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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–296F]

RIN 1117–AB10

Removal of Thresholds for the List I Chemicals Pseudoephedrine and Phenylpropanolamine

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) is removing the thresholds for importation, exportation, and domestic distributions of the List I chemicals pseudoephedrine and phenylpropanolamine. This rulemaking is being conducted as part of DEA's implementation of the Combat Methamphetamine Epidemic Act of 2005 and is needed to implement the Act's requirements for import and production quotas and to address the potential diversion of these chemicals. DEA is also clarifying that all transactions of drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine, except retail transactions, are considered to be regulated transactions.

DATES: *Effective Date:* This rule is effective August 6, 2010.

FOR FURTHER INFORMATION CONTACT: Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, (202) 307–7297.

SUPPLEMENTARY INFORMATION:

DEA's Legal Authority

DEA implements the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA) and the Controlled Substances Import and Export Act (CSIEA) (21 U.S.C. 801–971), as amended. DEA publishes the implementing regulations for these statutes in Title 21 of the Code of Federal Regulations (CFR), parts 1300 to end. These regulations are designed to ensure that there is a sufficient supply of controlled substances for legitimate medical, scientific, research, and industrial purposes and deter the diversion of controlled substances to illegal purposes. The CSA mandates that DEA establish a closed system of control for manufacturing, distributing, and dispensing controlled substances. Any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances must register with DEA (unless exempt) and comply with the applicable requirements for the activity. The CSA, as amended, also requires DEA to regulate the manufacture, distribution, retail sale, import, and export of chemicals that may be used to manufacture controlled substances illegally. Listed chemicals that are classified as List I chemicals are important to the manufacture of controlled substances. Those classified as List II chemicals may be used to manufacture controlled substances.

Combat Methamphetamine Epidemic Act of 2005

On March 9, 2006, the President signed the Combat Methamphetamine Epidemic Act of 2005 (CMEA), which is Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Pub. L. 109–177). Among other actions, CMEA imposed new requirements regarding the retail sale of scheduled listed chemical products (drugs containing ephedrine, pseudoephedrine, or phenylpropanolamine, that may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act as nonprescription products) (21 U.S.C. 802(45)(A)). In a separate rulemaking, "Retail Sales of Scheduled Listed Chemical Products; Self-Certification of Regulated Sellers of Scheduled Listed Chemical Products" [Docket No. DEA–291, RIN 1117–AB05] (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006), DEA promulgated regulations implementing these provisions (21 U.S.C. 830(d), (e); 21 CFR part 1314).

The CMEA also subjects material containing ephedrine, pseudoephedrine, and phenylpropanolamine to manufacturing and import restrictions. Specifically, CMEA amended section 1002 of the CSA (21 U.S.C. 952(a)(1)) by adding the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine to those narcotic raw materials whose importation into the United States is prohibited except for such amounts as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes. CMEA also amended section 306 of the Act (21 U.S.C. 826) to establish the total annual needs of ephedrine, pseudoephedrine, and phenylpropanolamine to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. Individual manufacturing and procurement quotas for ephedrine, pseudoephedrine, and phenylpropanolamine were also required to be established for persons conducting manufacturing activities with those chemicals. In a separate rulemaking, "Import and Production Quotas for Certain List I Chemicals" [Docket No. DEA–293, RIN 1117–AB08] (72 FR 37439, July 10, 2007; Final Rule 73 FR 73549, December 3, 2008), DEA promulgated regulations to implement these provisions (21 CFR part 1315).

Further, the CMEA requires that importers, exporters, and persons involved in international transactions of all listed chemicals, including ephedrine, pseudoephedrine, and phenylpropanolamine, provide DEA with information regarding the transferee (*i.e.,* the downstream customer), of the chemical, as well as information regarding the quantity of the chemical to be transferred. Importers, exporters, and persons involved in international transactions are further required to provide DEA with a return declaration regarding each import, export, or international transaction after the transaction is completed (CMEA § 716, 21 U.S.C. 971(d) and (g), as amended). In a separate rulemaking, "Implementation of the Combat Methamphetamine Epidemic Act of 2005; Notice of

Transfers Following Importation or Exportation" [Docket No. DEA–292, RIN 1117–AB06] (72 FR 17401, April 9, 2007; Temporary Stay of Certain Provisions 72 FR 28601, May 22, 2007), DEA promulgated regulations implementing these provisions (21 CFR 1313.16, 1313.17, 1313.26, 1313.27, 1313.32, 1313.35).

Finally, the CMEA requires that the notice of importation (DEA Form 486) for ephedrine, pseudoephedrine, and phenylpropanolamine "shall include all information known to the importer on the chain of distribution of such chemical from the manufacturer to the importer." (CMEA § 721, 21 U.S.C. 971(h) as amended). In a separate rulemaking, "Information on Foreign Chain of Distribution for Ephedrine, Pseudoephedrine, and Phenylpropanolamine" [Docket No. DEA–295, RIN 1117–AB07] (73 FR 16793, March 31, 2008), DEA proposed regulations to implement this provision.

The List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine as single entity or combination products all serve as precursor chemicals for the illicit manufacture of controlled substances. Ephedrine and pseudoephedrine are the primary precursors used in the illicit synthesis of methamphetamine, a schedule II controlled substance, and methcathinone, a schedule I controlled substance. Phenylpropanolamine is the primary precursor used in the illicit synthesis of amphetamine, a schedule II controlled substance.

Licit Use

Ephedrine, pseudoephedrine, and phenylpropanolamine all have therapeutic uses in both over-the-counter and prescription drug products. Ephedrine is lawfully marketed under the Federal Food, Drug, and Cosmetic Act as an ingredient in nonprescription ("over-the-counter" (OTC)) drugs as a bronchodilator for the treatment of asthma. Ephedrine is also available as a nonprescription product in combination with the active ingredient guaifenesin, which is an expectorant.

As a prescription drug, ephedrine is used in parenteral (injectable) form in hospitals as part of anesthesiology kits. Ephedrine has the beneficial effect of increasing blood pressure very rapidly in the event of hypotensive crisis (*i.e.,* sudden loss of blood pressure sometimes experienced during surgery). Parenteral ephedrine is also sometimes used to relieve acute bronchospasm. Oral dosage forms of ephedrine are also available as prescription drugs for the treatment of asthma. These prescription drug products primarily consist of ephedrine in combination with other active ingredients such as potassium iodide (an expectorant) and/or theophylline (a bronchospamolytic).

Pseudoephedrine is lawfully marketed under the Federal Food, Drug, and Cosmetic Act for over-the-counter use as a decongestant. Phenylpropanolamine has historically been marketed in the United States for OTC use as a decongestant and diet aid and there have been many legend (prescription) drug products that contain pseudoephedrine or phenylpropanolamine. In the vast majority of these preparations, pseudoephedrine or phenylpropanolamine were in combination with other active ingredients, such as antihistamines, expectorants, and/or antitussives.

In November 2000, the U.S. Food and Drug Administration (FDA) issued a public health advisory concerning phenylpropanolamine and requested that all drug companies discontinue marketing products containing phenylpropanolamine due to risk of hemorrhagic stroke. In response, many companies have voluntarily reformulated their products to exclude phenylpropanolamine. Subsequently, on December 22, 2005, the FDA published a Notice of Proposed Rulemaking (70 FR 75988) proposing to categorize all over-the-counter nasal decongestants and weight control drug products containing phenylpropanolamine preparations as Category II, nonmonograph, *i.e.,* not generally recognized as being safe for human consumption. Most products containing phenylpropanolamine intended for humans have been withdrawn from the market, but phenylpropanolamine is still sold by prescription for veterinary uses.

While ephedrine and pseudoephedrine are pharmacologically different (and have quite different therapeutic uses), they are directly substitutable in the production of methamphetamine. This is because of the similarity of the chemical structures of the two drugs.

Discussion of the NPRM

On November 20, 2007, DEA published a Notice of Proposed Rulemaking (NPRM) (72 FR 65248) addressing two issues related to CMEA implementation. First, DEA proposed to eliminate the thresholds for distribution, importation, and exportation of pseudoephedrine and phenylpropanolamine; the threshold for distribution, importation, and exportation of ephedrine was eliminated previously. Limits on retail transactions are set in the CMEA and were addressed in DEA's Interim Rule regarding the retail provisions of the CMEA (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006). Second, DEA proposed to clarify that all distribution, importation, and exportation transactions involving drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine are regulated transactions.

The comment period for the NPRM closed on January 22, 2008. DEA received one comment on the NPRM.

Thresholds

Under the existing regulations (21 CFR 1310.04), the threshold for non-retail distribution, import, export, and international transactions of pseudoephedrine is 1 kilogram and for phenylpropanolamine, 2.5 kilograms. A single transaction or multiple transactions in a month with a single customer that equal or exceed the threshold are considered regulated transactions and trigger the reporting and recordkeeping requirements of 21 CFR part 1310. If DEA has not established a monthly threshold for a List I chemical, then all transactions must be reported. DEA has not established a threshold for ephedrine; thus all non-retail distribution, import, and export transactions involving ephedrine are already subject to recordkeeping and reporting requirements.

CMEA mandates that DEA establish the total annual need for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured or imported each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks (21 U.S.C. 826). These requirements apply equally to products containing these three List I chemicals as they do to the List I chemicals themselves. To limit the supply of the chemicals to the amount needed to meet the national need, CMEA requires DEA to establish import and production quotas for all three chemicals. DEA published regulations implementing procedures for import and production quotas for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine on July 10, 2007 (72 FR 37439; Final Rule 73 FR 73549, December 3, 2008). DEA established the 2008 assessment of annual national needs for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine on December

26, 2007 (72 FR 73361) and has established the assessment of annual national needs every year thereafter.

To obtain the information needed to assess the national need and set quotas to limit imports and production to meet that need, DEA identified two inadequacies regarding its existing regulations. First, persons who manufacture or import prescription drugs containing the chemicals are not registered. In a separate rulemaking, "Registration Requirements for Importers and Manufacturers of Prescription Drug Products Containing Ephedrine, Pseudoephedrine, or Phenylpropanolamine" [Docket No. DEA–294, RIN 1117–AB09] (73 FR 3432, January 18, 2008), DEA proposed to revise its registration requirements to cover manufacturers and importers of prescription drugs containing these chemicals and will issue quotas to them although the distribution and export of prescription drugs containing the chemicals will continue to be exempt from DEA regulatory control.

The second inadequacy involves the thresholds that apply to pseudoephedrine and phenylpropanolamine. To determine the annual national need and set quotas, DEA must obtain information on all imports and production involving the chemicals, not just those that exceed the existing thresholds. The existing thresholds, although relatively low, potentially allow a considerable market in the chemicals to continue unregulated. For example, under the current 1 kilogram (2.2 pound) threshold for pseudoephedrine, a person could import or distribute more than 2 pounds a month, or approximately 25 pounds a year, of pseudoephedrine without exceeding the threshold and triggering DEA's controls. Assuming a conservative 50 percent conversion of pseudoephedrine to methamphetamine, a person could annually manufacture approximately 12.5 pounds of methamphetamine with that total sum of sub-threshold quantities. DEA trend reporting for 2008 indicated that the national price for one pound of methamphetamine hydrochloride (powder) ranged from as low as $5,000 per pound in the DEA New Orleans and Washington DC Field Divisions, to as much as $26,000 and $27,000 per pound in the DEA New York and Atlanta Field Divisions, respectively. To further implement the CMEA, this rule seeks to curb the availability of pseudoephedrine at the wholesale level for illicit purposes.

Additionally, under the current 2.5 kilogram (5.5 pound) threshold for phenylpropanolamine, a person could import or distribute more than 5 pounds a month, or approximately 66 pounds a year of phenylpropanolamine without exceeding the threshold and triggering DEA's controls. Assuming a conservative 50 percent conversion of phenylpropanolamine to amphetamine, a person could annually manufacture approximately 33 pounds of amphetamine with that total sum of sub-threshold quantities. To the extent that amphetamine is marketed on the street as methamphetamine, amphetamine often has a street value comparable to methamphetamine. To further implement the CMEA, this rule seeks to curb the availability of phenylpropanolamine at the wholesale level for illicit purposes.

Currently, DEA is notified of all imports, exports, and international transactions of these chemicals which exceed the established thresholds or for which no threshold is established. DEA does not, however, receive import, export, and international transaction notifications for imports, exports, and international transactions of listed chemicals less than established thresholds. If DEA does not eliminate the threshold for imports, exports, and international transactions of pseudoephedrine and phenylpropanolamine, DEA will not have complete and accurate information regarding the quantities of these chemicals imported into, and exported from, the United States. Further, manufacturers and distributors are not required to maintain records of distributions of listed chemicals at or below established thresholds. Without the maintenance of these records, DEA will not have complete and accurate information regarding the quantities of these chemicals being distributed domestically.

Comments Regarding Removal of Thresholds for Pseudoephedrine and Phenylpropanolamine

DEA did not receive any comments regarding the proposed removal of thresholds for the List I chemicals pseudoephedrine and phenylpropanolamine and therefore, is finalizing those provisions as proposed.

Thus, to establish the controls that Congress mandated and limit imports and production to that needed for legitimate uses, DEA is eliminating the thresholds for all transactions involving the List I chemicals pseudoephedrine and phenylpropanolamine. As discussed previously, no threshold currently exists for transactions involving the List I chemical ephedrine; thus, all transactions are regulated. Any registrant manufacturing, distributing, importing, or exporting pseudoephedrine or phenylpropanolamine, in any quantity, either as bulk chemicals or in over-the-counter drug products, will be subject to the reporting and recordkeeping requirements. Any manufacturer or importer of prescription drug products containing one of the chemicals will also be subject to reporting and recordkeeping requirements. Importation of the chemicals is allowed only if it is within an import quota that the importer has applied for and been granted by DEA. The one exception to the import limits provided in the CMEA is that an individual may import not more than 7.5 grams in any 30-day period of a scheduled listed chemical product (*i.e.,* a product containing ephedrine, pseudoephedrine, or phenylpropanolamine which may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act as a nonprescription drug) by means of the U.S. Postal Service or a private or commercial carrier (21 U.S.C. 844(a)).

The distribution and export of prescription drug products containing the chemicals are not covered because DEA will be able to obtain the information it needs for the assessment of annual national needs from importers and manufacturers of these products. DEA has not determined that prescription drug products are being diverted.

Regulated Transactions

The definition of "regulated transaction" as amended by CMEA (21 U.S.C. 802(39)(A)(iv)) excludes:

(iv) Any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*), subject to clause (v), unless—

(I) The Attorney General has determined under section 204 of the Act (21 U.S.C. 814) that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(II) The quantity of the listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General.

Section 814 (b) states that:

In removing a drug or group of drugs from exemption * * * the Attorney General shall consider, with respect to a drug or group of drugs that is

proposed to be removed from exemption—

(1) The scope, duration, and significance of the diversion;

(2) Whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

(3) Whether the listed chemical can be readily recovered from the drug or group of drugs.

DEA in this rule is clarifying that nonprescription (OTC) drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine do not qualify for the exemption from the definition of "regulated transaction" based on the three factors listed in 21 U.S.C. 814(b) for the reasons discussed below.

Evaluation of Statutory Factors for Removal of Exemption From the Definition of "Regulated Transaction"

Note: For a more detailed discussion of DEA's analysis regarding each factor, *see* the NPRM preamble (72 FR 65248, November 20, 2007).

Factor 1: Scope, Duration, and Significance of Diversion

Throughout the late 1970s, methamphetamine was illicitly produced primarily through the use of the precursor phenylacetone (phenyl-2-propanone (P2P)) by outlaw motorcycle gangs in the United States. In response to the use of P2P, DEA controlled P2P as a schedule II controlled substance in 1980, under the immediate precursor provisions of the CSA, specifically 21 U.S.C. 811(e). Clandestine laboratory operators responded by developing a variety of synthetic methods for producing P2P and also migrated to the use of ephedrine as precursor material.

In 1989, DEA control of chemicals was initiated with passage of the Chemical Diversion and Trafficking Act of 1988 (CDTA) (Subtitle A of Title VI of Pub. L. 100–690). This law placed recordkeeping and reporting requirements on a wide variety of precursors and essential chemicals used in every aspect of clandestine drug manufacture, including bulk powder ephedrine, pseudoephedrine, and phenylpropanolamine. In response to the regulations, traffickers moved to the illicit use of single-entity ephedrine OTC tablets as an unregulated source of precursor material for the production of methamphetamine.

In the early 1990s, a number of well-publicized seizures of rogue businesses (and prosecutions of their owners) began to impact the tablet manufacturing industry, and a loophole allowing the sale of single-entity ephedrine products was closed in late 1993 with the passage of the Domestic Chemical Diversion Control Act of 1993 (DCDCA) (Pub. L. 103–200).

In 1996, the existing controls on precursor and essential chemicals imposed by the CDTA and DCDCA were further tightened with the passage of the Comprehensive Methamphetamine Control Act of 1996 (MCA) (Pub. L. 104–237). What followed was a series of legislative actions on both the Federal and State levels to tighten controls on pharmaceutical products that serve as precursor material for clandestine methamphetamine laboratories. At the Federal level, this effort included passage of the Methamphetamine Anti-Proliferation Act of 2000 (MAPA) (Title XXXVI of Pub. L. 106–310). Today, however, ephedrine and pseudoephedrine OTC products continue to serve as the primary precursor source for the illicit production of methamphetamine, which has spread across the entire United States in epidemic proportions.

Current Seizures

As DEA discussed in the NPRM, methamphetamine remains the primary drug produced in illicit laboratories within the United States. Data from the El Paso Intelligence Center's (EPIC) Clandestine Laboratory Database indicates that 10,022 methamphetamine laboratories were seized in calendar year 2004, 6,021 laboratories in calendar year 2005, 3,977 laboratories in calendar year 2006, 3,097 laboratories in calendar year 2007, and 3,924 laboratories in calendar year 2008 (as reported to EPIC through November 27, 2009). According to EPIC, from January 1, 2000, through December 31, 2008, there were at least 7,385 laboratories reportedly using ephedrine and 51,102 reportedly using pseudoephedrine as precursor material for methamphetamine production. Additionally EPIC reports the seizure of 48 amphetamine laboratories (using phenylpropanolamine) during the same period. The vast majority of these laboratories used pharmaceutical products containing pseudoephedrine, ephedrine, and phenylpropanolamine as the source of precursor material.

Illicit Uses

Factor 2: Whether the Drug or Group of Drugs Is Formulated in Such a Way That It Cannot Be Easily Used in the Illicit Production of a Controlled Substance

Factor 3: Whether the Listed Chemical Can Be Readily Recovered From the Drug or Group of Drugs

As DEA discussed in the NPRM, the production of methamphetamine from ephedrine or pseudoephedrine can be accomplished via a series of reactions using widely available "recipes" and can be accomplished with little or no chemistry expertise. A variety of different methods exist to convert the precursor material to methamphetamine. If very small batches are made, there is not even a requirement to heat the reactants. For example, quantities of ephedrine or pseudoephedrine, iodine, and red phosphorous can be reacted with the addition of water and small quantities of methamphetamine can be produced. For larger batches the reactants are combined and heated for several hours. A variety of different reagents can be used to make the conversion to methamphetamine if the precursors ephedrine and pseudoephedrine are obtained. These reactants can also be used to convert phenylpropanolamine to amphetamine. Manufacturing procedures are readily available on the Internet and even unskilled persons can obtain a 50–70 percent yield of methamphetamine or amphetamine.

Pseudoephedrine and ephedrine can also serve as precursor material for the manufacture of the schedule I controlled substance methcathinone. From January 1, 2000, through December 31, 2008, there were 202 methcathinone laboratory seizures reported to EPIC.

As DEA discussed in the NPRM, there is a common misconception in industry and among some in the public that OTC drug products, particularly pseudoephedrine or ephedrine products in combination with other medically active ingredients ("combo products"), are somehow less likely to be diverted or are less desirable among clandestine laboratory operators for the manufacture of methamphetamine. This is not the case.

