph (a)(1), and the introductory text in paragraphs (a)(2) and (a)(3) to read as follows:

§ 180.227 Dicamba; tolerances for residues.

(a) * * *. (1) Tolerances are established for residues of the herbicide dicamba, 3,6-dichloro-*o*-anisic acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of dicamba, 3,6-dichloro-*o*-anisic acid, and its metabolite, 3,6-dichloro-5-hydroxy-*o*-anisic acid, calculated as the stoichiometric equivalent of dicamba, in or on the commodity.

Commodity	Parts per million
Barley, grain	6.0
Barley, hay	2.0
Barley, straw	15.0
Corn, field, forage	3.0
Corn, field, grain	0.1
Corn, field, stover	3.0
Corn, pop, grain	0.1
Corn, pop, stover	3.0
Corn, sweet, forage	0.50
Corn, sweet, kernel plus cob with husks removed	0.04
Corn, sweet, stover	0.50
Cotton, undelinted seed	0.2
Grass, forage, fodder and hay, group 17, forage	125.0
Grass, forage, fodder and hay, group 17, hay	200.0
Millet, proso, forage	90.0
Millet, proso, grain	2.0
Millet, proso, hay	40.0
Millet, proso, straw	30.0
Oat, forage	90.0
Oat, grain	2.0
Oat, hay	40.0
Oat, straw	30.0
Rye, forage	90.0
Rye, grain	2.0
Rye, straw	30.0
Sorghum, grain, forage	3.0
Sorghum, grain, grain	4.0
Sorghum, grain, stover	10.0
Sugarcane, cane	0.3
Sugarcane, molasses	5.0
Wheat, forage	90.0
Wheat, grain	2.0
Wheat, hay	40.0
Wheat, straw	30.0

(2) Tolerances are established for residues of the herbicide dicamba, 3,6-dichloro-*o*-anisic acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of dicamba, 3,6-dichloro-*o*-anisic acid, and its metabolite, 3,6-dichloro-2-hydroxybenzoic acid, calculated as the stoichiometric equivalent of dicamba, in or on the commodity.

* * * * *

(3) Tolerances are established for residues of the herbicide dicamba, 3,6-dichloro-*o*-anisic acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of dicamba, 3,6-dichloro-*o*-anisic acid, and its metabolites, 3,6-dichloro-5-hydroxy-*o*-anisic acid, and 3,6-dichloro-2-hydroxybenzoic acid, calculated as the stoichiometric equivalent of dicamba, in or on the commodity.

* * * * *

10. Revise § 180.243 to read as follows:

§ 180.243 Propazine; tolerances for residues.

(a) *General*. Tolerances are established for residues of the herbicide propazine, 2-chloro-4,6-bis(isopropylamino)-*s*-triazine, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of propazine, 2-chloro-4,6-bis(isopropylamino)-*s*-triazine, and its two chlorinated degradates, 2-amino-4-chloro-6-isopropylamino-*s*-triazine and 2,4-diamino-6-chloro-*s*-triazine, calculated as the stoichiometric equivalent of propazine, in or on the commodity.

Commodity	Parts per million
Sorghum, grain, forage	0.25
Sorghum, grain, grain	0.25
Sorghum, grain, stover	0.25

(b) *Section 18 emergency exemptions*. [Reserved]

(c) *Tolerances with regional registrations*. [Reserved]

(d) *Indirect or inadvertent residues*. [Reserved]

§ 180.253 [Amended]

11. In § 180.253 remove the entries for "leek," "strawberry," and "watercress" from the table in paragraph (a).

12. In § 180.261 revise the section heading, paragraph (a) and paragraph (c) to read as follows:

§180.261 Phosmet; tolerances for residues.

(a) *General*. Tolerances are established for residues of the insecticide phosmet, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate), including its metabolites and degradates, in or on the commodities in

the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of phosmet, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate), and its oxygen analog, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorothioate, calculated as the stoichiometric equivalent of phosmet, in or on the commodity.