Most of the clandestine laboratories found in the United States are using tablets, either single-entity or combination. In many of the methamphetamine exhibits analyzed by DEA analytical laboratories, the presence of antihistamines is detected, indicating that combination products were used in the reactions.

While the vast majority of clandestine laboratories seized have used tableted pseudoephedrine and ephedrine products, gel caps and liquid dosage form products can easily serve as the source of precursor material for the production of methamphetamine. DEA

scientific studies show that liquid, gel cap, and combination products are easily used as the source of precursor material and the pseudoephedrine/ephedrine from these products can be easily extracted with appropriate reagents/solvents. These reagents/solvents are all readily available at hardware and auto parts stores in the United States.

The controlled substances produced from these chemicals, methamphetamine and amphetamine, have a high abuse potential. The public health consequences of the manufacture, trafficking, and abuse of these two substances are well known and documented.

Comments Regarding Clarification of Regulated Transactions

In response to the November 20, 2007, NPRM (72 FR 65248), DEA received one comment. The commenter expressed concerns regarding the findings made by DEA that concluded that OTC products containing either pseudoephedrine or ephedrine (in combination with other active ingredients) are (1) Easily used in the illicit production of a controlled substance (*e.g.* methamphetamine) and (2) the listed chemical can be readily recovered. The commenter further expressed concerns regarding the applicability of these findings to combination products in the form of liquids, gel caps and solid dosage forms. The commenter expressed concerns that the NPRM did not provide sufficient data to substantiate DEA's findings, including OTC combination product seizures and evidence of diversion of such materials. Additionally, the commenter asserted that ephedrine/guaifenesin combination products warrant special treatment and should not be subject to the proposed rulemaking.

DEA disagrees with the commenter's basic premise that ephedrine and pseudoephedrine combination products (in liquid, soft-gel capsule, and solid dosage form) have less utility in clandestine laboratory processing of methamphetamine. DEA laboratory extraction studies have scientifically demonstrated that such materials are easily used as precursor material in the production of methamphetamine. Additionally, such materials have been identified at seized clandestine methamphetamine laboratories, and contaminants identified in seized methamphetamine exhibits document the use of such products as precursor material. These data demonstrate that these materials are (1) easily used in the illicit production of methamphetamine and (2) the listed chemical can be readily recovered. This has been documented in both DEA laboratory studies and in actual seizures.

Use of OTC Combination Products as Precursor Material

DEA's Office of Forensic Sciences has performed extraction studies demonstrating that combination OTC pseudoephedrine/ephedrine products (in soft-gel capsules, liquids, and solid forms, and containing combination ingredients) can be readily extracted and utilized as the source of precursor material for production of methamphetamine. These studies illustrated that such extractions were readily achievable and precursor materials were readily extractible.

Furthermore, the DEA Special Testing and Research Laboratory conducts in-depth analyses of seized methamphetamine samples. The information obtained from these analyses is derived from samples obtained and analyzed from a selective sampling of domestic and foreign seizures, and is not necessarily representative of all methamphetamine samples submitted to the DEA laboratory system. Among other things, the in-depth analytical procedures enable analysts to determine when combination OTC ephedrine and/or pseudoephedrine products are used as the source of precursor chemicals, due to impurities present in seized methamphetamine. The crude isolation procedures used in clandestine methamphetamine laboratories to extract l–ephedrine or d-pseudoephedrine from OTC products usually co-extract some of the other active ingredients commonly found in combination products. As a result, methamphetamine samples often contain one or more of the following co-ingredients: brompheniramine, chlorpheniramine, triprolidine, loratadine, carbinoxamine, and other common co-ingredients or their respective reaction by-products. Between Calendar Year 2005 and Calendar Year 2007, combination ephedrine and pseudoephedrine products were utilized as precursor material in 760 out of 1343 samples analyzed. For the reporting period ending July 2009, 78 out of 145 additional methamphetamine samples analyzed contained these co-ingredients, therefore illustrating that 54 percent of these samples were made using combination ephedrine or pseudoephedrine products.

Additionally, DEA's System to Retrieve Information on Drug Evidence (STRIDE) indicates that such products have been utilized as precursor material in the manufacture of methamphetamine. For the period January 2004 through November 2009, approximately 725 methamphetamine exhibits analyzed by DEA laboratories contained the common OTC combination product ingredients chlorpheniramine, diphenhydramine, guaifenesin or triprolidine. The number of guaifenesin exhibits accounted for approximately 5 percent of these samples. For the period January 2004 through November 2009, approximately 299 additional exhibits were identified as containing ephedrine and/or pseudoephedrine in combination with guaifenesin.

Based upon DEA scientific extraction studies, actual seizures of OTC ephedrine and/or pseudoephedrine combination products (including gel capsules, liquids and tablets) and the analysis of seized methamphetamine containing co-ingredients commonly found in OTC products, DEA finds that such materials are (1) Easily used in the illicit production of a controlled substance (*e.g.,* methamphetamine) and (2) the listed chemical can be readily recovered. DEA therefore finds that these sources of precursor material should be subject to regulatory controls under the CSA.

Findings

Therefore, based on the above discussion, the Administrator of the Drug Enforcement Administration, under the authority delegated by the Attorney General, finds, after considering the factors specified in 21 U.S.C. 814(b), that drug products containing the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine are being diverted for the illicit production of controlled substances, namely methamphetamine and amphetamine. As DEA has discussed, these products have a demonstrated history over the past 20 years of diversion for illicit purposes. These List I chemicals are diverted regardless of formulation—liquid, nonliquid, gel capsule—and regardless of dosage strength. Accordingly, the Administrator of the Drug Enforcement Administration removes drug products containing the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine from exemption from the definition of "regulated transaction" under 21 U.S.C. 802(39)(a)(iv). As such, unless otherwise exempted, such materials are subject to the chemical regulatory control provisions of the CSA. DEA is adding a new section 1310.14 that removes these drugs from the exemption.

The CSA has specifically exempted retail transactions involving scheduled listed chemical products from the definition of regulated transaction (21 U.S.C. 802(39)(a)(v)) and established a separate set of regulations, 21 CFR part 1314, that control those retail transactions (71 FR 56008, September 26, 2006; corrected at 71 FR 60609, October 13, 2006).

Technical Correction

While drafting this rulemaking, DEA became aware of an inaccurate citation in 21 CFR 1310.10, the section paralleling the criteria to be considered in evaluating the statutory factors for removal of exemption from the definition of "regulated transaction" at 21 U.S.C. 814 and discussed above. Specifically, the definition of "regulated transaction" cited in 21 CFR 1310.10 is inaccurate. Therefore, to alleviate any confusion, DEA is correcting this citation.

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612). Without this rule, DEA would not be able to effectively implement the quota and import provisions of CMEA.

As DEA has demonstrated throughout this document, traffickers and others in search of the chemicals necessary for clandestine manufacture of methamphetamine and amphetamine, are actively looking to exploit any loophole in chemical controls.

DEA notes that the effect of eliminating the thresholds for pseudoephedrine and phenylpropanolamine could impose a minimal burden on regulated entities. Although it is likely that many of the registrants who handle the two chemicals are small businesses under the Small Business Administration definition of small entities, the changes impose virtually no burden on these entities for three reasons. First, most, if not all, legitimate transactions at the import, export, manufacturing, and distribution level are in excess of the previous thresholds. Second, although it is possible that some registrants may have some transactions that will be newly regulated, the recordkeeping for these can be met with standard business records. The only information required in records for regulated transactions is the name and address of the seller and purchaser (plus their DEA registration numbers, if applicable); the date of the transaction; the name, quantity, and form of packaging of the listed chemical; the method of transfer; and the method of identification used by the customer and any unique identification number associated with the identification. This information is normally included on purchase orders or invoices and the shipping papers and is needed to complete and track the transaction. As long as the purchaser can extract the records for examination, if necessary, no additional effort is needed. Because almost all business records for manufacturers, importers, and distributors are now generated and transmitted electronically, DEA does not expect that any registrant will need additional recordkeeping.

Third, if any person is importing or exporting in very small quantities, there may be some additional import/export declarations required, but these forms require less than half an hour to complete and file. The only other requirement is to report suspicious transactions. These reports also require less than a half hour to complete and file.

As noted above, DEA does not believe that legitimate importers or exporters are handling such small quantities. The purpose of this rule is to close a loophole that could be exploited by those seeking the chemicals for illicit purposes and to ensure that DEA can accurately assess the legitimate need. The Deputy Administrator, therefore, certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Deputy Administrator further certifies that this rulemaking has been drafted in accordance with the principles in Executive Order 12866 section 1(b). It has been determined that this is "a significant regulatory action." Therefore, this action has been reviewed by the Office of Management and Budget. This rule supports implementation of provisions of the CMEA. The CMEA is expansive in its breadth, essentially reclassifying ephedrine, pseudoephedrine, and phenylpropanolamine as schedule II controlled substances for purposes of importation and production, imposes new retail restrictions on these products, and mandates new domestic and import quotas. Without this rule, traffickers could exploit below-threshold transactions, which are not reported to DEA and for which records are not required to be maintained, to divert valuable quantities of pseudoephedrine and phenylpropanolamine for the clandestine manufacture of methamphetamine and/or amphetamine. Further, without this rule, DEA will not have complete information on which to base its assessment of the annual national needs for the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine as DEA does not receive information regarding below-threshold transactions. This lack of information would create a loophole in the quota system, and would prevent DEA from fulfilling its legislative mandate that imports of pseudoephedrine and phenylpropanolamine be prohibited except for medical, scientific, or other legitimate purposes. Without this rule, DEA will not be able to effectively and fully implement the quota and import provisions of the CMEA.

As discussed above, DEA does not anticipate that this change will impose more than the minimal costs that would be associated with reporting transactions that the registrant thought suspicious and possibly filing forms for import and export notifications. The benefits of the rule are those associated with controlling access to chemicals used to manufacture methamphetamine, and other controlled substances, illicitly. As has been discussed extensively throughout this document, traffickers and others are actively looking to exploit any loophole in chemical controls to continue their operations. As noted previously, the current thresholds could permit a person to divert approximately 25 pounds of pseudoephedrine and 66 pounds of phenylpropanolamine annually, without exceeding existing thresholds. This rule closes a loophole that could result in the undocumented diversion of these chemicals for illicit production of significant quantities of methamphetamine and/or amphetamine. As noted previously in this rule, below-threshold transactions are not documented to DEA; the diversion of below-threshold quantities of these precursor chemicals could result in the illicit production of significant quantities of methamphetamine and/or amphetamine.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order, 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not impose enforcement responsibilities on any State; nor does it diminish the power of

any State to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

This rule requires that records be maintained regarding distributions of the List I chemicals pseudoephedrine and phenylpropanolamine. These records are maintained as a normal course of business.

The rule also reduces the thresholds for the List I chemicals pseudoephedrine and phenylpropanolamine from 1 kilogram and 2.5 kilograms, respectively, to zero, thereby requiring that DEA receive advance notification of all importations and exportations of these List I chemicals. DEA notes that it already receives some Import/Export Declarations if the cumulative amount of the transactions exceeds the thresholds on a monthly basis. Therefore, DEA does not believe that this change will significantly increase the burden associated with this information collection. Specifically, DEA estimates that 53 additional export notifications and 53 additional export return declarations will be received annually. Further, DEA estimates that 50 additional import declarations and 55 additional import return declarations will be received annually. DEA assumes 10 percent of all imports will not be transferred in the first thirty days and will necessitate submission of a subsequent return declaration. The receipt of these additional forms increases the hour burden by 55 hours annually. DEA did not receive any comments regarding the Paperwork Reduction Act aspects of the Notice of Proposed Rulemaking. Therefore, DEA is revising its existing information collection [OMB approval number 1117–0023 "Import/Export Declaration for List I and List II Chemicals", DEA Form 486] to reflect the increased burden associated with receipt of these import/export declarations.

The Department of Justice, Drug Enforcement Administration, submitted the following information collection request to the Office of Management and Budget for review and clearance in accordance with review procedures of the Paperwork Reduction Act of 1995. The proposed information collections were published in the NPRM to obtain comments from the public and affected agencies

Overview of Information Collection 1117–0023

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Import/Export Declaration for List I and List II Chemicals.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection:

Form number: DEA Form 486 and DEA Form 486A.

Component: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Business or other for-profit.

Other: None.

Abstract: Persons importing, exporting, and conducting international transactions with List I and List II chemicals must notify DEA of those transactions in advance of their occurrence, including information regarding the person(s) to whom the chemical will be transferred and the quantity to be transferred. Persons must also provide return declarations, confirming the date of the importation, exportation, or international transaction and transfer, and the amounts of the chemical transferred. For the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, importers must report all information known to them on the chain of distribution of the chemical from the foreign manufacturer to the United States importer. This information is used to prevent shipments not intended for legitimate purposes.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: A respondent may submit multiple responses. The table below presents information regarding the number of respondents, responses, and associated burden hours.

	Number of respondents	Number of responses	Average time per response	Total
Form 486 (export)	193	10,380	0.283 hour (17 minutes)	2,941 hours.
Form 486 (export Return Declaration)	193	10,380	0.166 hour (10 minutes)	1,730 hours.
Form 486 (import)	120	1,268	0.333 hour (20 minutes)	422.6 hours.
Form 486 (import return declaration)*	120	1,395	0.2 hour (12 minutes)	279 hours.
Form 486A (import)*	30	400	0.4 hour (24 minutes)	160 hours.
Form 486A (import return declaration)*	30	440	0.2 hour (12 minutes)	88 hours.
Form 486 (international transaction)	14	14	0.2 hour (12 minutes)	2.8 hours.
Form 486 (international transaction return declaration)	14	14	0.08 hour (5 minutes)	1.2 hours.
Quarterly reports for imports of acetone, 2-butanone, and toluene.	110	440	0.5 hour (30 minutes)	220 hours.
Total	193			5,844.6 hours.

*DEA assumes 10 percent of all imports will not be transferred in the first 30 days and will necessitate submission of a subsequent return declaration.

(6) An estimate of the total public burden (in hours) associated with the collection: 5,845 annual burden hours.

If additional information is required, contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

List of Subjects in 21 CFR Part 1310

Drug traffic control, Exports, Imports, Reporting and recordkeeping requirements.

■ For the reasons set forth above, 21 CFR part 1310 is amended as follows:

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES

■ 1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

■ 2. Section 1310.04 is amended by revising paragraphs (f)(1)(i) table and (ii), (g)(1)(i) through (vii), and adding paragraphs (g)(1)(viii) and (ix) to read as follows:

§ 1310.04 Maintenance of records.

* * * * *

(f) * * *

(1) * * *

(i) * * *

Code	Chemical	Threshold by base weight
8522	N-Acetylanthranilic acid, its esters, and its salts	40 kilograms.
8530	Anthranilic acid, its esters, and its salts	30 kilograms.
8256	Benzaldehyde	4 kilograms.
8735	Benzyl cyanide	1 kilogram.
8675	Ergonovine and its salts	10 grams.
8676	Ergotamine and its salts	20 grams.
8678	Ethylamine and its salts	1 kilogram.
6695	Hydriodic acid	1.7 kilograms (or 1 liter by volume).
8704	Isosafrole	4 kilograms.
8520	Methylamine and its salts	1 kilogram.
8502	3,4–Methylenedioxyphenyl-2-propanone	4 kilograms.
8115	N–Methylephedrine, its salts, optical isomers, and salts of optical isomers	1 kilogram.
8119	N–Methylpseudoephedrine, its salts, optical isomers, and salts of optical isomers.	1 kilogram.
6724	Nitroethane	2.5 kilograms.
8317	Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers	2.5 kilograms.
8791	Phenylacetic acid, its esters, and its salts	1 kilogram.
2704	Piperidine and its salts	500 grams.
8750	Piperonal (also called heliotropine)	4 kilograms.
8328	Propionic anhydride	1 gram.
8323	Safrole	4 kilograms.

(ii) For List I chemicals that are contained in scheduled listed chemical products as defined in § 1300.02(b)(34)(i) of this chapter, the thresholds established in paragraph (g) of this section apply only to non-retail distribution, import, and export. Sales of these products at retail are subject to the requirements of part 1314 of this chapter.

* * * * *

(g) * * *

(1) * * *

(i) Ephedrine, its salts, optical isomers, and salts of optical isomers;

(ii) Gamma-Butyrolactone (Other names include: GBL; Dihydro-2(3H)-furanone; 1,2-Butanolide; 1,4-Butanolide; 4-Hydroxybutanoic acid lactone; gamma-hydroxybutyric acid lactone)

(iii) Hypophosphorous acid and its salts (including ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite, and sodium hypophosphite)

(iv) Iodine

(v) N-phenethyl-4-piperidone (NPP)

(vi) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers

(vii) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers

(viii) Red phosphorus

(ix) White phosphorus (Other names: Yellow Phosphorus)

* * * * *

■ 3. Section 1310.10 is amended by revising paragraph (a) introductory text to read as follows:

§ 1310.10 Removal of the exemption of drugs distributed under the Food, Drug and Cosmetic Act.

(a) The Administrator may remove from exemption under § 1300.02(b)(28)(i)(D) of this chapter any drug or group of drugs that the Administrator finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance. In removing a drug or group of drugs from the exemption the Administrator shall consider:

* * * * *

■ 4. Section 1310.14 is added to read as follows:

§ 1310.14 Removal of exemption from definition of regulated transaction.

The Administrator finds that the following drugs or groups of drugs are being diverted to obtain a listed chemical for use in the illicit production of a controlled substance and removes the drugs or groups of drugs from exemption under § 1300.02(b)(28)(i)(D) of this chapter pursuant to the criteria listed in § 1310.10 of this part:

(a) Nonprescription drugs containing ephedrine, its salts, optical isomers, and salts of optical isomers.

(b) Nonprescription drugs containing phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.

(c) Nonprescription drugs containing pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

Dated: June 19, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–16388 Filed 7–6–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0220]

RIN 1625–AA11

Regulated Navigation Area: Niantic Railroad Bridge Construction, Niantic, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments; notice of meeting.

SUMMARY: The United States Coast Guard is establishing a regulated navigation area (RNA) on the navigable waters of the Niantic River Channel under and surrounding the Amtrak Railroad Bridge that crosses Niantic Bay in the Town of Niantic, Connecticut. This temporary interim rule allows the Coast Guard to suspend all vessel traffic within the RNA for construction operations, both planned and unforeseen, that could pose an imminent hazard to vessels operating in the area. This rule is necessary to provide for the safety of life on the navigable waters during the construction of the Niantic Railroad Bridge.

DATES: This rule is effective in the CFR from July 7, 2010, through April 20, 2013, and with actual notice for purposes of enforcement from June 20, 2010, through April 20, 2013. Public comments should be submitted by August 6, 2010, but will be accepted and reviewed by the Coast Guard through April 20, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2010–0220 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0220 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0220 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or e-mail LT Judson Coleman, Prevention Department, Coast Guard Sector Long Island Sound, telephone 203–468–4596, e-mail *Judson.coleman@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

As this interim rule will be in effect before the end of the comment period, the Coast Guard will evaluate and revise this rule as necessary to address significant public comments. Alternatively, if the bridge construction necessitating the interim rule is completed before April 20, 2013, and we receive no public comments that indicate a substantive need to revise the rule, we may allow it to expire on that date without further regulatory action.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–0220), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG–2010–0220" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2010–0220" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

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

Public Meeting

We do not now plan to hold a public meeting in connection with the public comment period for this interim rule. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**. Although they were not held specifically to solicit public comments on this interim rule, and were not announced in the **Federal Register**, the Coast Guard has held or participated in two locally announced public meetings, on March 22 and April 15, 2010, where waterway closures and restrictions were discussed, and we anticipate holding one or more additional informational meetings, with opportunity for public questions or comments, during the bridge construction. We will provide written summaries of any such meetings in the docket.