Commodity	Parts per million
Alfalfa, forage	20
Alfalfa, hay	40
Almond, hulls	10
Apple	10
Apricot	5
Blueberry	10
Cattle, fat	0.2
Cattle, meat	0.1
Cattle, meat byproducts	0.1
Cherry	10
Cranberry	10
Fruit, citrus, group 10	5
Goat, fat	0.1
Goat, meat	0.1
Goat, meat byproducts	0.1
Grape	10
Hog, fat	0.2
Hog, meat	0.04
Hog, meat byproducts	0.04
Horse, fat	0.1
Horse, meat	0.1
Horse, meat byproducts	0.1
Kiwifruit	25
Milk	0.1
Nectarine	5
Nut, tree, group 14	0.1
Pea, dry, seed	0.5
Pea, field, hay	20
Pea, field, vines	10
Pea, succulent	1
Peach	10
Pear	10
Plum, prune, fresh	5
Potato	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, meat byproducts	0.1
Sweet potato, roots	12

* * * * *

(c) *Tolerances with regional registrations*. Tolerances with regional registration are established for residues of the insecticide phosmet, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate), including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of phosmet, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate), and its oxygen analog, *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorothioate, calculated as the stoichiometric equivalent of phosmet, in or on the commodity.

Commodity	Parts per million
Crabapple	20
Pistachio	0.1

* * * * *

13. In § 180.262 revise paragraph (a) to read as follows:

§180.262 Ethoprop; tolerances for residues.

(a) *General*. Tolerances are established for residues of the nematocide and insecticide ethoprop, *O*-ethyl *S,S*-dipropyl phosphorodithioate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only ethoprop, *O*-ethyl *S,S*-dipropyl phosphorodithioate, in or on the commodity.

Commodity	Parts per million	Expiration/ Revocation Date
Banana	0.02	None
Bean, lima	0.02	None
Bean, snap, succulent	0.02	None
Cabbage	0.02	None
Corn, field, forage	0.02	None
Corn, field, grain	0.02	None
Corn, field, stover	0.02	None
Corn, sweet, forage	0.02	None
Corn, sweet, kernel plus cob with husks removed	0.02	None
Corn, sweet, stover	0.02	None
Cucumber	0.02	None
Hop, dried cones	0.02	None
Peppermint, tops	0.02	None
Pineapple	0.02	1/9/12
Potato	0.02	None
Spearmint, tops	0.02	None
Sugarcane, cane	0.02	None
Sweet potato, roots	0.02	None

* * * * *

14. In § 180.292 revise paragraph (a) to read as follows:

§180.292 Picloram; tolerances for residues.

(a) *General*. Tolerances are established for residues of the herbicide picloram, 4-amino-3,5,6-trichloropicolinic acid, including its metabolites and degradates, in or on the commodities in the table in this paragraph from its application in the acid form or in the form of its salts. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only picloram, 4-amino-3,5,6-trichloropicolinic acid, in or on the commodity.

Commodity	Parts per million
Barley, grain	0.5
Barley, pearled barley	3.0
Barley, straw	1.0
Cattle, fat	0.4
Cattle, meat	0.4
Cattle, meat byproducts	15
Egg	0.05
Goat, fat	0.4
Goat, meat	0.4
Goat, meat byproducts	15
Grain, aspirated fractions	4.0
Grass, forage	400
Grass, hay	225
Hog, fat	0.05
Hog, meat	0.05
Hog, meat byproducts	0.05
Horse, fat	0.4
Horse, meat	0.4
Horse, meat byproducts	15
Milk	0.25
Oat, forage	1.0
Oat, grain	0.5
Oat, groats/rolled oats	3.0
Oat, straw	1.0
Poultry, fat	0.05
Poultry, meat	0.05
Poultry, meat byproducts	0.05
Sheep, fat	0.4
Sheep, meat	0.4
Sheep, meat byproducts	15
Wheat, bran	3.0
Wheat, forage	1.0
Wheat, germ	3.0
Wheat, grain	0.5
Wheat, middlings	3.0
Wheat, shorts	3.0
Wheat, straw	1.0

* * * * *

15. In § 180.311 revise paragraph (a) to read as follows:

§180.311 Cacodylic acid; tolerances for residues.