Regulatory Information

The Coast Guard is issuing this interim rule without prior notice pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest to do so. The need for waterway closures was not brought to the attention of the Coast Guard until March 11, 2010. This left insufficient time to issue an NPRM and solicit public comments prior to issuing the interim rule, which is necessary to protect the safety of both the construction crew and the waterway users operating in the vicinity of the bridge construction zone. Further, it would be impracticable and contrary to the public interest to delay or cancel this American Recovery and Reinvestment Act (ARRA) construction project, because to do so would delay necessary repairs thus prolonging the time that construction barges and equipment would be in this location. Additionally, the dynamic nature of the construction process and multitude of construction vessels necessitates that all mariners navigate at a safe speed within the RNA in accordance with Rule 6 of the Inland Navigation Rules, as the barge and construction equipment configuration may change on a daily basis. Further, the Coast Guard finds that issuance of an NPRM followed by a public comment period is unnecessary, because locally announced public maritime stakeholder meetings were held on March 22 and April 15, 2010, with Coast Guard Sector Long Island Sound, Amtrak, First Coast Guard District Bridge Branch, local marinas, town police, and small business owners in attendance. The construction plan was presented by Amtrak, the bridge owner; public comments and concerns were identified and many have been incorporated into this regulation. For the same reasons, under 5 U.S.C. 553(d)(3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Basis and Purpose

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. See 33 U.S.C. 1231 and Department of Homeland Security Delegation No. 0170.1.

The purpose of this rule is to ensure construction worker and public safety for the duration of the Niantic Railroad Bridge construction from June 20, 2010 through April 20, 2013.

Discussion of Rule

This RNA encompasses the navigable waters of the Federal channel on the Niantic River in Niantic, Connecticut, within the limits defined in the regulation.

During demolition of the existing Niantic Railroad Bridge and construction of its replacement, the Coast Guard may close the RNA to all unauthorized vessel traffic during any circumstance, planned or unforeseen, that poses an imminent threat to waterway users operating in the area. Complete waterway closure will be made with as much advance notice as possible and, when closure is planned, at least ten days in advance.

The Coast Guard has discussed this project at length with Amtrak and their contractor Cianbro/Middlesex to identify if the project can be completed without channel closures and, if possible, what impact that would have on the project timeline. Through these discussions, it became clear that while the majority of construction activities during the span of this project would not require waterway closures, there are certain tasks that can only be completed in the channel and will require closing the waterway. Amtrak issued a letter on May 21, 2010 detailing the required channel work phases that will need waterway closures.

There currently planned and proposed channel closure periods are outlined below:

The currently planned closure period will be from June 20 through October 15, 2010, on Sunday and Monday nights from 10 p.m. to 4:30 a.m., with two exceptions: (1) The channel will remain open during the four days on either side of the full moon to accommodate striped bass charters that depart during nighttime hours, and (2) there will be a scheduled opening between 1:30 to 2 a.m., from August 1 to October 15 to accommodate nighttime departures for offshore tuna fishing.

Other proposed closure periods will be from October 16 through December 15, 2010, on Sunday through Thursday nights from 9 p.m. to 5 a.m.; from December 16, 2010 through March 15, 2011 on Sunday through Thursday from 9 a.m. to 5 p.m. and 9 p.m. to 5 a.m.; and from March 16 through May 15, 2011, on Sunday through Wednesday from 10 p.m. to 4:30 a.m.

Closure periods listed above will be made available to Amtrak and their contractor with the understanding that the construction schedule as well as weather and tide conditions may not allow them to use all closures. On a case-by-case basis, depending on the construction schedule, Amtrak may request a waterway closure from June 20 through October 15, 2010 on Wednesday morning from 12:30 a.m. to 4:30 a.m. Amtrak will notify the Coast Guard of planned activities as soon as possible; preferably four weeks in advance of any event. The Coast Guard will notify the maritime community of those Wednesday dates with a waterway closure via Marine Information Broadcasts, Coast Guard Local Notice to Mariners and Marine Safety Information Bulletins. Closure periods similar to those outlined above should be expected throughout the duration of this rule.

Additionally, during the winter of 2011 and into the early spring of 2012 there will be certain tasks (*i.e.* picking and setting of the heel girders and float-in of the new bridge) that will require 12 to 24 hour closures as well as a seven day closure to float-in and install the new bridge. Once these closure periods are identified they will also be published in the **Federal Register** as a notice of enforcement.

In the event of an emergency all construction equipment will be

removed from the channel to allow for emergency vessels to pass (*i.e.,* Fire Rescue Boat, Marine Police Boat, or Environmental Response Boat).

The implementation of this RNA does not negate the fact that the Inland Rules of the Road as found in 33 CFR part 84 must be strictly adhered to. Mariners are strongly urged to monitor VHF channel 13 when transiting the area and to communicate with fellow mariners to facilitate movement and/or passing arrangements within the channel.

Any violation of the RNA described herein is punishable by, among others, civil and criminal penalties, *in rem* liability against the offending vessel, and the initiation of suspension or revocation proceedings against Coast Guard-issued merchant mariner credentials.

The Captain of the Port Sector Long Island Sound (COTP) will cause notice of enforcement, suspension of enforcement, or closure of this RNA to be made by all appropriate means to effect the widest distribution among the affected segments of the public. Such means of notification will include, but are not limited to, Notice of Enforcement published in the **Federal Register**, Broadcast Notice to Mariners, and Local Notice to Mariners.

Regulatory Analyses

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

Regulatory Planning and Review

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

This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: Vessels are currently scheduled to be excluded from the RNA only at night on Sunday and Monday, not including full moon tide weeks for night fishing or impacting busy weekend boating times, and vessels will be able to operate on all other portions of the Niantic River not covered by the RNA. Marine radio broadcasts informing the public of any closures made by the RNA will be made before, during, and at the conclusion of the RNA closure enforcement periods.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on substantial number of small entities. This rule will affect the following entities some of which may be small entities: Owners or operators of marinas, charter fishing vessels and commercial fishing vessels who intend to transit in those portions of the Niantic River between June 20, 2010 and April 20, 2013.

Although the RNA will apply to the entire width of the river, under and surrounding the Niantic Railroad Bridge, traffic will be allowed to pass through the area with the permission of the COTP. Before the effective period, we will issue maritime advisories widely available to users of the river."

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call LT Judson Coleman, Prevention Department, Sector Long Island Sound, at 203–468–4596.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.t01–0220 to read as follows:

§ 165.t01–0220 Regulated Navigation Area: Niantic Railroad Bridge Construction, Niantic, Connecticut

(a) *Location.* The following area is a regulated navigation area: All navigable waters of the Federal channel on the Niantic River in Niantic, CT, from surface to bottom, bounded to the north by the Highway 156/Main Street Bridge and to the south beginning at a point on land located at 41°19′26.000″ N, 72°10′51.000″ W, then running southeast to position 41°19′16.158″ N, 72°10′45.519″ W (Niantic River Channel Buoy 3 (LLNR 22310)) and 41°19′15.285″ N, 72°10′44.867″ W (Niantic River Channel Buoy 4 (LLNR 22315)), then running east to a point on land located at 41°19′14.000″ N, 72°10′38.000″ W.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply.

(2) In accordance with the general regulations, entry into or movement within this zone, during periods of enforcement, is prohibited unless authorized by the Captain of the Port, Long Island Sound (COTP).

(3) All persons and vessels must comply with the COTP or the COTP's designated on-scene Coast Guard patrol personnel.

(4) Upon being hailed by a Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(5) Persons and vessels may request permission to enter the zone during periods of enforcement on VHF–16 or via phone at 203–468–4401.

(6) Rules of the Road (33 CFR part 84, Inland Navigational Rules) remain in effect and must be strictly adhered to at all times.

(c) *Enforcement Period.* (1) This regulated navigation area is enforceable 24 hours a day from June 20, 2010 until April 20, 2013.

(2) The COTP may temporarily suspend enforcement of the RNA. If enforcement is suspended, the COTP will cause a notice of the suspension of enforcement by all appropriate means to effect the widest publicity among the affected segments of the public. Such means of notification may include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notification will include the date and time that enforcement is suspended as well as the date and time that enforcement will resume.

(3) The COTP may temporarily suspend all traffic through the RNA for any situation that would pose imminent hazard to life on the navigable waters. In the event of a complete waterway closure, the COTP will make advance notice of the closure by all means available to effect the widest public distribution including, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notification will include the date and time of the closure as well as the date and time that normal vessel traffic can resume.

(4) Violations of this regulated navigation area should be reported to the Captain of the Port Sector Long Island Sound, at 203–468–4401 or on VHF–Channel 16. Persons in violation of this regulated navigation area may be subject to civil and/or criminal penalties.

Dated: June 10, 2010.

J.A. Servidio,

Captain, U.S. Coast Guard, Acting, Commander, First Coast Guard District.

[FR Doc. 2010–16263 Filed 7–6–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0427]

RIN 1625–AA08 and AA00

Safety Zones; Marine Events Within the Captain of the Port Sector Long Island Sound Area of Responsibility, June Through October

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request comments.

SUMMARY: The Coast Guard is establishing 29 safety zones for marine events within the Captain of the Port Sector Long Island Sound area of responsibility for regattas, power boat races, and firework displays. This action is necessary to provide for the safety of life on navigable waters during the events. Entry into, transit through, mooring or anchoring within these zones is prohibited unless authorized by the Captain of the Port Sector Long Island Sound.

DATES: This rule is effective July 7, 2010 through 11:59 p.m. on October 3, 2010. This rule is effective with actual notice for purposes of enforcement beginning at 8:30 p.m. on June 25, 2010. Comments and related material must reach the Coast Guard on or before August 23, 2010. Requests for public meetings must be received by the Coast Guard on or before July 28, 2010.

ADDRESSES: You may submit comments identified by docket number USCG–2010–0427 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or e-mail Petty Officer Joseph Graun, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468–4459, *joseph.l.graun@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–0427), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Rules" and insert "USCG–2010–0427" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing Comments and Documents

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Privacy Act

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

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before July 28, 2010 using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard is issuing this interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. It is impractical to issue a NPRM and take public comment before June 25, 2010 when the first marine event necessitating a safety zone is scheduled to occur. Further, it is contrary to public interest to delay the effective date of this rule or to delay or cancel the scheduled events. Delaying the effective date by first publishing a NPRM would be contrary to the rule's objectives of ensuring safety of life on the navigable waters during these scheduled events as immediate action is needed to protect persons and vessels from the hazards associated with vessels participating in regattas, powerboat races, as well as the hazardous nature of fireworks including unexpected detonation and burning debris. We are requesting public

comment on the safety zones, and if we receive public input that indicates a need to revise the safety zone regulations or the conditions they impose, or raises any other significant public concerns, we will address those concerns prior to issuing any final rule. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.**

Basis and Purpose

Marine events are frequently held on the navigable waters within the area of responsibility for COTP Long Island Sound. These events include sailing regattas, swim events, power boat races, row and paddle boat races, parades, and firework displays. Based on the nature of the events, large number of participants and spectators, and the event locations, the Coast Guard has determined that the events listed in this rule could pose a risk to participants or waterway users if normal vessel traffic were to interfere with the event. Possible hazards include risks of participant injury or death resulting from near or actual contact with non-participant vessels traversing through the regulated areas. In order to protect the safety of all waterway users including event participants and spectators, this temporary rule establishes safety zones for the time and location of each event.

This rule prevents vessels from entering, transiting, mooring or anchoring within areas specifically designated as regulated areas during the periods of enforcement unless authorized by the Captain of the Port, or designated on-scene patrol personnel. "Designated on-scene patrol personnel" are any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. On-scene patrol personnel may be comprised of local, State or Federal officials authorized to act in support of the Coast Guard.

The Coast Guard has ordered safety zones or special local regulations for all of these 25 areas for past events and has not received public comments or concerns regarding the impact to waterway traffic from these annual events.

Discussion of Rule

This temporary rule creates safety zones for all navigable waters within the described area of each event as follows: A 1000 foot zone around all firework displays, a 200 foot zone around all regattas, and a 600 foot zone around all power boat races.

The tables below summarize the regulated area size that applies to each event along with the event name, date, time, and location:

FIREWORK DISPLAYS: 1,000 FOOT SAFETY ZONE

Shelter Island Fireworks	• Date: July 10, 2010. • Rain date: July 11, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Gardiner Bay off East Beach, Shelter Island, NY in approximate position 41°04′39.11″ N, 072°22′01.07″ W (NAD 83).
Mason's Island Yacht Club Fireworks	• Date: July 4, 2010 • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Fisher's Island Sound, Noank, CT in approximate position 41°19′31.00″ N, 071°57′48.00″ W (NAD 83).
Centerport Fire Department Fireworks	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Mill Pond, Centerport, NY in approximate position 40°54′18.00″ N, 073°22′40.00″ W (NAD 83).
City of Long Beach Fireworks	• Date: July 9, 2010. • Rain date: July 10, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of the Atlantic Ocean off Riverside Blvd., City of Long Beach, NY in approximate position 40°34′38.77″ N, 073°39′41.32″ W (NAD 83).
Town of Babylon Fireworks	• Date: August 28, 2010. • Rain date: August 29, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Cedar Beach Town Park, Babylon, NY in approximate position 40°37′53″ N, 073°20′12″ W (NAD 83).
Village of Quoque Foundering Anniversary Fireworks.	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Quantuck Bay, Quoque, NY in approximate position 40°48′42.99″ N, 072°37′20.20″ W (NAD 83).
CDM Chamber of Commerce Annual Music Fest Fireworks.	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Cedar Beach Town Park, Mount Sinai, NY in approximate position 40°57′54.02″ N, 073°01′57.52″ W (NAD 83).
Cancer Center for Kids Fireworks	• Date: July 3, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Bayville, NY in approximate position 40°55′19.38″ N, 073°03′40.41″ W (NAD 83).
Lawrence Beach Club Fireworks	• Date: July 3, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm.

FIREWORK DISPLAYS: 1,000 FOOT SAFETY ZONE—Continued

	• Location: All waters of the Atlantic Ocean off Lawrence Beach Club, Atlantic Beach, NY in approximate position 40°34′42.65″ N, 073°42′56.02″ W (NAD 83).
Sag Harbor Fireworks	• Date: July 3, 2010. • Rain date: July 4, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Sag Harbor Bay off Havens Beach, Sag Harbor, NY in approximate position 41°00′13.03″ N, 072°17′26.07″ W (NAD 83).
Point O′Woods Fire Company Summer Fireworks.	• Date: July 2, 2010. • Rain date: July 4, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of the Great South Bay, Point O′Woods, NY in approximate position 40°39′54″ N, 073°07′47.3″ W (NAD 83).
Village of Port Jefferson Fourth of July Celebration Fireworks.	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Port Jefferson Harbor off East Beach, NY in approximate position 40°57′53.189″ N, 073°03′9.72″ W (NAD 83).
Town of North Hempstead Bar Beach Fireworks	• Date: July 17, 2010. • Rain date: July 18, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Hempstead Harbor off Bar Beach, North Hempstead, NY in approximate position 40°49′54″ N, 073°39′14″ W (NAD 83).
Port Washington Sons of Italy Fireworks	• Date: August 7, 2010. • Rain date: August 8, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Hempstead Harbor off Bar Beach, North Hempstead, NY in approximate position 40°49′48.04″ N, 073°39′24.32″ W (NAD 83).
Pyro-FX Entertainment Group Fireworks	• Date: August 7, 2010. • Rain date: August 8, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of the Connecticut River off Chester, CT in approximate position 41°23′18″ N, 072°25′36″ W (NAD 83).
The Creek Fireworks	• Date: September 4, 2010. • Rain date: None. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Long Island Sound off of The Creek Club, Lattingtown, NY in approximate position 40°54′13″ N, 073°35′58″ W (NAD 83).
Town of Islip Labor Day Fireworks	• Date: September 25, 2010. • Rain date: September 26, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Great South Bay off Bay Shore Marina, Islip, NY in approximate position 40°42′39″ N, 073°14′12″ W (NAD 83).
Great South Bay Music Festival Fireworks	• Date: July 9, 2010. • Rain date: July 10, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Great South Bay, off Bay Avenue, Patchogue, NY in approximate position 40°44′45″ N, 073°00′25″ W (NAD 83).
Fund in the Sun Fireworks	• Date: July 4, 2010. • Rain date: None. • Time: 8:30 pm to 10:30 pm. • Location: All waters of the Great South bay off The Pines, East Fire Island, NY in approximate position 40°40′07.43″ N, 073°04′13.88″ W (NAD 83).
Independence Day Celebration Fireworks	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Umbrella Beach, Montauk, NY in approximate position 41°01′44″ N, 071°57′13″ W. (NAD 83).
East Hampton Fire Department Fireworks	• Date: September 4, 2010. • Rain date: September 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of East Hampton, NY in approximate position 40°56′40.28″ N, 072°11′21.26″ W (NAD 83).
Village of Island Park Labor Day Celebration Fireworks.	• Date: September 25, 2010. • Rain date: September 26, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Village of Island Park Fishing Pier, Village Beach, NY in approximate position 40°57′53.189″ N, 073°03′9.72″ W (NAD 83).
Barnum Festival Fireworks	• Date: June 25, 2010. • Rain date: None. • Time: 8:30 pm to 10:30 pm.

FIREWORK DISPLAYS: 1,000 FOOT SAFETY ZONE—Continued

Clam Shell Foundation Fireworks	• Location: All waters of Bridgeport Harbor, Bridgeport, CT. in approximate position 41°9′04″ N, 073°12′49″ W (NAD 83). • Date: July 17, 2010. • Rain date: July 18, 2010. • Time: 9:30 pm to 10:30 pm.
Village of Bellport Centennial	• Location: All waters of Three Mile Harbor, East Hampton, NY in approximate position 41°1′15.49″ N, 072°11′27.50″ W (NAD 83). • Date: August 7, 2010. • Rain date: August 8, 2010. • Time: 9:00 pm to 10:30 pm.
Go 4th on the Bay	• Location: All waters of Bellport Bay, off Bellport Dock, Bellport, NY in approximate position 40°45′01.83″ N, 072°55′50.43″ W (NAD 83). • Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 9:00 pm to 10:30 pm. • Location: All waters of the Great South Bay, off Davis Park, Island, NY in approximate position 40°41′04.01″ N, 073°00′23.56″ W (NAD 83).
Regatta Events: 200 Foot Safety Zone	
Riverfront Regatta	• Date: October 3, 2010. • Rain date: None. • Time: 08:30 am to 10:30 pm. • Location: Connecticut River, Hartford, CT. None between the Putnum Bridge 41°42.87′ N 072°38.43′ W and the Riverside Boat House 41°46.42′ N 072°39.83′ W.
Power Boat Races: 600 Foot Safety Zone	
Riverfront U.S. Title Series Powerboat Race	• Date: September 3, 4, & 5, 2010. • Rain date: None. • Time: 9:30 pm to 6:30 pm. • Location: Bank to bank on the Connecticut River, Hartford, CT from approximate position North 41* 45′53.47″ N/72* 39′55.77″ W to South 41* 45′37.39″ N/72* 39′47.49″ W (NAD 83).
Battle on the Bay Powerboat Race	• Date: August 21–22, 2010. • Rain date: None. • Time: 6:00 pm to 7:30 pm. • Location: Shorefront Park, Great South Bay, Patchogue, NY from approximate position: Beginning at a point off Sand Spit Park, Patchogue, NY at position 40°44′45″ N, 073°00′51″ W, then running south to a point in Great South Bay at position 40°43′46″ N, 073°00′51″ W, then running south east to position 40°43′41″ N, 073°00′20″ W, then running north east to position 40°43′54″ N, 072°58′46″ W, then east to position 40°43′58″ N, 072°57′32″ W, then east to position 40°43′57″ N, 072°56′49″ W, then north to position 40°44′18″ N, 072°56′49″ W, then west to position 40°44′18″ N, 072°57′32″ W, then north west to position 40°44′30″ N, 072°58′32″ W, then north west to position 40°44′33″ N, 072°59′12″ W, then north west to position 40°44′41″ N, 072°59′51″ W, then north west to position 40°44′46″ N, 073°00′04″ W, and then closing the zone at position 40°44′45″ N, 073°00′51″ W (NAD 83).

As large numbers of spectator vessels are expected to congregate around the location of these events, the regulated areas are needed to protect both spectators and participants from the safety hazards created by the event. During the enforcement period of the regulated areas, persons and vessels are prohibited from entering, transiting through, remaining, anchoring or mooring within the zone unless specifically authorized by the COTP or his designated representatives. The Coast Guard may be assisted by other federal, state and local agencies in the enforcement of these regulated areas.

The Coast Guard determined that these regulated areas will not have a significant impact on vessel traffic due to their temporary nature and limited size and the fact that vessels are allowed to transit the navigable waters outside of the regulated areas.

Advanced public notifications will also be made to the local maritime community by the Local Notice to Mariners as well as Broadcast Notice to Mariners.

Regulatory Analyses

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

Regulatory Planning and Review

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

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: The regulated areas will be of limited duration, they cover only a small portion of the navigable waterways, and the events are designed to avoid, to the extent possible, deep draft, fishing, and recreational boating traffic routes. In addition, vessels requiring entry into the area of the regulated areas may be authorized to do so by the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a

significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the designated regulated area during the enforcement periods stated for each event in the List of Subjects.

The safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The regulated areas will be of limited size and of short duration, and vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas. Additionally, before the effective period, the Coast Guard will issue notice of the time and location of each regulated area through a Local Notice to Mariners and Broadcast Notice to Mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0505 to read as follows:

§ 165.T01–0505 Safety Zones; Marine Events within the Captain of the Port Sector Long Island Sound Area of Responsibility, June through September.

(a) Safety Zones. The following areas are designated safety zones:

(1) Locations. The locations for each safety zone are provided in the below EVENTS TABLE. For all events listed in the EVENTS TABLE below, the safety zones for firework displays includes all navigable waters within a 1000 foot radius of the fireworks launch site; all navigable waters within a 200 foot radius of all regattas; and for all power boat races, the safety zone includes all navigable waters within a 600 foot radius around the designated race course.

FIREWORK DISPLAYS: 1,000 FOOT SAFETY ZONE

Shelter Island Fireworks	• Date: July 10, 2010. • Rain date: July 11, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Gardiner Bay off East Beach, Shelter Island, NY in approximate position 41°04′39.11″ N, 072°22′01.07″ W (NAD 83).
Mason's Island Yacht Club Fireworks	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Fisher's Island Sound, Noank, CT in approximate position 41°19′31.00″ N, 071°57′48.00″ W (NAD 83).
Centerport Fire Department Fireworks	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Mill Pond, Centerport, NY in approximate position 40°54′18.00″ N, 073°22′40.00″ W (NAD 83).
City of Long Beach Fireworks	• Date: July 9, 2010. • Rain date: July 10, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of the Atlantic Ocean off Riverside Blvd., City of Long Beach, NY in approximate position 40°34′38.77″ N, 073°39′41.32″ W (NAD 83).
Town of Babylon Fireworks	• Date: August 28, 2010. • Rain date: August 29, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Cedar Beach Town Park, Babylon, NY in approximate position 40°37′53″ N, 073°20′12″ W (NAD 83).
Village of Quoque Foundering Anniversary Fireworks	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Quantuck Bay, Quoque, NY in approximate position 40°48′42.99″ N, 072°37′20.20″ W (NAD 83).
CDM Chamber of Commerce Annual Music Fest Fireworks.	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Cedar Beach Town Park, Mount Sinai, NY in approximate position 40°57′54.02″ N, 073°01′57.52″ W (NAD 83).
Cancer Center for Kids Fireworks	• Date: July 3, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Bayville, NY in approximate position 40°55′19.38″ N, 073°03′ 40.41″ W (NAD 83).
Lawrence Beach Club Fireworks	• Date: July 3, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of the Atlantic Ocean off Lawrence Beach Club, Atlantic Beach, NY in approximate position 40°34′42.65″ N, 073°42′56.02″ W (NAD 83).
Sag Harbor Fireworks	• Date: July 3, 2010. • Rain date: July 4, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Sag Harbor Bay off Havens Beach, Sag Harbor, NY in approximate position 41°00′13.03″ N, 072°17′26.07″ W (NAD 83).
Point O'Woods Fire Company Summer Fireworks	• Date: July 2, 2010. • Rain date: July 4, 2010. • Time: 8:30 pm to 10:30 pm.

FIREWORK DISPLAYS: 1,000 FOOT SAFETY ZONE—Continued

	• Location: All waters of the Great South Bay, Point O'Woods, NY in approximate position 40°39′54″ N, 073°07′47.3″ W (NAD 83).
Village of Port Jefferson Fourth of July Celebration Fireworks.	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Port Jefferson Harbor off East Beach, NY in approximate position 40°57′53.189″ N, 073°03′9.72″ W (NAD 83).
Town of North Hempstead Bar Beach Fireworks	• Date: July 17, 2010. • Rain date: July 18, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Hempstead Harbor off Bar Beach, North Hempstead, NY in approximate position 40°49′54″ N, 073°39′14″ W (NAD 83).
Port Washington Sons of Italy Fireworks	• Date: August 7, 2010. • Rain date: August 8, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Hempstead Harbor off Bar Beach, North Hempstead, NY in approximate position 40°49′48.04″ N, 073°39′24.32″ W (NAD 83).
Pyro-FX Entertainment Group Fireworks	• Date: August 7, 2010. • Rain date: August 8, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of the Connecticut River off Chester, CT in approximate position 41°23′18″ N, 072°25′36″ W (NAD 83).
The Creek Fireworks	• Date: September 4, 2010. • Rain date: • Time: 8:30 pm to 10:30 pm. • Location: All waters of Long Island Sound off of The Creek Club, Lattingtown, NY in approximate position 40°54′13″ N, 073°35′58″ W (NAD 83).
Town of Islip Labor Day Fireworks	• Date: September 25, 2010. • Rain date: September 26, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Great South Bay off Bay Shore Marina, Islip, NY in approximate position 40°42′39″ N, 073°14′12″ W (NAD 83).
Great South Bay Music Festival Fireworks	• Date: July 9, 2010. • Rain date: July 10, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Great South Bay, off Bay Avenue, Patchogue, NY in approximate position 40°44′45″ N, 073°00′25″ W (NAD 83).
Fund in the Sun Fireworks	• Date: July 4, 2010. • Rain date: None. • Time: 8:30 pm to 10:30 pm. • Location: All waters of the Great South bay off The Pines, East Fire Island, NY in approximate position 40°40′07.43″ N, 073°04′13.88″ W (NAD 83).
Independence Day Celebration Fireworks	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Umbrella Beach, Montauk, NY in approximate position 41°01′44″ N, 071°57′13″ W (NAD 83).
East Hampton Fire Department Fireworks	• Date: September 4, 2010. • Rain date: September 5, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of East Hampton, NY in approximate position 40°56′40.28″ N, 072°11′21.26″ W (NAD 83).
Village of Island Park Labor Day Celebration Fireworks.	• Date: September 25, 2010. • Rain date: September 26, 2010. • Time: 8:30 pm to 10:30 pm. • Location: All waters off of Village of Island Park Fishing Pier, Village Beach, NY in approximate position 40°57′53.189″ N, 073°03′9.72″ W (NAD 83).
Barnum Festival Fireworks	• Date: June 25, 2010. • Rain date: None. • Time: 8:30 pm to 10:30 pm. • Location: All waters of Bridgeport Harbor, Bridgeport, CT. in approximate position 41°9′04″ N, 073°12′49″ W (NAD 83).
Clam Shell Foundation Fireworks	• Date: July 17, 2010. • Rain date: July 18, 2010. • Time: 9:30 pm to 10:30 pm. • Location: All waters of Three Mile Harbor, East Hampton, NY in approximate position 41°1′15.49″ N, 072°11′27.50″ W (NAD 83).
Village of Bellport Centennial	• Date: August 7, 2010. • Rain date: August 8, 2010. • Time: 9:00 pm to 10:30 pm. • Location: All waters of Bellport Bay, off Bellport Dock, Bellport, NY in approximate position 40°45′01.83″ N, 072°55′50.43″ W (NAD 83).

FIREWORK DISPLAYS: 1,000 FOOT SAFETY ZONE—Continued

Go 4th on the Bay	• Date: July 4, 2010. • Rain date: July 5, 2010. • Time: 9:00 pm to 10:30 pm. • Location: All waters of the Great South Bay, off Davis Park, Island, NY in approximate position 40°41′04.01″ N, 073°00′23.56″ W (NAD 83).
Power Boat Races: 600 Foot Safety Zone	
Riverfront US Title Series Powerboat Race	• Date: September 3, 4 & 5, 2010. • Rain date: None. • Time: 9:30 pm to 6:30 pm. • Location: Bank to bank on the Connecticut River, Hartford, CT from approximate position North 41* 45′53.47″ N/72* 39′55.77″ W to South 41* 45′37.39″ N/72* 39′47.49″ W (NAD 83).
Battle on the Bay Powerboat Race	• Date: August 21–22, 2010. • Rain date: None. • Time: 6:00 pm to 7:30 pm. • Location: Shorefront Park, Great South Bay, Patchogue, NY. from approximate position: Beginning at a point off Sand Spit Park, Patchogue, NY at position 40°44′45″ N, 073°00′51″ W, then running south to a point in Great South Bay at position 40°43′46″ N, 073°00′51″ W, then running south east to position 40°43′41″ N, 073°00′20″ W, then running north east to position 40°43′54″ N, 072°58′46″ W, then east to position 40°43′58″ N, 072°57′32″ W, then east to position 40°43′57″ N, 072°56′49″ W, then north to position 40°44′18″ N, 072°56′49″ W, then west to position 40°44′18″ N, 072°57′32″ W, then north west to position 40°44′30″ N, 072°58′32″ W, then north west to position 40°44′33″ N, 072°59′12″ W, then north west to position 40°44′41″ N, 072°59′51″ W, then north west to position 40°44′46″ N, 073°00′04″ W, and then closing the zone at position 40°44′45″ N, 073°00′51″ W (NAD 83).
Regatta Events: 200 Foot Safety Zone	
Riverfront Regatta	• Date: October 3, 2010. • Rain date: None. • Time: 08:30 am to 10:30 pm. • Location: Connecticut River, Hartford, CT. None between the Putnum Bridge 41°42.87′ N 072°38.43′ W and the Riverside Boat House 41°46.42′ N 072°39.83′ W.

(b) Notification. Coast Guard Sector Long Island Sound will cause notice of the enforcement of these temporary safety zones to be made by all appropriate means to affect the widest publicity among the effected segments of the public, including publication in the Local Notice to Mariners and Broadcast Notice to Mariners.

(c) Enforcement Period. This section will be enforced for the duration of each event indicated in the table above. If the event is cancelled due to inclement weather, this section is in effect during the rain date indicated in the table above or as indicated in the Local Notice to Mariners. Notification of events held on a rain date will be made by Broadcast Notice to Mariners.

(d) Regulations. (1) The general regulations contained in 33 CFR 165.23 apply. During the enforcement period, entry into, transiting through, remaining, mooring or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) These temporary safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port or his designated representatives. Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port or his designated representatives. Vessels that are granted permission to enter or remain within a safety zone may be required to be at anchor or moored to a waterfront facility such that the vessel's location will not interfere with the progress of the event. At all times when a vessel has been granted permission to enter within a safety zone, it shall endeavor to maintain at least 50 yards distance from any event participant unless otherwise directed.

(3) The "designated representative" is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative may be on a Coast Guard vessel, a state or local law enforcement vessel, or other designated craft, or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(4) Vessel operators desiring to enter or operate within the safety zones shall request permission to do so by contacting the Captain of the Port Sector Long Island Sound at 203–468–4404, or via VHF Channel 16.

(5) The Captain of the Port or his designated representative may direct the delay, cancellation, or relocation of the specific area to be regulated within the generally described locations listed in the EVENTS TABLE above to ensure safety and compliance with environmental laws. Such changes in implementation of the safety zones may be required as a result of factors that could affect their associated marine events such as weather, vessel traffic density, spectator activities, participant behavior or potential environmental impacts.

Dated: June 21, 2010.

J.M. Vojvodich,

Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.

[FR Doc. 2010–16373 Filed 7–6–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648—XT99

[Docket No. 100120036–0038–01]

Fisheries of the Northeastern United States; Black Sea Bass Fishery; 2010 Black Sea Bass Specifications; Emergency Rule Extension

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

ACTION: Temporary rule; emergency action extension.

SUMMARY: NMFS is extending the emergency action to increase the 2010 black sea bass specifications (i.e., commercial fishing quota, recreational harvest limit, and research set-aside (RSA) quota) implemented on February 10, 2010, for the remainder of the 2010 fishing year, which ends on December 31, 2010. This emergency rule extension is necessary to ensure that the revised specifications remain in place for the remainder of the 2010 fishing year. Extending the increase to the 2010 black sea bass total allowable landings (TAL) will prevent disruption to the black sea bass fisheries and foregone economic opportunities that would result if the emergency action is allowed to lapse.

DATES: Effective August 10, 2010, through December 31, 2010.

ADDRESSES: Copies of the Supplemental Environmental Assessment are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. This document is also accessible via the Internet at *http://www.nero.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Sarah Heil, Fishery Management Specialist, (978) 281–9257.

SUPPLEMENTARY INFORMATION: A final rule to establish the 2010 black sea bass specifications was published in the **Federal Register** on December 22, 2009 (74 FR 67978), and became effective on January 1, 2010. The final rule implemented a 2.71–million-lb (1,229–mt) Total Allowable Catch (TAC) and, after deducting estimated discards, a TAL of 2.3 million lb (1,043 mt). These measures for the 2010 black sea bass fisheries were consistent with the Mid-Atlantic Fishery Management Council's (Council's) recommendations made at its August 4–6, 2009, meeting. The Council's recommendations were based on its Scientific and Statistical Committee's (SSC's) Acceptable Biological Catch (ABC) recommendation of 2.71 million lb (1,229 mt). This was the status quo from 2009. However, citing information not previously considered, the SSC revised its ABC recommendation on January 8, 2010. The SSC recommended increasing the ABC from 2.71 million lb (1,229 mt) to 4.5 million lb (2,041 mt).

Based on the change to the ABC recommendation from the Council's SSC, NMFS published an emergency rule to increase the 2010 black sea bass specifications on February 10, 2010 (75 FR 6586). The emergency rule increased the 2010 black sea bass TAC from 2.71 million lb (1,229 mt) to 4.5 million lb (2,041 mt), consistent with the revised ABC recommendation from the SSC. After deducting discards from the TAC, the TAL increased from 2.3 million lb (1,043 mt) to 3.7 million lb (1,678 mt). Consistent with the allocation of the black sea bass TAL to the commercial and recreational sectors specified in the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), the emergency rule increased the commercial quota to 1,813,000 lb (822 mt), the recreational harvest limit to 1,887,000 lb (856 mt), and the RSA quota to 111,000 lb (50 mt). The measures of this extension remain unchanged from the measures contained in the initial emergency rule and described above. This action extends the increased 2010 black sea bass TAL for the remainder of the 2010 fishing year, through December 31, 2010.

Comments and Responses

NMFS received two comments on the initial emergency action.

Comment 1: This commenter suggested that all fish quotas should be cut, and felt that commercial fisheries were causing fish species to become extinct.

Response: The commenter provided no scientific basis that black sea bass are at risk of extinction. The reasons presented by the Council and NMFS for increasing the 2010 black sea bass specifications are based on the best scientific information available and are discussed in the preamble of the initial emergency action and this extension. Black sea bass are not overfished or subject to overfishing, and are no longer subject to a formal Magnuson-Stevens Act rebuilding plan. Sufficient analysis and scientific justification for NMFS's action in this emergency rule extension are contained within the supporting documents.

Comment 2: This commenter supported the emergency action to increase the 2010 black sea bass specifications, but expressed concern for the process by which a Council's SSC makes its ABC recommendations. The commenter felt that SSCs are being pressured politically to revise their ABC recommendations and suggested that the SSCs are inequitably charged to prevent overfishing and achieve rebuilding targets, but not to achieve optimum yield (OY).

Response: The emergency action to increase the 2010 black sea bass TAL from 2.71 million lb (1,229 mt) to 4.5 million lb (2,041 mt) was based on the best scientific information available and was consistent with the SSC's revised ABC recommendation. The increase to the 2010 black sea bass specifications alleviated restrictions on the commercial and recreational black sea bass fisheries and prevented direct economic loss for fishery participants and associated industries that would have resulted from the previous lower catch levels.

The Magnuson-Stevens Act section 302(g)(B) requires that each SSC shall provide its Council with ongoing scientific advice, including "recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield [MSY], and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices." However, the Magnuson-Stevens Act does not require the SSCs to use a prescribed formula for developing ABC recommendations. The new mandated role of the SSCs and the process by which each SSC makes ABC recommendations is evolving. In addition, NMFS interprets the National Standard 1 requirement to achieve OY on a continuing basis to mean producing a long-term series of catches such that the average catch is equal to OY, overfishing is prevented, and long-term average biomass is near or above the biomass target(B_{MSY}). Therefore, National Standard 1 does not contemplate that the OY will necessarily be achieved in a single year, given the natural fluctuation of fish stocks in response to environmental conditions.

Classification

The Administrator, Northeast Region, NMFS, determined that this temporary rule is consistent with the national standards and other provisions of the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. In the initial emergency rule published on February 10, 2010 (75 FR 6586), NMFS requested, and subsequently received, comments on the increased black sea bass TAL. NMFS considered and responded to the comments received in the preamble to this rule; no changes to the emergency action measures as a result of the comments received. The agency has the authority to extend the emergency action for up to 186 days beyond the August 9, 2010, expiration of the initial emergency action, as authorized under section 305(c)(3)(B) of the Magnuson-Stevens Act. NMFS, through this action, extends the emergency action to the end of the 2010 fishing year, which ends on December 31, 2010.

The measures of this emergency rule extension remain unchanged from the measures contained in the initial emergency action. If the initial emergency action were allowed to lapse, the TAL would revert back to the lower TAL of 2.71 million lb (1,229 mt). Given the nature of the commercial and recreational black sea bass fisheries, a substantial reduction of the TAL mid-year would significantly complicate management of this resource and result in foregone economic opportunities for the black sea bass fisheries. Extending the provisions of the emergency rule without notice and opportunity for public comment will ensure the 2010 black sea bass fisheries continue uninterrupted and will prevent unnecessary adverse economic impacts. Therefore, for the reasons outlined above, the Assistant Administrator finds it is unnecessary and contrary to the public interest to provide any additional notice and opportunity for public comment under 5 U.S.C. 553(b)(B) prior to publishing the emergency rule extension.

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

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not subject to the requirement to provide prior notice and opportunity for public comment pursuant to 5 U.S.C. 553 or any other law.

Dated: June 29, 2010

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2010–16498 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362–0087–02]

RIN 0648–XX35

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Catcher Vessels Participating in the Rockfish Entry Level Trawl Fishery in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch by trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2010 directed fishing allowance of Pacific ocean perch for trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 3, 2010, through 1200 hrs, A.l.t., September 1, 2010.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

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

The 2010 directed fishing allowance of Pacific ocean perch allocated to trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area is 392 metric tons as established by the final 2010 and 2011 harvest specifications for groundfish in the GOA (75 FR 11749, March 12, 2010).

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2010 directed fishing allowance of Pacific ocean perch for trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area will soon be reached. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for Pacific ocean perch by trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch by trawl catcher vessels participating in the rockfish entry level fishery in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 30, 2010.

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

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

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

Dated: July 1, 2010.