(a) *General*. A tolerance is established for residues of the defoliant cacodylic acid, dimethylarsinic acid, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only those cacodylic acid residues convertible to As_2O_3, expressed as the stoichiometric equivalent of cacodylic acid, in or on the commodity.

Commodity	Parts per million	Expiration/ Revocation Date
Cotton, undelinted seed	2.8	1/1/12

* * * * *

16. Revise § 180.315 to read as follows:

§180.315 Methamidophos; tolerances for residues.

(a) *General*. Tolerances are established for residues of methamidophos, *O,S*-dimethyl phosphoramidothioate, including its metabolites and degradates, in or on the commodities in the table in this paragraph as a result of the application of methamidophos. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only methamidophos, *O,S*-dimethyl phosphoramidothioate, in or on the commodity.

Commodity	Parts per million	Expiration/ Revocation Date
Broccoli[1]	1.0	12/31/12
Cabbage[2]	1.0	12/31/12
Cotton, undelinted seed	0.1	12/31/12
Potato	0.1	12/31/12

[1] There are no U.S. registrations since 1989.
[2] There are no U.S. registrations since 2001.

(b) *Section 18 emergency exemptions*. [Reserved]

(c) *Tolerances with regional registrations*. A tolerance with a regional registration is established for residues of methamidophos, *O,S*-dimethyl phosphoramidothioate, including its metabolites and degradates, in or on the commodity in the table in this paragraph as a result of the application of methamidophos. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only methamidophos, *O,S*-dimethyl phosphoramidothioate, in or on the commodity.

Commodity	Parts per million	Expiration/ Revocation Date
Tomato	2.0	12/31/12

(d) *Indirect or inadvertent residues*. [Reserved]

17. In § 180.349 revise paragraph (a) and paragraph (c) to read as follows:

§180.349 Fenamiphos; tolerances for residues.

(a) *General*. Tolerances are established for residues of the nematicide/insecticide fenamiphos, ethyl 3-methyl-4-(methylthio)phenyl 1-(methylethyl)phosphoramidate, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of fenamiphos, ethyl 3-methyl-4-(methylthio)phenyl 1-(methylethyl)phosphoramidate, and its cholinesterase inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl)phenyl 1-(methylethyl)phosphoramidate and ethyl 3-methyl-4-(methylsulfonyl)phenyl 1-(methylethyl)phosphoramidate, calculated as the stoichiometric equivalent of fenamiphos, in or on the commodity.

Commodity	Parts per million
Banana[1]	0.1
Grape[1]	0.1
Grape, raisin[1]	0.3
Pineapple[1]	0.3

[1] There are no U.S. registrations as of May 31, 2007.

* * * * *

(c) *Tolerances with regional registrations*. [Reserved]

* * * * *

18. In § 180.367 revise paragraph (a) to read as follows:

§180.367 *N*-octyl bicycloheptene dicarboximide; tolerances for residues.

(a) *General*. A tolerance of 5 parts per million is established for residues of the insecticide synergist *N*-octyl bicycloheptene dicarboximide, including its metabolites and degradates, in or on all food items in food handling establishments where food and food products are held, processed, prepared and/or served, provided that the food is removed or covered prior to such use, except for bagged food in warehouse storage which need not be removed or covered prior to applications of formulations containing *N*-octyl bicycloheptene dicarboximide. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only *N*-octyl bicycloheptene dicarboximide, in or on the commodity.

* * * * *

19. Revise § 180.371 to read as follows:

§180.371 Thiophanate-methyl; tolerances for residues.

(a) *General*. Tolerances are established for residues of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), and its metabolite, methyl 2-benzimidazoyl carbamate (MBC), calculated as the stoichiometric equivalent of thiophanate-methyl, in or on the commodity.