Carrie Selberg,

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

[FR Doc. 2010–16467 Filed 7–1–10; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362–0087–02]

RIN 0648–XX32

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Catcher Vessels in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central Gulf of Alaska (GOA) Rockfish Program in the GOA. This action is necessary because the 2010 Pacific halibut prohibited species catch (PSC) sideboard limit specified for the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the deep-water species fisheries.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2010, through 1200 hrs, A.l.t., July 31, 2010.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

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

The 2010 Pacific halibut PSC sideboard limit specified for the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is 22 metric tons, for the period 1200 hrs, A.l.t., July 1, 2010, through 1200 hrs, A.l.t., July 31, 2010, as established by § 679.82(d)(8)(i) and the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010).

In accordance with § 679.82(d)(9)(i)(B), the Administrator, Alaska Region, NMFS, has determined that the 2010 Pacific halibut PSC sideboard limit specified for the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the deep-water species fisheries. Consequently, in accordance with § 679.82(d)(9)(ii)(B), NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery for catcher vessels subject to sideboard limits established under the Central GOA Rockfish Program in the GOA. The species and species groups that comprise the deep-water species fishery for the sideboard limit include deep-water flatfish, rex sole, and arrowtooth flounder.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. Notice and comment is unnecessary because there is insufficient halibut PSC sideboard limit to support a directed fishery and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

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

This action is required by § 679.20 and § 679.82 and is exempt from review under Executive Order 12866.

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

Dated: July 1, 2010.

Carrie Selberg,

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

[FR Doc. 2010–16468 Filed 7–1–10; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362–0087–02]

RIN 0648–XX34

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish and Pelagic Shelf Rockfish for Trawl Catcher Vessels Participating in the Entry Level Rockfish Fishery in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish and pelagic shelf rockfish (PSR) for trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2010 allocation of northern rockfish and PSR allocated to trawl catcher vessels participating in the entry level rockfish fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2010, through 1200 hrs, A.l.t., September 1, 2010.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

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

The 2010 allocations of northern rockfish and PSR for vessels participating in the entry level trawl fishery in the Central Regulatory Area of the GOA are 0 metric tons as established by the final 2010 and 2011 harvest specifications for groundfish in the GOA (75 FR 11749, March 12, 2010).

Consequently, in accordance with § 679.83(a)(3), the Administrator, Alaska Region, NMFS, deems it appropriate for conservation and management purposes to not open directed fishing for northern rockfish and PSR for trawl catcher vessels participating in the entry level

rockfish fishery in the Central Regulatory Area of the GOA, because there is no available allocation for directed fishing.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553 (b)(B) as such requirement is impracticable and contrary to the public interest. Notice and comment is unnecessary because there is no available fish for an allocation and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

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

This action is required by § 679.20 and § 679.83 and is exempt from review under Executive Order 12866.

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

Dated: July 1, 2010.

Carrie Selberg,

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

[FR Doc. 2010–16470 Filed 7–1–10; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362–0087–02]

RIN 0648–XX36

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish, Pacific Ocean Perch, and Pelagic Shelf Rockfish for Catcher Vessels Participating in the Limited Access Rockfish Fishery in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish, Pacific ocean perch, and pelagic shelf rockfish for catcher vessels participating in the limited access rockfish fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2010 total allowable catch (TAC) of northern rockfish, Pacific ocean perch, and pelagic shelf rockfish allocated to catcher vessels participating in the limited access rockfish fishery in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2010, through 2400 hrs, A.l.t., December 31, 2010.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

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

The 2010 rockfish TACs allocated as directed fishing allowances to catcher vessels participating in the limited access rockfish fishery in the Central Regulatory Area of the GOA are: 0 metric tons (mt) for Pacific ocean perch, 3 mt for northern rockfish, and 0 mt for pelagic shelf rockfish as established by the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010), and as posted as the 2010 Rockfish Program Allocations at *http://www.alaskafisheries.noaa.gov/sustainablefisheries/goarat/default.htm*.

Consequently, in accordance with § 679.82(b)(6), the Administrator, Alaska Region, NMFS, deems it appropriate to not open directed fishing for northern rockfish, Pacific ocean perch, and pelagic shelf rockfish for catcher vessels participating in the limited access rockfish fishery in the Central Regulatory Area of the GOA because there are insufficient allocations to support directed fishing.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. Notice and comment is unnecessary because there are insufficient allocations to support directed fishing and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

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

This action is required by § 679.20 and § 679.82 and is exempt from review under Executive Order 12866.

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

Dated: July 1, 2010.

Carrie Selberg,

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

[FR Doc. 2010–16476 Filed 7–1–10; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362–0087–02]

RIN 0648–XX31

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Catcher/Processors in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery for catcher/processors subject to sideboard limits established under the Central Gulf of Alaska (GOA) Rockfish Program in the GOA. This action is necessary because the 2010 Pacific halibut prohibited species catch (PSC) sideboard limit specified for the shallow-water species fishery for catcher/processors subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the shallow-water species fisheries.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2010, through 1200 hrs, A.l.t., July 31, 2010.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

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

The 2010 Pacific halibut PSC sideboard limit specified for the shallow-water species fishery for catcher/processors subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is 11 metric tons, for the period 1200 hrs, A.l.t., July 1, 2010, through 1200 hrs, A.l.t., July 31, 2010, as established by § 679.82(d), the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010), and as posted as the Catcher/Processor Sideboards at *http://www.alaskafisheries.noaa.gov/sustainablefisheries/goarat/default.htm*.

In accordance with § 679.82(d)(9)(i)(B), the Administrator, Alaska Region, NMFS, has determined that the 2010 Pacific halibut PSC sideboard limit specified for the shallow-water species fishery for catcher/processors subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the shallow-water species fisheries. Consequently, in accordance with § 679.82(d)(9)(ii)(A), NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery for catcher/processors subject to sideboard limits established under the Central GOA Rockfish Program in the GOA. The species and species groups that comprise the shallow-water species fishery for the sideboard limit are shallow-water flatfish and flathead sole.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. Notice and comment is unnecessary because there is insufficient halibut PSC sideboard limit to support a directed fishery and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

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

This action is required by § 679.20 and § 679.82 and is exempt from review under Executive Order 12866.

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

Dated: July 1, 2010.

Carrie Selberg,

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

[FR Doc. 2010–16480 Filed 7–1–10; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362–0087–02]

RIN 0648–XX33

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Catcher/Processor Rockfish Cooperatives in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by catcher/processor rockfish cooperatives subject to sideboard limits established under the Central Gulf of Alaska (GOA) Rockfish Program in the GOA. This action is necessary because the 2010 Pacific halibut prohibited species catch (PSC) sideboard limit specified for the deep-water species fishery by catcher/processor rockfish cooperatives subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the deep-water species fisheries.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2010, through 1200 hrs, A.l.t., July 31, 2010.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

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

The 2010 Pacific halibut PSC sideboard limit specified for the deep-water species fishery by catcher/processor rockfish cooperatives subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is 16 metric tons, for the period 1200 hrs, A.l.t., July 1, 2010, through 1200 hrs, A.l.t., July 31, 2010, as established by § 679.82(d), the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010), and as posted as the Catcher/Processor Sideboards at *http://www.alaskafisheries.noaa.gov/sustainablefisheries/goarat/default.htm*.

In accordance with § 679.82(d)(9)(i)(B), the Administrator, Alaska Region, NMFS, has determined that the 2010 Pacific halibut PSC sideboard limit specified for the deep-water species fishery by catcher/processor rockfish cooperatives subject to sideboard limits established under the Central GOA Rockfish Program in the GOA is insufficient to support directed fishing for the deep-water species fisheries. Consequently, in accordance with § 679.82(d)(9)(ii)(B), NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by catcher/processor rockfish cooperatives subject to sideboard limits established under the Central GOA Rockfish Program in the GOA. The species and species groups that comprise the deep-water species fishery for the sideboard limit include deep-water flatfish, rex sole, and arrowtooth flounder.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA

(AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. Notice and comment is unnecessary because there is insufficient halibut PSC sideboard limit to support a directed fishery and therefore the Regional Administrator has no discretion for any action other than to prohibit directed fishing.

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

This action is required by § 679.20 and § 679.82 and is exempt from review under Executive Order 12866.

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

Dated: July 1, 2010.

Carrie Selberg,

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

[FR Doc. 2010–16486 Filed 7–1–10; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131363–0087–02]

RIN 0648–XX17

Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Greenland turbot in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2010 Greenland turbot total allowable catch (TAC) in the Aleutian Islands subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 1, 2010, through 2400 hrs, A.l.t., December 31, 2010. Applicable beginning June 29, 2010.

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

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

The 2010 Greenland turbot TAC in the Aleutian Islands subarea of the BSAI is 1,615 metric tons (mt) as established by the final 2010 and 2011 harvest specifications for groundfish in the BSAI (75 FR 11778, March 12, 2010).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the 2010 Greenland turbot TAC in the Aleutian Islands subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,215 mt, and is setting aside the remaining 400 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Greenland turbot in the Aleutian Islands subarea of the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Greenland turbot in the Aleutian Islands subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 28, 2010.

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

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

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

Dated: June 29, 2010.

Carrie Selberg,

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

[FR Doc. 2010–16192 Filed 7–1–10; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 75, No. 129
Wednesday, July 7, 2010

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0676; Directorate Identifier 2010–NM–095–AD]

RIN 2120–AA64

Airworthiness Directives; Learjet Inc. Model 45 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 Learjet Inc. Model 45 airplanes. This proposed AD would require replacing aluminum fire extinguisher discharge tubes with new, improved tubes; checking the fire extinguisher container for certain serial numbers; replacing fire extinguisher containers that have affected serial numbers; inspecting the pressure indicator on certain fire extinguisher containers for discrepancies; and performing corrective action if necessary. This proposed AD results from a report of accidental discharge of a fire extinguisher container and damage to an aluminum discharge tube. Investigation revealed that following the discharge an inaccurate pressure indication, due to the indicator dial being incorrectly staked, showed that the container was fully charged. We are proposing this AD to prevent inaccurate pressure readings and subsequent damage to the discharge tubes during operation, which could result in failure of the fire extinguisher system and an uncontained fire in an emergency situation.

DATES: We must receive comments on this proposed AD by August 23, 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942; telephone 316–946–2000; fax 316–946–2220; e-mail *ac.ict@aero.bombardier.com;* Internet *http://www.bombardier.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: James Galstad, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4135; fax (316) 946–4107.

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–2010–0676; Directorate Identifier 2010–NM–095–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 of accidental discharge of a fire extinguisher container and damage to an aluminum discharge tube. Investigation revealed that following the discharge an inaccurate pressure indication, due to the indicator dial being incorrectly staked, showed that the container was fully charged. Inaccurate pressure readings, and subsequent damage to the discharge tubes during operation, could result in failure of the fire extinguisher system and an uncontained fire in an emergency situation.

Relevant Service Information

We have reviewed Bombardier Service Bulletins 40–26–05 and 45–26–9, both Revision 2, both dated May 4, 2009. The service information describes procedures for the following:

- For all airplanes: Installing new o-rings and stainless steel fire extinguisher discharge tubes and inspect the serial numbers on the fire extinguisher containers to determine whether any serial number is specified in Table 1 of the Accomplishment Instructions of the applicable service bulletin.
- For airplanes on which no serial number is specified in Table 1: Inspecting the pressure indicator on the fire extinguisher container to ensure that the indicator dial is not loose and is staked in the right location, and do a weight check of the fire extinguisher container. If the indicator is loose or not staked in the right location or if the weight check for any container fails, replacing the affected container.
- For airplanes on which any serial number is specified in Table 1: Replacing the affected fire extinguisher container, and do a weight check of the replaced containers. If the weight check for any replacement container fails, replacing the affected container.

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 322 airplanes of U.S. registry. We also estimate that it would take 5 work-hours per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Required parts cost would be minimal. 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 this proposed AD to the U.S. operators to be $136,850, or $425 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:

Learjet Inc: Docket No. FAA–2010–0676; Directorate Identifier 2010–NM–095–AD.

Comments Due Date

(a) We must receive comments by August 23, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Learjet Inc. Model 45 airplanes, certificated in any category; as identified in Bombardier Service Bulletins 40–26–05 and 45–26–9, both Revision 2, both dated May 4, 2009.

Subject

(d) Air Transport Association (ATA) of America Code 26: Fire protection.

Unsafe Condition

(e) This AD results from a report of accidental discharge of a fire extinguisher container and damage to an aluminum discharge tube. Investigation revealed that following the discharge an inaccurate pressure indication, due to the indicator dial being incorrectly staked, showed that the container was fully charged. The Federal Aviation Administration is issuing this AD to prevent inaccurate pressure readings and subsequent damage to the discharge tubes during operation, which could result in failure of the fire extinguisher system and an uncontained fire in an emergency situation.

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.

Replacement, Check, Inspection, Corrective Action

(g) Within 12 months after the effective date of this AD: Replace the aluminum fire extinguisher discharge tubes with new, improved stainless steel tubes; check the fire extinguisher container for any serial number specified in Table 1 of Bombardier Service Bulletins 40–26–05 or 45–26–9, both Revision 2, both dated May 4, 2009; as applicable; replace any containers that have affected serial numbers, do a weight check of all containers, including the replacement container, if applicable; and inspect the pressure indicator on the containers for discrepancies, by doing all applicable actions in accordance with the Accomplishment Instructions of Bombardier Service Bulletins 40–26–05 or 45–26–9, both Revision 2, both dated May 4, 2009; as applicable. If any discrepancy is found, replace the container before further flight in accordance with the Accomplishment Instructions of Bombardier Service Bulletins 40–26–05 or 45–26–9, both Revision 2, both dated May 4, 2009; as applicable.

(h) Actions done before the effective date of this AD in accordance with the applicable service information listed in Table 1 of this AD are acceptable for compliance with the corresponding requirements in paragraph (g) of this AD.

TABLE 1—CREDIT SERVICE INFORMATION

Affected serial numbers—	Bombardier service bulletin—	Revision—	Dated—
For Model 45 airplanes having serial numbers 2001 through 2114, inclusive ...	40–26–05	Basic Issue	November 24, 2008.
For Model 45 airplanes having serial numbers 2001 through 2114, inclusive ...	40–26–05	1	December 22, 2008.
For Model 45 airplanes having serial numbers 006 through 383, inclusive	45-26-9	Basic Issue	November 24, 2008.

TABLE 1—CREDIT SERVICE INFORMATION—Continued

Affected serial numbers—	Bombardier service bulletin—	Revision—	Dated—
For Model 45 airplanes having serial numbers 006 through 383, inclusive	45-26-9	1	December 22, 2008.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Wichita 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: James Galstad, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4135; fax (316) 946–4107.

(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 June 29, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–16514 Filed 7–6–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0672; Directorate Identifier 2010–NM–047–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F (KDC–10), DC–10–40, and DC–10–40F 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 DC–10–10, DC–10–10F, DC–10–30, DC–10–30F (KDC–10), DC–10–40, and DC–10–40F airplanes. This proposed AD would require installing a support bracket and coupler on the left and right wing-to-fuselage transition, and metallic overbraid on the left and right leading edge wire assembly. This proposed AD results from fuel system reviews conducted by the manufacturer, as well as reports that the fuel quantity system was affected by lightning-induced transients. We are proposing this AD to prevent lightning-induced transients to the fuel quantity indication system, which could cause voltage levels to go beyond original design levels between fuel tank probes and structure, and become a potential ignition source at the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by August 23, 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, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.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: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

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–2010–0672; Directorate Identifier 2010–NM–047–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled "Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements" (66 FR 23086, May 7, 2001). In addition to new airworthiness

standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 ("SFAR 88," Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Also, we received reports that the fuel quantity system was affected by lightning- induced transients. The fiberglass leading edge fairing at the wing root created an electrical discontinuity in the metal shielding provided by the wing structure. As rapidly changing lightning currents flow in the leading edge gap region during a nose-to-wing- tip strike, rapidly changing electromagnetic fields are created in the gap region. Boeing investigations have determined that these fields cause electrical transients to be inducted indirectly into the wiring of the fuel quantity indication system. Installing side entry wire braid sleeving on fuel probe wires in the root region of each wing will minimize lightning-induced transients to the fuel quantity indication system. Such transients could result in voltage levels going beyond original design levels between fuel tank probes and structure and becoming a potential ignition source for the fuel tank.

Relevant Service Information

We have reviewed Boeing Service Bulletin DC10–28–262, Revision 1, dated June 9, 2010. The service bulletin describes procedures for installing a support bracket and coupler on the left and right wing-to-fuselage transition, and installing metallic overbraid on the left and right wing leading edge wire assemblies.

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 these same type designs. 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 61 airplanes of U.S. registry. We also estimate that it would take about 28 work-hours per product to comply with this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $999 per product. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $206,119, or $3,379 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:

McDonnell Douglas Corporation: Docket No. FAA–2010–0672; Directorate Identifier 2010–NM–047–AD.

Comments Due Date

(a) We must receive comments by August 23, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Corporation Model DC–10–10, DC–10–10F, DC–10–30, DC–10–30F (KDC–10), DC–10–40, and DC–10–40F airplanes, certificated in any category, as identified in Boeing Service Bulletin DC10–28–262, Revision 1, dated June 9, 2010.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to prevent lightning-induced transients to the fuel quantity indication system, which could cause voltage levels to go beyond original design levels between fuel tank probes and structure and become a potential ignition source at the fuel tank, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of 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.

Installation

(g) Within 60 months after the effective date of this AD, install a support bracket and coupler on the left and right wing-to-fuselage transition, and metallic overbraid on the left and right leading edge wire assembly, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–28–262, Revision 1, dated June 9, 2010.

Installation According to Previous Issue of Service Bulletin

(h) Installing a support bracket and coupler on the left and right wing-to-fuselage transition, and metallic overbraid on the left and right leading edge wire assembly, is also acceptable for compliance with the requirements of paragraph (g) of this AD if done before the effective date of this AD in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–28–262, dated January 6, 2010.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

(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 June 29, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–16515 Filed 7–6–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0678; Directorate Identifier 2010–NM–020–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 777–200 and –300 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 777–200 and –300 series airplanes. This proposed AD would require installing new operational software in the cabin management system, and loading new software into the mass memory card. This proposed AD results from an in-flight entertainment (IFE) systems review. We are proposing this AD to ensure that the flightcrew is able to turn off electrical power to the IFE system and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

DATES: We must receive comments on this proposed AD by August 23, 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: Joe Salameh, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6454; 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–2010–0678; Directorate Identifier 2010–NM–020–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

In response to numerous reports of smoke or flames in the passenger cabin of various models of transport category airplanes, we conducted a comprehensive in-flight entertainment (IFE) systems review. Earlier investigation of the reports had revealed that the source of the smoke and flames

was from cabin IFE system components, including electronic seat boxes mounted under passenger seats, IFR wirings, IFE monitors, cabin lighting, wall outlets, and other non-essential cabin electrical systems.

The systems review disclosed that in order to minimize the risk of smoke or flames in the passenger cabin, a switch is needed in the flight compartment to enable the flightcrew to turn off electrical power to the IFE system and other non-essential electrical systems. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off power to the IFE system and other non-essential electrical systems, if not corrected, could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

Relevant Service Information

We have reviewed Boeing Service Bulletin 777–23–0175, Revision 2, dated October 12, 2006. The service bulletin describes procedures for installing new operational software in the cabin management system as follows:

- At the cabin system control panel (CSCP), remove the installed mass memory card (MMC) 285W0925–1 or 285W0925–2.
- Install the new MMC 285W0925–3.
- Install a new cabin system management unit (CSMU) software part number 2313–BCE–01T–03.
- Install a new cabin area control panel (CACP) software part number 2313–BCE–01U–02.
- Install a new zone management unit (ZMU) software part number 2374–BCE–021–02.
- Install a new overhead electronics unit (OEU) operational software (OPS) (12 port) part number 2310–BCE–01V–02, if the airplane configuration has OEU hardware 285W0029–5 installed.
- Install a new configuration database (CDB).
- Install the new CDB to the cabin service system.

Boeing Service Bulletin 777–23–0175, Revision 2, dated October 12, 2006, specifies prior or concurrent accomplishment of Boeing Component Service Bulletin 285W0925–23–02, dated July 11, 2002, which describes procedures for loading the new cabin services system central storage device software and CSCP OPS into the MMC.

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 these same type designs. 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 59 airplanes of U.S. registry. The following table provides the estimated costs 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
Modification—New software in the cabin management system	4	$85	$0	$340	59	$20,060
Concurrent modification—New software in the mass memory card	1	85	0	85	59	5,015

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–2010–0678; Directorate Identifier 2010–NM–020–AD.

Comments Due Date

(a) We must receive comments by August 23, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 777–200 and –300 series airplanes, certificated in any category; as

identified in Boeing Service Bulletin 777–23–0175, Revision 2, dated October 12, 2006.

Subject

(d) Air Transport Association (ATA) of America Code 23: Communications.

Unsafe Condition

(e) This AD results from an in-flight entertainment (IFE) systems review. We are proposing this AD to minimize the risk of smoke or flames in the passenger cabin by installing a switch in the flight compartment to enable the flightcrew to turn off electrical power to the IFE system and other non-essential electrical systems. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

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) Within 60 months after the effective date of this AD: Replace the mass memory card (MMC) with a new MMC; install new cabin system management unit (CSMU) software, cabin area control panel (CACP) software, and new zone management unit (ZMU) software; install new overhead electronics unit (OEU) operational program software, if applicable; install a new configuration database (CDB); and install the new CDB to the cabin service system; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 777–23–0175, Revision 2, dated October 12, 2006.

Concurrent Requirement

(h) Prior to or concurrently with accomplishing the requirements of paragraph (g) of this AD, load the new cabin services system central storage device software and cabin system control panel operational software into the MMC, in accordance with Boeing Component Service Bulletin 285W0925–23–02, dated July 11, 2002.

Alternative Methods of Compliance (AMOCs)

(i)(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: Joe Salameh, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6454; 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 June 29, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–16517 Filed 7–6–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0675; Directorate Identifier 2010–NM–061–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200 and A330–300 Series Airplanes, and Model A340–200, A340–300, A340–500, and A340–600 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: Investigation conducted by Thales on probes revealed oil residue between the stator and the rotor parts of the AoA [angle of attack] vane position resolvers. This oil residue was due to incorrect cleaning of the machining oil during the manufacturing process of the AoA resolvers. At low temperatures, this oil residue becomes viscous (typically in cruise) causing lag of AoA vane movement. Such condition could lead to discrepant AoA measurement. If not corrected, and if two or three AoA probes were simultaneously affected and provided wrong indications of the AoA to a similar extent, it could lead to a late activation of the angle of attack protection, which in combination with light at high angle of attack would constitute an unsafe condition. 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 August 23, 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 Airbus service information identified in this proposed AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; e-mail airworthiness.A330–A340@airbus.com; Internet *http://www.airbus.com.*

For Thales Avionics service information identified in this proposed AD, contact Thales—Aerospace Division, 105, avenue du General Eisenhower—BP 63647, 31036 Toulouse Cedex 1, France; telephone +33 (0)5 61 19 65 00; fax +33 (0)5 61 19 66 00; Internet *http://www.thalesgroup.com/aerospace.*

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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; 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–2010–0675; Directorate Identifier 2010–NM–061–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 2010–0016R1, dated February 9, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> During Airbus Final Assembly Line reception flight tests, AoA [angle of attack] data from two different aeroplanes were found inaccurate. Inaccuracy was confirmed by flight data analysis.
>
> Investigation conducted by Thales on the removed probes revealed oil residue between the stator and the rotor parts of the AoA vane position resolvers. This oil residue was due to incorrect cleaning of the machining oil during the manufacturing process of the AoA resolvers. At low temperatures, this oil residue becomes viscous (typically in cruise) causing lag of AoA vane movement.
>
> Such condition could lead to discrepant AoA measurement. If not corrected, and if two or three AoA probes were simultaneously affected and provided wrong indications of the AoA to a similar extent, it could lead to a late activation of the angle of attack protection, which in combination with flight at high angle of attack would constitute an unsafe condition.
>
> Therefore, this [EASA] AD requires a one time inspection of the Thales Avionics AoA probe P/N [part number] C16291AA in order to identify the suspect parts and to remove them from service.
>
> This [EASA] AD revision is issued to specify that the identification of the affected AoA probes is also possible in accordance with aeroplane maintenance records data analysis.

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

Relevant Service Information

Airbus has issued the service bulletins specified in the following table. Thales Avionics has issued Service Bulletin C16291A–34–007, Revision 01, dated December 3, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

TABLE—APPLICABLE SERVICE INFORMATION

Model	Document	Date
Model A330–200 and A330–300 series airplanes	Airbus Mandatory Service Bulletin A330–34–3232, including Appendix 01.	January 20, 2010.
Model A340–200 and A340–300 series airplanes	Airbus Mandatory Service Bulletin A340–34–4239, including Appendix 01.	January 20, 2010.
Model A340–500, and A340–600 series airplanes	Airbus Mandatory Service Bulletin A340–34–5072, including Appendix 01.	January 20, 2010.

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 44 products of U.S. registry. (There are currently no Model A340 airplanes on the U.S. Register.) We also estimate that it would take about 3 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 $11,220, or $255 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–2010–0675; Directorate Identifier 2010–NM–061–AD.

Comments Due Date

(a) We must receive comments by August 23, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Airbus Model A330–201, A330–202, A330–203, A330–223, A330–243, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342 and A330–343 airplanes, certificated in any category; all manufacturer serial numbers, equipped with Thales Avionics angle of attack (AOA) probe having part number (P/N) C16291AA.

(2) Airbus Model A340–211, A340–212, A340–213, A340–311, A340–312, A340–313, A340–541, and A340–642 airplanes, certificated in any category, all manufacturer serial numbers, equipped with Thales Avionics AOA probe having P/N C16291AA.

Subject

(d) Air Transport Association (ATA) of America Code 34: Navigation.

Reason

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

During Airbus Final Assembly Line reception flight tests, AoA data from two different aeroplanes were found inaccurate. Inaccuracy was confirmed by flight data analysis.

Investigation conducted by Thales on the removed probes revealed oil residue between the stator and the rotor parts of the AoA vane position resolvers. This oil residue was due to incorrect cleaning of the machining oil during the manufacturing process of the AoA resolvers. At low temperatures, this oil residue becomes viscous (typically in cruise) causing lag of AoA vane movement.

Such condition could lead to discrepant AoA measurement. If not corrected, and if two or three AoA probes were simultaneously affected and provided wrong indications of the AoA to a similar extent, it could lead to a late activation of the angle of attack protection, which in combination with flight at high angle of attack would constitute an unsafe condition.

Therefore, this [European Aviation Safety Agency (EASA)] AD requires a one time inspection of the Thales Avionics AoA probe P/N C16291AA in order to identify the suspect parts and to remove them from service.

This [EASA] AD revision is issued to specify that the identification of the affected AoA probes is also possible in accordance with aeroplane maintenance records data analysis.

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 of AOA Probes

(g) Within 3 months after the effective date of this AD, perform a detailed visual inspection of the Thales Avionics AOA probes having P/N C16291AA for a serial number identification, in accordance with the instructions of the applicable service information identified in Table 1 of this AD. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the AOA probe can be conclusively determined from that review. If no AOA probe having P/N C16291AA and a serial number identified in Thales Service Bulletin C16291A–34–007, Revision 01, dated December 3, 2009, is identified during the inspection required by this paragraph of this AD, no further action is required by this AD, except for paragraph (i) of this AD.

TABLE 1—APPLICABLE SERVICE INFORMATION

Model	Document	Date
Model A330–200 and A330–300 series airplanes	Airbus Mandatory Service Bulletin A330–34–3232	January 20, 2010.
Model A340–200 and A340–300 series airplanes	Airbus Mandatory Service Bulletin A340–34–4239	January 20, 2010.
Model A340–500, and A340–600 series airplanes	Airbus Mandatory Service Bulletin A340–34–5072	January 20, 2010.

Replacement of Identified AOA Probes

(h) If the serial number of the AOA probe identified during the inspection required by paragraph (g) of this AD corresponds to a suspect AOA probe specified in Thales Service Bulletin C16291A–34–007, Revision 01, dated December 3, 2009: At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, replace the affected AOA probe with a serviceable AOA probe in accordance with one of the four options specified in and in accordance with the Accomplishment Instructions of the applicable service bulletin specified in Table 1 of this AD.

(1) For airplanes on which Airbus Modification 53368 (back-up speed scale) has been embodied in production or Airbus Service Bulletin A330–34–3213, Airbus Service Bulletin A340–34–4213, or Airbus Service Bulletin A340–34–5060, as applicable, has been embodied in service: Within 3 months after the effective date of this AD.

(2) For airplanes on which Airbus Modification 53368 (back-up speed scale) has not been embodied in production and Airbus Service Bulletin A330–34–3213, Airbus Service Bulletin A340–34–4213, or Airbus Service Bulletin A340–34–5060, as applicable, has not been embodied in service: Within 15 months after the effective date of this AD.

Parts Installation

(i) As of the effective date of this AD, no person may install, on any airplane, a Thales Avionics AOA probe having P/N C16291AA and a serial number identified in Thales Service Bulletin C16291A–34–007, Revision 01, dated December 3, 2009, unless the AOA is fitted with an inspection label stating that Thales Service Bulletin C16291A–34–007, Revision 01, dated December 3, 2009, has been accomplished.

FAA AD Differences

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

Other FAA AD Provisions

(j) 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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; 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

(k) Refer to MCAI EASA Airworthiness Directive 2010–0016R1, dated February 9, 2010, and the service information identified in Table 2 of this AD, for related information.

TABLE 2—RELATED SERVICE INFORMATION

Document	Revision	Date
Airbus Mandatory Service Bulletin A330–34–3232	Original	January 20, 2010.
Airbus Mandatory Service Bulletin A340–34–4239	Original	January 20, 2010.
Airbus Mandatory Service Bulletin A340–34–5072	Original	January 20, 2010.
Thales Service Bulletin C16291A–34–007	Revision 01	December 3, 2009.

Issued in Renton, Washington, on June 25, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–16553 Filed 7–6–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0677; Directorate Identifier 2010–NM–075–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 727 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 727 airplanes. This proposed AD would require inspections for scribe lines in the fuselage skin at skin lap joints and butt joints, the skin at certain external approved repairs, the skin around external features such as antennas, and the skin at decals and fairings; and related investigative and corrective actions if necessary. This proposed AD results from reports of scribe lines found at skin lap joints and butt joints, around external repairs and antennas, and at locations where external decals had been cut. We are proposing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin and cause rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by August 23, 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: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; 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–2010–0677; Directorate Identifier 2010–NM–075–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 scribe-line-related cracking on 2 Model 727 airplanes. One report was on a 727–100 airplane with 44,171 flight cycles. The crack was near a repair and caused rapid decompression of the airplane. Another report was on a 727–100 airplane with 51,195 flight cycles. The crack was at station 1090–1110, stringer 4L lap joint. This crack also caused rapid decompression of the airplane. This condition, if not corrected, could result in fatigue cracks developing in the skin at scribe line locations. Fatigue cracks, if not corrected, could grow large and cause rapid decompression of the airplane.

Related ADs

This proposed AD is similar to four existing ADs. AD 2010–05–13, Amendment 39–16223 (75 FR 13225, March 19, 2010), applies to Boeing Model 737–100, –200, –200C, –300, –400, and, –500 series airplanes. AD 2007–19–07, Amendment 39–15198 (72 FR 60244, October 24, 2007), applies to certain Boeing Model 757–200, –200PF, and, –200CB series airplanes. AD 2009–24–08, Amendment 39–16096 (74 FR 62217, November 27, 2009) applies to certain Boeing Model 777–200, –200LR, –300, and, –300ER series airplanes. AD 2010–06–16, Amendment 39–16241 (75 FR 12670, March 17, 2010) applies to certain Boeing Model 767 series airplanes. Those ADs require inspections to detect scribe lines in the fuselage skin at certain lap joints, around decal locations, external repair doublers, and other areas; and related investigative/corrective actions if necessary. Those actions resulted from reports of fuselage skin cracks adjacent to the skin lap joints on airplanes that had scribe lines.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010. This service bulletin describes procedures for detailed inspections to detect scribe lines along applicable skin lap joints, skin butt joints, external approved repairs, external features, decals, and fairings. This service bulletin specifies removing paint and sealant from affected areas before the initial detailed inspection. The compliance times for the initial detailed inspections range for certain airplane configurations from 30,000 to 60,000 total accumulated flight cycles (depending on the inspection location), or within up to 36 months after the date of this service bulletin, whichever occurs later. For certain other airplane configurations, the initial detailed inspections range between 6 months and 24 months after the date of this service bulletin.

This service bulletin specifies related investigative actions that include performing low or high frequency eddy current or ultrasonic inspections of the scribe lines to detect cracks, and this service bulletin specifies corrective actions as either repairing scribe lines and cracks or contacting Boeing for repair instructions and doing the repair.

This service bulletin specifies repairing scribe lines before further flight, except when a limited return to service (LRTS) program for qualifying scribe lines would allow return to service for a limited period before scribe lines are repaired. The LRTS program includes repetitive inspections to detect cracks where scribe lines are found. To qualify for an LRTS program, scribe lines must meet certain criteria based on their depth and location. This service bulletin specifies contacting Boeing for final repair instructions, which would eliminate the need for the repetitive inspections of the LRTS program. The repetitive interval for the LRTS program ranges from 800 to 9,000 flight cycles, depending on the depth and location of the scribe lines and the configuration of the airplane.

Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010, notes that certain inspections would not be required under any of the following conditions:

- The airplane had never been stripped or repainted.
- The airplane had never been stripped or repainted under the wing-to-body fairings.
- The airplane has never had any decals installed in inspection areas since delivery.
- The existing repairs on the airplane span at least 3 rows above/forward and 3 rows below/aft of potential scribe lines on lap joints and butt joints.

Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010, specifies submitting the inspection results to Boeing.

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 these same type designs. 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 Service Bulletin." The proposed AD would also require sending the inspection results to the manufacturer.

Differences Between the Proposed AD and Service Bulletin

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions 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 Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD would affect 234 airplanes of U.S. registry. The following table provides the estimated costs 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
Inspection	Up to 320 hours	$85	$0	Up to $27,200	234	Up to $6,364,800.

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–2010–0677; Directorate Identifier 2010–NM–075–AD.

Comments Due Date

(a) We must receive comments by August 23, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to The Boeing Company Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010.

Subject

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

Unsafe Condition

(e) This AD results from reports of scribe lines found at skin lap joints, butt joints, around external repairs and antennas, and at locations where external decals had been cut. The Federal Aviation Administration is issuing this AD to detect and correct scribe lines, which can develop into fatigue cracks in the skin and cause rapid decompression of 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.

Inspection

(g) At the applicable times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010 ("the service bulletin"), except as provided in paragraphs (h) and (i) Of this AD, do detailed inspections for scribe lines of skin lap joints, skin butt joints, around external approved repairs, external features, and fairings, and at locations where external decals may have been cut, and do all applicable related investigative and corrective actions at the times specified in the service bulletin, by accomplishing all actions specified in the Accomplishment Instructions of the service bulletin, except as provided by paragraph (j) of this AD.

Note 1: The inspection exemptions noted in paragraph 1.E. of Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010, apply to this AD.

Exceptions to Service Bulletin Specifications

(h) Where Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010, specifies a compliance time after "the original issue date on this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Where Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010, specifies to calculate the flight-cycle time for an airplane "as of the original issue date on this service bulletin," this AD requires the airplane flight-cycle time to be calculated as of the effective date of this AD.

(j) Where Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010, specifies to contact Boeing for appropriate action, accomplish applicable actions before further flight using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

Report

(k) At the applicable time specified in paragraph (k)(1) or (k)(2) of this AD: Submit a report of positive crack findings of the inspections required by paragraph (g) of this AD. Operators may use the reporting form contained in Appendixes B and C, as applicable, of Boeing Alert Service Bulletin 727–53A0233, dated February 19, 2010. Send the report to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. The report must contain, at a minimum, the inspection results, a description of any discrepancies found, the airplane serial number, and the number of flight cycles and flight hours on the airplane. 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 contained in this AD and has assigned OMB Control Number 2120–0056.

(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.

Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

Issued in Renton, Washington, on June 29, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–16552 Filed 7–6–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0673; Directorate Identifier 2009–NM–208–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 that would supersede an existing AD. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as: In June 2000, prompted by a crack found at the top of the NLG [nose landing gear] oleo, BAE Systems (Operations) Ltd issued Inspection Service Bulletin (SB) 32–158. This SB was classified mandatory by the UK [United Kingdom] Civil Aviation Authority under AD number 002–06–2000, requiring repetitive non-destructive testing (NDT) inspections for cracking on the upper end of the NLG oleo. The AD also provided an optional terminating action for the repetitive inspections, by embodiment of Messier-Dowty SB.146–32–150. As part of a recent accident investigation, the examination of a fractured NLG main fitting showed that Messier-Dowty [M–D] SB.146–32–150 had not been accomplished, although the records indicated that it had been. BAE Systems has determined that more NLG units could be similarly affected. These NLG units have been overhauled at Messier Services in Sterling, Virginia, in the United States. This condition, if not corrected, could result in NLG failure. Subsequently, investigation and analysis by M–D has identified the need for a reduction of the inspection threshold and the repetitive inspection interval for the affected NLG units and has replaced M–D SB 146–32–149 with M–D SB 146–32–174. The unsafe condition is cracking of the NLG, which could adversely affect the airplane's safe landing. 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 August 23, 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 BAE SYSTEMS (Operations) Limited service information identified in this proposed AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675704; e-mail *RApublications@baesystems.com;* Internet *http://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* For Messier-Dowty, contact Messier Services Americas, Customer Support Center, 45360 Severn Way, Sterling, Virginia 20166–8910; telephone 703–450–8233; fax 703–404–1621; Internet *https://techpubs.services.messier-dowty.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: 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–2010–0673; Directorate Identifier 2009–NM–208–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

On February 6, 2002, we issued AD 2002–03–10, Amendment 39–12651 (67 FR 6855, February 14, 2002). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2002–03–10, investigation and analysis by Messier-Dowty has identified the need for a reduction of the inspection threshold and the repetitive inspection interval for the affected nose landing gear (NLG) units, and has replaced Messier-Dowty Service Bulletin 146–32–149, dated April 17, 2000, with Messier-Dowty Service Bulletin 146–32–174, Revision 1, dated September 2, 2009. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0001–E, dated January 4, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

In June 2000, prompted by a crack found at the top of the NLG oleo, BAE Systems (Operations) Ltd issued Inspection Service Bulletin (SB) 32–158.

This SB was classified mandatory by the UK [United Kingdom] Civil Aviation Authority under AD number 002–06–2000, requiring repetitive non-destructive testing (NDT) inspections for cracking on the upper end of the NLG oleo. The AD also provided an optional terminating action for the repetitive inspections, by embodiment of Messier-Dowty SB.146–32–150.

As part of a recent accident investigation, the examination of a fractured NLG main fitting showed that Messier-Dowty SB.146–32–150 had not been accomplished, although the records indicated that it had been. BAE Systems has determined that more NLG units could be similarly affected. These NLG units have been overhauled at Messier Services in Sterling, Virginia, in the United States. This condition, if not corrected, could result in NLG failure.

To address this situation, EASA issued Emergency AD 2009–0043–E to require repetitive NDT inspections of each affected NLG unit and, if cracks are found, replacement with a serviceable unit, in accordance with the instructions of BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.A32–180 and Messier-Dowty (M–D) SB 146–32–149.