Commodity	Parts per million
Almond	0.1
Almond, hulls	0.5
Apple	2.0
Apricot	15.0
Banana	2.0
Bean, dry, seed	0.2
Bean, snap, succulent	2.0
Beet, sugar, roots	0.2
Cherry, sweet	20.0
Cherry, tart	20.0
Grain, aspirated fractions	12
Grape	5.0
Onion, bulb	0.5
Onion, green	3.0
Peach	3.0
Peanut	0.1
Peanut, hay	5.0
Pear	3.0
Pecan	0.1
Pistachio	0.1
Plum	0.5
Potato	0.1
Soybean, hulls	1.5
Soybean, seed	0.2
Strawberry	7.0
Vegetable, cucurbit, group 9	1.0
Wheat, forage	1.1
Wheat, grain	0.1
Wheat, hay	0.1
Wheat, straw	0.1

(b) *Section 18 emergency exemptions*. [Reserved]

(c) *Tolerances with regional registrations*. A tolerance with a regional registration is established for residues of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of thiophanate-methyl, dimethyl ((1,2-phenylene) bis (iminocarbonothioyl)) bis(carbamate), and its metabolite, methyl 2-benzimidazoyl carbamate (MBC), calculated as the stoichiometric

equivalent of thiophanate-methyl, in or on the commodity.

Commodity	Parts per million
Canola, seed	0.1

(d) *Indirect or inadvertent residues.* [Reserved]

20. In § 180.396 revise paragraph (a), and paragraph (c) to read as follows:

§180.396 Hexazinone; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the herbicide hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and its plant metabolites: metabolite A, 3-(4-hydroxycyclohexyl)-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite B, 3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite C, 3-(4-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite D, 3-cyclohexyl-1-methyl-1,3,5-triazine-2,4,6-(1*H*, 3*H*, 5H)-trione, and metabolite E, 3-(4-hydroxycyclohexyl)-1-methyl-1,3,5-triazine-2,4,6-(1*H*, 3*H*, 5H)-trione, calculated as the stoichiometric equivalent of hexazinone, in or on the commodity.

Commodity	Parts per million
Alfalfa, forage	2.0
Alfalfa, hay	4.0
Alfalfa, seed	2.0
Blueberry	0.6
Grass, forage	250
Grass, hay	230
Pineapple	0.6
Sugarcane, cane	0.6
Sugarcane, molasses	4.0

(2) Tolerances are established for residues of the herbicide hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and its animal tissue metabolites: metabolite B, 3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and metabolite F, 3-cyclohexyl-6-amino-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, calculated as the stoichiometric equivalent of hexazinone, in or on the commodity.

Commodity	Parts per million
Cattle, fat	0.1
Cattle, meat	0.5
Cattle, meat byproducts	4.0
Goat, fat	0.1
Goat, meat	0.5
Goat, meat byproducts	4.0
Hog, fat	0.1
Hog, meat	0.5
Hog, meat byproducts	4.0
Horse, fat	0.1
Horse, meat	0.5
Horse, meat byproducts	4.0
Sheep, fat	0.1
Sheep, meat	0.5
Sheep, meat byproducts	4.0

(3) A tolerance is established for residues of the herbicide hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of hexazinone, 3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and its metabolites: metabolite B, 3-cyclohexyl-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite C, 3-(4-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, metabolite C-2, 3-(3-hydroxycyclohexyl)-6-(methylamino)-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, and metabolite F, 3-cyclohexyl-6-amino-1-methyl-1,3,5-triazine-2,4-(1*H*, 3*H*)-dione, calculated as the stoichiometric equivalent of hexazinone, in or on the commodity.

Commodity	Parts per million
Milk	11

* * * * *

(c) *Tolerances with regional registrations.* [Reserved]

* * * * *

§ 180.407 [Amended]

21. In § 180.407 remove the entry for "cotton, hulls" from the table in paragraph (a).

22. Revise § 180.905 to read as follows:

§180.905 Pesticide chemicals; exemptions from the requirement of a tolerance.

(a) When applied to growing crops, in accordance with good agricultural practice, the following pesticide chemicals are exempt from the requirement of a tolerance:

(1) Petroleum oils.

(2) Piperonyl butoxide.

(3) Pyrethrins.

(4) Rotenone or derris or cube roots.

(5) Sabadilla.

(b) These pesticides are not exempted from the requirement of a tolerance when applied to a crop at the time of or after harvest.

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H.R. 5146/P.L. 111–165
To provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2011. (May 14, 2010; 124 Stat. 1185)
Last List May 10, 2010

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