Subsequently, investigation and analysis by M–D identified the need for a reduction of the inspection threshold and the repetitive inspection interval for the affected NLG units and replaced M–D SB 146–32–149 with M–D SB 146–32–174. Consequently, BAE Systems SB 32–158 was withdrawn and superseded by BAE Systems Alert ISB.A32–180 Revision 1, which was mandated by EASA Emergency AD 2009–0197–E.

As further information became available BAE Systems saw a need to clarify the compliance instructions in the ISB and have now issued Revision 2 of Alert Service Bulletin ISB.A32–180. The layout of Revision 2 is no longer compatible with the instructions in EASA Emergency AD 2009–0197–E.

For the reasons described above, this Emergency AD retains the requirements of EASA Emergency AD 2009–0197–E, which is superseded, requires repetitive NDT inspections of each affected NLG unit and, if cracks are found, replacement with a serviceable unit and reduces the threshold and interval of the repetitive NDT inspections.

The unsafe condition is cracking of the NLG, which could adversely affect the airplane's safe landing. Corrective actions include replacing the cracked NLG with a serviceable unit. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Messier-Dowty has issued Service Bulletin 146–32–174, Revision 1, including Appendix A, dated September 2, 2009; and Service Bulletin 146–32–150, dated May 22, 2000. 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 estimate that it would take about 1 work-hour per product to comply with the new 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 $85.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–12651 (67 FR 6855, February 14, 2002) and adding the following new AD:

BAE Systems (Operations) Limited: Docket No. FAA–2010–0673; Directorate Identifier 2009–NM–208–AD.

Comments Due Date

(a) We must receive comments by August 23, 2010.

Affected ADs

(b) The AD supersedes AD 2002–03–10, Amendment 39–12651.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A airplanes, and Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes; certificated in any category; having a nose landing gear (NLG) having part number (P/N) 200876001, P/N 200876002, P/N 200876003, P/N 200876004, or P/N 201138002; and as specified in paragraph (c)(1) or (c)(2) of this AD; except those airplanes having NLG P/N 201138002 and serial number (S/N) M–DG–0169 or higher.

(1) Airplanes on which Messier-Dowty Service Bulletin 146–32–150, dated May 22, 2000, has not been accomplished, or

(2) Airplanes on which Messier-Dowty Service Bulletin 146–32–150, dated May 22, 2000, has been accomplished by Messier Services, Sterling, Virginia, United States of America.

Subject

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

Reason

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

In June 2000, prompted by a crack found at the top of the NLG oleo, BAE Systems (Operations) Ltd issued Inspection Service Bulletin (SB) 32–158. This SB was classified mandatory by the UK [United Kingdom] Civil Aviation Authority under AD number 002–06–2000, requiring repetitive non-destructive testing (NDT) inspections for cracking on the upper end of the NLG oleo. The AD also provided an optional terminating action for the repetitive inspections, by embodiment of Messier-Dowty SB.146–32–150.

As part of a recent accident investigation, the examination of a fractured NLG main fitting showed that Messier-Dowty [M–D] SB.146–32–150 had not been accomplished, although the records indicated that it had been. BAE Systems has determined that more NLG units could be similarly affected. These NLG units have been overhauled at Messier Services in Sterling, Virginia, in the United States. This condition, if not corrected, could result in NLG failure.

* * * * *

Subsequently, investigation and analysis by M–D has identified the need for a reduction of the inspection threshold and the repetitive inspection interval for the affected NLG units and has replaced M–D SB 146–32–149 with M–D SB 146–32–174. * * *

* * * * *

The unsafe condition is cracking of the NLG, which could adversely affect the airplane's safe landing.

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 Replacement

(g) Within 30 days after the effective date of this AD, inspect to determine whether an affected NLG unit, as identified in paragraph 1.A.(1) of BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.A32–180, Revision 2, dated October 14, 2009, is installed on the airplane. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the NLG can be conclusively determined from that review. If an affected NLG unit is installed, at the time indicated in Table 1 of this AD, as applicable, do a special detailed inspection for cracking on each affected NLG unit, in accordance with the Accomplishment Instructions of Messier-Dowty Service Bulletin 146–32–174, Revision 1, dated September 2, 2009. Repeat the inspection thereafter at intervals not to exceed 300 flight cycles.

TABLE 1—COMPLIANCE TIME FOR THE SPECIAL DETAILED INSPECTION

NLG Serial No. applicability	Initial inspection compliance time
Serial numbers included in paragraph 1.D., Part 1, of BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.A32–180, Revision 2, dated October 14, 2009.	Before further flight.
Serial numbers included in paragraph 1.D., Part 2, of BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.A32–180, Revision 2, dated October 14, 2009.	In accordance with Table 2 of this AD.
Serial numbers included in paragraph 1.D., Part 3, of BAE Systems (Operations) Limited Alert Inspection Service Bulletin ISB.A32–180, Revision 2, dated October 14, 2009.	In accordance with Table 3 of this AD.

TABLE 2—COMPLIANCE TIME FOR THE SPECIAL DETAILED INSPECTION, EXCLUDING AIRPLANES HAVING NLG S/N M–DG–0158 THROUGH M–DG–0168

As of the effective date of this AD for NLG—	Compliance time—
Having less than 4,700 flight cycles on the NLG	Within 5,000 flight cycles on the NLG since new.
Having greater than or equal to 4,700 flight cycles on the NLG and less than 7,700 flight cycles on the NLG.	Within 300 flight cycles or 60 days after the effective date of this AD, whichever occurs later.
Having greater than or equal to 7,700 flight cycles on the NLG and less than or equal to 8,000 flight cycles on the NLG.	Within 8,000 flight cycles on the NLG since new or within 30 days after the effective date of this AD, whichever occurs later.
Having greater than 8,000 flight cycles on the NLG, and having less than 2,200 flight cycles since last inspection done in accordance with Messier-Dowty Service Bulletin 146–32–149.	Within 300 flight cycles or 60 days after the effective date of this AD, whichever occurs later.
Having greater than 8,000 flight cycles on the NLG, and having greater than or equal to 2,200 flight cycles since last inspection done in accordance with Messier-Dowty Service Bulletin 146–32–149.	Within 2,500 flight cycles since last inspection as done in accordance with Messier-Dowty Service Bulletin 146–32–49, or within 30 days after the effective date of this AD, whichever occurs later.

TABLE 3—COMPLIANCE TIME FOR THE SPECIAL DETAILED INSPECTION FOR AIRPLANES HAVING NLG S/N M–DG–0158 THROUGH M–DG–0168

As of the effective date of this AD for NLG—	Compliance time—
Having less than 12,200 flight cycles on the NLG	Within 12,500 flight cycles on the NLG since new.
Having greater than or equal to 12,200 flight cycles on the NLG and less than 20,200 flight cycles on the NLG.	Within 300 flight cycles or 60 days after the effective date of this AD, whichever occurs later.

TABLE 3—COMPLIANCE TIME FOR THE SPECIAL DETAILED INSPECTION FOR AIRPLANES HAVING NLG S/N M–DG–0158 THROUGH M–DG–0168—Continued

As of the effective date of this AD for NLG—	Compliance time—
Having greater than or equal to 20,200 flight cycles on the NLG and less than or equal to 20,500 flight cycles on the NLG.	Within 20,500 flight cycles on the NLG since new or within 30 days after the effective date of this AD, whichever occurs later.
Having greater than 20,500 flight cycles on the NLG and having less than 2,200 flight cycles since last inspection done in accordance with Messier-Dowty Service Bulletin 146–32–149.	Within 300 flight cycles or 60 days after the effective date of this AD, whichever occurs later.
Having greater than 20,501 flight cycles on the NLG and greater than or equal to 2,200 flight cycles since last inspection done in accordance with Messier-Dowty Service Bulletin 146–32–149.	Within 2,500 flight cycles since last inspection done in accordance with Messier-Dowty Service Bulletin 146–32–149, or within 30 days after the effective date of this AD, whichever occurs later.

(h) If cracking is found on any NLG unit during any inspection required by paragraph (g) of this AD, before further flight, replace the cracked NLG with a serviceable unit, in accordance with Messier-Dowty Service Bulletin 146–32–174, Revision 1, dated September 2, 2009. Replacing any affected NLG unit is terminating action for the repetitive inspections required by paragraph (g) of this AD, if the replacement NLG unit has been modified in accordance with Messier-Dowty Service Bulletin 146–32–150, dated May 22, 2000, or if the replacement NLG unit has P/N 201138002 with S/N M–DG–0169 or higher.

(i) Modifying an affected NLG unit in accordance with Messier-Dowty Service Bulletin 146–32–150, dated May 22, 2000, is terminating action for the repetitive inspections required by paragraph (g) of this AD for that NLG unit.

(j) Inspecting and replacing the NLG unit is acceptable for compliance with the requirements of paragraph (g) of this AD, if done before the effective date of this AD in accordance with Messier-Dowty Service Bulletin 146–32–174, dated August 26, 2009.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: While the European Aviation Safety Agency AD 2010–0001–E, dated January 4, 2010, states that the compliance time to determine affected NLGs is before further flight, this AD requires the determination of the affected NLG within 30 days after the effective date of this AD.

Other FAA AD Provisions

(k) 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

(l) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2010–0001–E, dated January 4, 2010; Messier-Dowty Service Bulletin 146–32–174, Revision 1, dated September 2, 2009; BAE SYSTEMS (Operations) Limited Alert Inspection Service Bulletin ISB.A32–180, Revision 2, dated October 14, 2009; and Messier-Dowty Service Bulletin 146–32–150, dated May 22, 2000; for related information.

Issued in Renton, Washington, on June 29, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–16519 Filed 7–6–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0670; Directorate Identifier 2009–SW–42–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (ECF) Model SA330F, G, and J; and AS332C, L, L1, and L2 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the specified ECF model helicopters. This proposed AD results from a mandatory continuing airworthiness information (MCAI) AD issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community. The MCAI AD states that EASA received a report of a rear hinged door on a Model AS332L1 helicopter opening in flight without loss of the door. Examinations revealed incorrect positioning of a door catch that resulted in incorrect locking and uncontrolled opening of the door. This condition, if not detected and corrected, can lead to the loss of the hinged door in flight, damage to the main or tail rotor blades, and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by August 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.

You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, TX 75053–4005, telephone (800) 232–0323, fax (972) 641–3710, or at *http://www.eurocopter.com.*

Examining the 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 economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone (800) 647–5527) is stated in the **ADDRESSES** section of this proposal. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: DOT/FAA Southwest Region, Gary Roach, ASW–111, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Guidance Group, 2601 Meacham Blvd, Fort Worth, Texas 76137, telephone (817) 222–5130, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written data, views, or arguments about this proposed AD. Send your comments to an address listed in the **ADDRESSES** section of this proposal. Include "Docket No. FAA–2010–0670; Directorate Identifier 2009–SW–42–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 we receive about this proposed AD.

Discussion

EASA, which is the Technical Agent for the Member States of the European Community, has issued EASA AD No. 2009–0015, dated January 21, 2009, to correct an unsafe condition for the specified ECF model helicopters.

The MCAI AD states that EASA received a report of a rear hinged door on a Model AS332L1 helicopter opening in flight without loss of the door. Examinations revealed incorrect positioning of a door catch that "induced incorrect locking and resulted in uncontrolled opening of the door." This condition, if not detected and corrected, can lead to the loss of the hinged door in flight, damage to the main or tail rotor blades, and subsequent loss of control of the helicopter.

You may obtain further information by examining the MCAI AD and any related service information in the AD docket.

Related Service Information

ECF has issued Alert Service Bulletin (ASB) Nos. 52.13 for the SA330F, G, and J helicopters, and 52.00.38 for the AS332C, C1, L, L1, and L2 helicopters, both ASBs dated December 1, 2008. The ASBs specify inspecting the upper and lower catches of the hinged doors to ensure the catches are correctly positioned. The actions described in the MCAI AD are intended to correct the unsafe condition identified in the service information. The AS332C1 is not type certificated in the United States.

FAA's Evaluation and Unsafe Condition Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, their Technical Agent, has notified us of the unsafe condition described in the MCAI AD. 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 helicopters of these same type designs. This proposed AD would require the following:

- Within the next 220 hours time-in-service (TIS) or 6 months, whichever occurs first, inspecting the positioning of each lower and upper door catch.
- If any door catch is improperly installed, before further flight, replacing the affected catch, adjusting the micro-switches, and doing a functional test of the hinged door indicating system.

The requirements would be done by following the specified portions of the ASBs.

Differences Between This AD and the MCAI AD

We refer to flight hours as hours TIS. This AD does not apply to the Model AS332C1 because that model is not FAA type certificated.

Costs of Compliance

We estimate that this proposed AD would affect about 10 helicopters of U.S. registry. We also estimate that it would take about 2 work-hours per helicopter to inspect each door catch for correct position of the door hinges, replace an affected catch, adjust the micro-switches of the hinged door, and do a functional test. The average labor rate is $85 per work-hour. The cost of the required parts is minimal. Based on these figures, we estimate the cost of the proposed AD on U.S. operators would be $1,700.

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 product(s) 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.

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

We prepared an economic evaluation of the estimated costs to comply with this 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:

EUROCOPTER FRANCE: FAA–2010–0670; Directorate Identifier 2009–SW–42–AD.

Comments Due Date

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

Other Affected ADs

(b) None.

Applicability

(c) This AD applies to Model SA330F, G, J, and AS332C, L, L1, and L2 helicopters, certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) AD states that EASA received a report of a rear hinged door on a Model AS332L1 helicopter opening in flight without loss of the door. Examinations revealed incorrect positioning of a door catch that resulted in incorrect locking and uncontrolled opening of the door. This condition, if not detected and corrected, can lead to the loss of the hinged door in flight, damage to the main or tail rotor blades, and subsequent loss of control of the helicopter.

Actions and Compliance

(e) Required as indicated.

(1) Within the next 220 hours time-in-service (TIS) or 6 months, whichever occurs first, unless done previously, inspect the position of each upper and lower door catch:

(i) As depicted in Figures 1 through 4 and by following the Accomplishment Instructions, Table 1 of paragraph 2.B.2., of Alert Service Bulletin (ASB) No. 52.13, dated December 1, 2008 (ASB 52.13) for the Model SA330F, G, and J helicopters, or

(ii) As depicted in Figures 1 through 5 and by following the Accomplishment Instructions, Table 1 of paragraph 2.B.2. of ASB No. 52.00.38, dated December 1, 2008 (ASB 52.00.38) for the Model AS332C, L, L1, and L2 helicopters.

(2) Before further flight, replace each improperly positioned catch by following the Accomplishment Instructions, paragraphs 2.B.3. and 2.B.4., of ASB 52.13 or ASB 52.00.38, as appropriate for your model helicopter.

(3) Before further flight, adjust each micro-switch, and conduct a functional test of the hinged-door indicating system:

(i) By following the Accomplishment Instructions, paragraph 2.B.5. and 2.B.6., of ASB 52.13, for the Model SA330F, G, and J helicopters, or

(ii) By following the Accomplishment Instructions, paragraph 2.B.5.a. through 2.B.5.b. of ASB 52.00.38 for the Model AS332C, L, L1, and L2 helicopters.

Differences Between This AD and the MCAI AD

(f) We refer to flight hours as hours TIS. This AD does not apply to the Model AS332C1 because that model is not FAA type certificated.

Other Information

(g) Alternative Methods of Compliance (AMOCs): The Manager, Safety Management Group, ATTN: DOT/FAA Southwest Region, Gary Roach, ASW–111, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Guidance Group, 2601 Meacham Blvd, Fort Worth, Texas 76137, telephone (817) 222–5130, fax (817) 222–5961, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(h) EASA MCAI AD No. 2009–0015, dated January 21, 2009, contains related information.

Joint Aircraft System/Component (JASC) Code

(i) The JASC Code is 5200: Doors.

Issued in Fort Worth, Texas, on June 11, 2010.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–16528 Filed 7–6–10; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 152

[EPA–HQ–OPP–2010-0427; FRL–8826–5]

Declaration of Prion as a Pest under FIFRA and Amendment of EPA's Regulatory Definition of Pests to Include Prion; Notification to the Secretaries of Agriculture and Health and Human Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to the Secretaries of Agriculture and Health and Human Services.

SUMMARY: This document notifies the public that the Administrator of EPA has forwarded to the Secretaries of Agriculture and Health and Human Services a draft proposed rule under sections 21 and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The draft rule proposes to declare a prion (i.e., proteinaceous infectious particle) a "pest" under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), so a product intended to reduce the infectivity of any prion on inanimate surfaces (i.e., a "prion product") is considered to be a pesticide and regulated as such. Any company seeking to distribute or sell a pesticide product regulated under FIFRA must obtain EPA approval before it can be distributed or sold in the United States. This draft proposed rule would codify the Agency's current interpretation of FIFRA, and provides interested parties the opportunity to comment about how it is adding prion to the list of pests in EPA's regulations. This amendment, together with the formal declaration that a prion is a pest, will eliminate any confusion about the status of prion products under FIFRA. Regulating prion products under FIFRA is appropriate for protecting human health and the environment against unreasonable adverse effects and ensuring that such products are effective.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0427. All documents in the docket are listed in the docket index available in *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available 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 Docket Facility is open 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; e-mail address: *kempter.carlton@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. It simply announces the submission of a draft proposed rule to the United States Department of Agriculture (USDA) and does not otherwise affect any specific entities. This action may, however, be of particular interest to:

• Producers of pesticide products (NAICS 32532).

• Producers of antimicrobial pesticides (NAICS 32561).

• Veterinary testing laboratories (NAICS 541940).

• Medical pathology laboratories (NAICS 621511).

• Taxidermists, independent (NAICS 711510).

• Surgeons (NAICS 621111).

• Dental surgeons (NAICS 621210).

Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be interested in this action. If you have any questions regarding this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What Action is EPA Taking?

Section 25(a)(2) of FIFRA provides that the Administrator must provide the Secretary of Agriculture with a copy of any draft proposed rule at least 60 days before signing it for publication in the **Federal Register**. Similarly, section 21(b) of FIFRA provides that the Administrator must provide the Secretary of Health and Human Services with a copy of any draft proposed rule pertaining to a public health pesticide at least 60 days before signing it for publication in the **Federal Register**. The draft proposed rule is not available to the public until after it has been signed by EPA. If either Secretary comments in writing regarding the draft proposed rule within 30 days after receiving it, the Administrator shall include in the proposed rule when published in the **Federal Register** the comments of the Secretary and the Administrator's response to those comments. If the Secretary does not comment in writing within 30 days after receiving the draft proposed rule, the Administrator may sign the proposed regulation for publication in the **Federal Register** anytime after the 30–day period.

III. Do Any Statutory and Executive Order Reviews Apply to this Notification?

No. This document is not a proposed rule; it is merely a notification of submission to the Secretaries of Agriculture and Health and Human Services. As such, none of the regulatory assessment requirements apply to this document.

List of Subjects in 40 CFR Part 152

Environmental protection, Antimicrobial pesticides, Pests.

Dated: June 24, 2010.

Steven Bradbury,

Director, Office of Pesticide Programs.

[FR Doc. 2010–16169 Filed 7–6–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA–HQ–OPPT–2005-0049; FRL–8836–1]

RIN 2070–AJ57

Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: EPA issued a proposed rule in the **Federal Register** of May 6, 2010, concerning several revisions to the 2008 Lead Renovation, Repair, and Painting Program (RRP) rule. This document reopens the comment period for an additional 30 days.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2005–0049, must be received on or before August 6, 2010.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of May 6, 2010.

FOR FURTHER INFORMATION CONTACT: *For technical information contact*: Cindy Wheeler, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564-0484; e-mail address: *wheeler.cindy@epa.gov*.

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

SUPPLEMENTARY INFORMATION: This document reopens the public comment period established in the **Federal Register** of May 6, 2010 (75 FR 25038) (FRL–8823–5). In that document, EPA proposed several revisions to the 2008 Lead Renovation, Repair, and Painting Program (RRP) rule. The proposal included additional requirements designed to ensure that lead-based paint hazards generated by renovation work are adequately cleaned after renovation work is finished and before the work areas are re-occupied. EPA is hereby reopening the comment period for 30 days.

To submit comments, or access the docket, please follow the detailed instructions as provided under **ADDRESSES** in the May 6, 2010 **Federal Register** document. If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 40 CFR Part 745

Environmental protection, Child-occupied facility, Housing renovation, Lead, Lead-based paint, Renovation, Reporting and recordkeeping requirements.

Dated: July 2, 2010.

Stephen A. Owens,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2010–16657 Filed 7–6–10; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, 24, 27, 90, and 101

[WT Docket No. 10–112; FCC 10–86]

Uniform License Renewal, Discontinuance of Operations, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Federal Communications Commission (Commission) seeks comment on revisions to its rules governing license renewals, discontinuance of operations, geographic partitioning, and spectrum disaggregation for certain Wireless Radio Services in an effort to update and harmonize its rules.

DATES: Submit comments on or before August 6, 2010, and reply comments on or before August 23, 2010. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before September 7, 2010.

ADDRESSES: You may submit comments, identified by WT Docket No. 10–112, by any of the following methods:

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

• *Federal Communications Commission Web site: http://www.fcc.*

gov/cgb/ecfs. Follow the instructions for submitting comments.

• *Mail:* Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• *Hand Delivery/Courier:* Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Room TW–A325, Washington, DC 20554.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0503 or TTY: 202–418–0432. All submissions received must include the agency name and docket numbers for this rulemaking, WT Docket No. 10–112. All comments received will be posted without change to *http://www.fcc.gov/cgb/ecfs.*

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Richard Arsenault, Chief Counsel, Mobility Division, Wireless Telecommunications Bureau, at (202) 418–0920, or e-mail at *Richard.Arsenault@fcc.gov.* In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *Nicholas_A._Fraser@omb.eop.gov* or via fax at 202–395–5167.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (NPRM) in WT Docket No. 10–112, FCC 10–86, adopted on May 20, 2010, and released on May 25, 2010. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, or by downloading the text from the Commission's Web site at *http://www.fcc.gov/.* The complete text also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, Suite CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an e-mail to *FCC504@fcc.gov* or calling the Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis: This document contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the proposed information collection requirements contained in this document as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due September 7, 2010. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

Synopsis of the Notice of Proposed Rulemaking

I. Introduction

1. The Commission currently has a patchwork of rules governing renewal and discontinuance obligations for wireless services, such as cellular, personal communications service (PCS), specialized mobile radio (SMR), and wireless communications service (WCS). In this document, the Commission proposes to create consistent requirements for renewal of licenses and consistent consequences for discontinuance of service, and to clarify construction obligations for spectrum licenses that have been divided, by geographic partitioning or disaggregation of the spectrum. In making its rules clearer and consistent across services, the Commission seeks to apply the rules that have worked the best to a larger group of services, and to simplify the regulatory process for licensees.

II. Discussion

A. Renewal Requirements for Wireless Radio Services

2. One of the Commission's principal goals in this proceeding is to harmonize its varying requirements for the renewal of Wireless Radio Services licenses where such harmonization would advance the public interest. The Commission seeks to implement standardized renewal requirements and expeditious renewal procedures, but only to the extent that such requirements and procedures will ensure that licenses are renewed in the public interest as required by the Act. The Commission finds that adoption of uniform renewal policies and procedures will promote the efficient use of spectrum resources, and will serve the public interest by providing licensees certainty regarding their license renewal requirements. The Commission also finds that the renewal processes that it proposes to adopt below would encourage licensees to invest in new facilities and services, and facilitate their business and network planning. The Commission seeks comment on these findings.

1. Current Requirements

3. Section 1.949(a) of the Commission's rules (47 CFR 1.949(a)) specifies two universal requirements for filing applications for renewal of licenses in the Wireless Radio Services. First, the rule establishes a 90-day filing period for renewal applications, beginning 90 days prior to expiration of an authorization and ending on its expiration date. Second, the rule requires applicants to use the same form as applications for initial authorization in the same service, *i.e.,* FCC Form 601 or 605. Section 1.949(a) further provides that additional renewal requirements applicable to specific services are set forth in the subparts governing those services. The Commission's current renewal requirements vary widely; some rules include comprehensive procedures, while others contain only minimal guidance.

2. Proposed Requirements

4. In the *700 MHz First Report and Order,* 22 FCC Rcd 8064, 8092–8094 (2007), the Commission adopted a new paradigm for renewal of wireless licenses. Specifically, the Commission determined that renewal applicants in the 700 MHz Commercial Services Band will not be subject to competing applications and that if a renewal application is not granted, the licensed spectrum will be returned to the Commission for reassignment. The Commission also determined that renewal applicants in these bands must affirmatively demonstrate that they have provided substantial service to the public during their license term, and are in compliance with the Commission's rules and policies and the Act.

5. The Commission proposes to adopt renewal requirements for numerous Wireless Radio Services based on the Commission's model for the 700 MHz Commercial Services Band licensees. Under this three-part approach:

(1) Renewal applicants must file a detailed renewal showing, demonstrating that they are providing service to the public (or, when allowed under the relevant service rules or pursuant to waiver, using the spectrum for private, internal communication), and substantially complying with the Commission's rules (including any applicable performance requirements) and policies and the Communications Act;

(2) Competing renewal applications are prohibited; and

(3) If a license is not renewed, the associated spectrum is returned to the Commission for reassignment.

6. The Commission proposes to modify the first part of this approach for services licensed by site by requiring affected licensees to certify that they are continuing to operate consistent with their applicable construction notification(s) or authorization(s) (where the filing of construction notifications is not required), rather than making a renewal showing. Wireless Radio Services licensed by rule or on a personal basis or that have no construction/performance obligation are beyond the scope of this proceeding.

7. The Commission proposes to revise § 1.949 to specify the renewal showing requirements and procedures that will be applied to Wireless Radio Services. The proposed language of revised § 1.949 is set forth below. The Commission specifically seeks comment on the draft rule provisions. In addition to revising the generally applicable part 1 renewal rule governing Wireless Radio Services, the Commission proposes a number of rule revisions and deletions in the rule sections governing specific Wireless Radio Services. The Commission specifically requests comment on these proposed rule revisions.

a. Geographically Licensed Services—Renewal Showing

8. The Commission tentatively concludes that the public interest would be served by adopting and applying the Commission's 700 MHz three-part renewal paradigm to the Wireless Radio Services that are licensed on a geographic-area basis and enumerated in revised § 1.949(c) below. In the *700 MHz First Report and Order,* the Commission determined that 700 MHz Commercial Services Band licensees must file a renewal application pursuant to § 1.949, demonstrating "that they have provided substantial service during their past license term, which is defined as service that is sound, favorable, and substantially above a level of mediocre service that just might minimally warrant renewal." The Commission explained that the substantial service showing made in support of a renewal application is distinct from any substantial service performance showing (also known as a buildout or construction showing) under the Commission's service rules. The Commission emphasized that "a licensee that meets the applicable performance requirements might nevertheless fail to meet the substantial service standard at renewal."

9. Many of the Commission's specific service rules require performance showings to be made at the midpoint and end of an initial license term regarding population or area covered. For some services, licensees must demonstrate, or may elect to demonstrate, substantial service as their performance requirement during their initial license term. Thus, under the Commission's current rules, some licensees could make two distinct substantial service showings, one to support their renewal application and one for performance purposes, at the end of their initial license term. Under the Commission's performance requirement rules, a licensee generally provides a snapshot in time (usually as of or near the date on which the notification or other filing is submitted) of the level of service that it is providing to the public. By contrast, a substantial service showing for renewal requires more detailed information regarding a licensee's services and related matters for its entire license period than one made for performance purposes.

10. Specifically, in the *700 MHz First Report and Order,* 22 FCC Rcd at 8093, the Commission explained that "[s]ubstantial service in the renewal context * * * encompasses Commission consideration of a variety of factors including [1] the level and quality of service, [2] whether service was ever interrupted or discontinued, [3] whether service has been provided to rural areas, and [4] any other factors associated with a licensee's level of service to the public." The Commission tentatively concludes that these same factors should be considered by the Commission when evaluating renewal showings for the Wireless Radio Services licensed on a geographic-area basis that are identified above. The Commission requests comment regarding its proposed list of Wireless Radio Services that would be subject to the renewal showing requirement, which are enumerated in proposed § 1.949(c) below. Interested parties that recommend revising the proposed list should specifically describe the proposed change and the rationale for any such change.

11. The Commission also seeks to eliminate any confusion that may have arisen from using the "substantial service" terminology in both the renewal and performance contexts. To avoid the potential for confusion and to better reflect the broad array of factors that the Commission considers when evaluating a renewal application, the Commission proposes to change the applicable nomenclature and require that licensees make a "renewal showing," rather than a "substantial service" renewal showing.

12. Pursuant to § 308(b) of the Communications Act of 1934, the Commission may require renewal applicants to "set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station" as well as "such other information as it may require." The Commission seeks comment on whether it should consider factors in addition to those identified above when evaluating applications for renewal.

13. The Commission notes that a number of its existing service rules enumerate factors that a renewal applicant must address to obtain a renewal expectancy. To facilitate public review and assessment of the factors set forth in various current rules for demonstrating that the applicant should receive a renewal expectancy, the Commission includes a listing of those factors for comment:

- A description of the licensee's current service in terms of geographic coverage and population served;
- An explanation of the licensee's record of expansion, including a timetable for the construction of new sites to meet changes in demand for service;
- A description of its investments in its system;
- A list, including addresses, of all cell transmitter stations constructed;
- Identification of type of facilities constructed and their operational status;
- Consideration of whether the licensee is offering a specialized or technologically sophisticated service that does not require a high level of coverage to benefit customers;
- Consideration of whether the licensee's operations serve niche markets or focus on serving populations outside of areas served by other licensees; and
- Consideration of whether the licensee's operations serve populations with limited access to telecommunications services.

14. The Commission seeks comment regarding whether, in addition to the factors it specified in the *700 MHz First Report and Order,* the public interest would be served by consideration of any of the factors enumerated above when assessing whether a licensee has demonstrated a level of service warranting renewal. The Commission encourages parties to address whether these or other factors would enhance its ability to assess whether a license should be renewed, and the degree to which a factor could reasonably be demonstrated by renewal applicants. The Commission further encourages parties to address whether these or other factors should be used where facilities are used to meet a licensee's private, internal communication needs.

15. The Commission also seeks comment on whether the public interest would be served by codifying in § 1.949 a nonexclusive list of the factors that applicants should address in renewal showings. Enumerating such factors in one rule for all affected services would provide members of the wireless industry regulatory certainty in an area where there currently is scant precedent and varying requirements in the Commission's service rules. The Commission's objective in suggesting a standardized codification of relevant factors is to conform the current service-specific rules to the proposed policies discussed herein and to eliminate any potential confusion. The Commission requests comment on this proposal.

16. *Broadband Radio Service and Educational Broadband Service.* The Commission concludes that modification of its renewal showing proposal is appropriate to address the unique circumstances of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS). Given the Commission's decision to allow BRS and EBS licensees to discontinue service and to require substantial service as of May 1, 2011 (Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165 (2004)), the Commission generally believes it would not be appropriate to apply its proposed renewal framework to BRS or EBS licenses with a term that is scheduled to expire on or before that date. Accordingly, given that most BRS incumbent licenses expire on May 1, 2011, the Commission proposes to apply this renewal framework to BRS incumbent licenses starting with their new license term. The Commission also tentatively concludes that it would be premature to apply this renewal framework to EBS licenses with ten-year license terms scheduled to expire on or before May 1, 2011. The Commission seeks comment on the appropriate effective date for applying this renewal paradigm to EBS licensees with ten-year license terms scheduled to expire after that date. In addition, the Commission proposes to apply the renewal framework to BRS Basic Trading Authorizations, most of which are scheduled to expire in 2016. The Commission believes such licensees will have sufficient time to complete the transition and make the required renewal showing over the period from 2011 to 2016. The Commission seeks comment on these proposals and any other issues related to renewals for BRS and EBS.

b. Site-Based Licensed Services—Certification Requirement

17. The Commission finds that Wireless Radio Services licensed by site generally are subject to licensing and renewal policies under which requiring a showing of substantial service to support grant of renewal would not be appropriate. In site-based services, a licensee's initial application for authorization provides the exact technical parameters of its planned operations, and the licensee's subsequent notification that it has completed construction confirms that the facilities have been constructed consistent with its authorization (or with minor modifications as may be permitted by the applicable service rules). A licensee also may file to modify its license, which may lead to a modified authorization and the submission of a subsequent construction notification. Consequently, at the time a site-based service provider files a renewal application, it should be operating as licensed or not operating. Under either scenario, the concept of substantial service is inapposite.

18. Accordingly, for site-based services, the Commission proposes to revise its Form 601 application to require renewal applicants to certify that they are continuing to operate consistent with the applicable filed construction notification(s) (NT) or most recent authorization(s) (when no NT is required under the Commission's rules). The Commission tentatively concludes that if a licensee makes the required certification and demonstrates substantial compliance with its rules and policies and the Communications Act, the Commission will renew the license. Licensees in the site-based services thus would not be required to make a substantial service renewal showing. The Commission tentatively concludes that the services enumerated in proposed § 1.949(d), below, should be subject to this certification process

19. The Commission believes that adoption of a streamlined certification process for renewal of licenses in these site-based services will avoid unduly burdening renewal applicants and Commission staff. At the same time, applying the certification process to site-based services will ensure that renewed licenses in these services are being operated as authorized. The Commission requests comment on its proposed identification of Wireless Radio Services subject to the certification requirement in lieu of a required substantial service showing, which are enumerated in proposed § 1.949(d), below. Interested parties that recommend that the Commission's designation of services be revised should specifically describe the proposed change and the rationale for any change. The Commission also requests comment whether, in its consideration of renewal applications involving site-based licenses, there are any additional factors it should consider.

c. Geographically and Site-Based Licensed Services—Other Requirements

20. As explained above, the Commission proposes to adopt a renewal showing requirement for renewal applicants in Wireless Radio Services licensed by geographic area and a streamlined certification requirement for renewal applicants in services licensed by site. Below, the Commission proposes to apply a single regulatory compliance demonstration requirement to all renewal applicants, whether licensed by geographic area or by site. The Commission also proposes to prohibit the filing of competing applications against such renewal applications and that, if a renewal application is denied, the associated spectrum generally will be returned to the Commission.

(i) Regulatory Compliance Demonstration

21. In the *700 MHz First Report and Order,* 22 FCC Rcd at 8093, the Commission stated that in addition to demonstrating that they are providing substantial service to the public, renewal applicants must demonstrate "that they have substantially complied with all applicable Commission rules, policies, and the Communications Act of 1934, as amended, including any applicable performance requirements." Such a regulatory compliance demonstration serves the public interest by facilitating the Commission's evaluation of the character and other qualifications of a renewal applicant. The Commission therefore proposes that

renewal applicants in the geographic-area and site-based Wireless Radio Services identified in proposed § 1.949 be required to demonstrate regulatory compliance.

22. To aid review of a renewal applicant's regulatory compliance, the Commission tentatively concluded that an applicant must file copies of all FCC orders finding a violation or an apparent violation of the Communications Act or any FCC rule or policy by the licensee, an entity that owns or controls the licensee, an entity that is owned or controlled by the licensee, or an entity that is under common control with the licensee (whether or not such an order relates specifically to the license for which renewal is sought). This disclosure requirement would apply to all orders finding such violations during the license term for which renewal is sought, including orders that are, or could be, the subject of administrative or judicial review. For purposes of this disclosure requirement, relevant FCC orders would include, but would not be limited to, any Notice of Apparent Liability for Forfeiture, Forfeiture Order, Admonishment, Notice of Violation, Memorandum Opinion and Order, or Order on Review finding a violation or an apparent violation of the Communications Act or any FCC rule or policy by the licensee. The Commission proposes to rely upon the definition of "affiliate" in § 1.2110(c)(5) of its rules to define the scope of entities related to the renewal applicant that are encompassed within these proposed disclosure requirements.

23. If there are no FCC orders finding violations of the Communications Act or any FCC rule or policy, the Commission proposes that a licensee certify the absence of any such findings as part of the renewal application. The Commission seeks comment on the costs and benefits of its proposed framework to licensees, interested parties, and the Commission, and whether additional information would aid its review of an applicant's regulatory compliance.

(ii) Prohibition of Competing Renewal Applications

24. Consistent with the Commission's renewal approach for the 700 MHz Commercial Services Band, the Commission tentatively concludes to prohibit the filing of competing (*i.e.,* mutually exclusive) applications against renewal applications for the Wireless Radio Services identified in § 1.949, whether licensed by site or geographic area. In the *700 MHz First Report and Order,* the Commission noted the potential costs and the burdens that competing applications impose on both the Commission and licensees. The Commission's experience has shown that the comparative renewal process can result in protracted litigation that may be unduly burdensome for an incumbent licensee and strain available Commission resources. A renewal applicant may have to devote considerable resources to defend its authorization against competing applications, resources that might otherwise be used to improve service to the public.

25. The Commission finds that its established petition to deny process affords interested parties an appropriate mechanism to challenge the level of service and qualifications of licensees seeking renewal. In this regard, the Commission found in the *700 MHz Report and Order* that the ability of a party to file a petition to deny and participate in an auction of spectrum if the licensed spectrum is returned to the Commission will provide sufficient incentives to challenge inferior service or poor qualifications of licensees at renewal. Interested parties that might otherwise file a competing application would, under the Commission's proposed framework, have the opportunity to participate in the auction of spectrum recovered from any geographic licensee or to apply for spectrum recovered from a site-based licensee (provided the spectrum did not revert to a geographic overlay licensee). The Commission has repeatedly concluded that spectrum auctions most likely will result in the licensing of spectrum to a party that most highly values the spectrum. Moreover, as the Commission has moved from comparative licensing regimes to competitive bidding processes for awarding spectrum licenses, eliminating the filing of competing renewal applications will harmonize the Commission's renewal processes with those for granting initial authorizations.

26. The Commission also finds that the public interest would be served by preventing parties from interposing "strike" applications against a renewal applicant for possible anticompetitive purposes, to harass an applicant, or to exact a payoff. The comparative renewal process was never intended to invite such abuse, and specious challenges needlessly drain Commission resources and disserve the public interest. While abuse of process is not the driving force behind the Commission's tentative conclusion to eliminate comparative renewal applications, the Commission nonetheless invites comment on whether such abuse, either actual or potential, is a concern to renewal applicants. The Commission seeks comment on the costs and benefits to the public, the Commission, and licensees that may be associated with the Commission's tentative conclusion to prohibit the filing of competing renewal applications.

(iii) Return of Spectrum to Commission If Renewal Application Denied

27. Consistent with the Commission's approach for 700 MHz Commercial Services Band licensees, the Commission tentatively concludes that if a renewal applicant fails to demonstrate substantial service (for services licensed by geographic area) or does not certify that it is continuing to operate consistent with the applicable construction notification(s) or authorization(s), as applicable (for services licensed by site), its renewal application will be denied and its licensed spectrum generally will be returned automatically to the Commission for reassignment by auction or other mechanism that the Commission concludes would serve the public interest. The Commission notes that even if a licensee demonstrates substantial service or makes the required certification, it could nevertheless find that a license should not be renewed based on substantial regulatory non-compliance (*e.g.,* where a licensee has been found to have abused Commission processes or committed fraud).

28. The Commission also notes that in the case of the non-renewal of a site-based license, it has established a general policy of the spectrum reverting to the geographic area licensee on the same spectrum. The Commission proposes to continue its policy of having spectrum revert to a geographic area licensee if an underlying site-based authorization is not renewed. The Commission tentatively concludes that adoption of these policies would serve the public interest and invites comment on the Commission's findings.

3. Wireless Radio Services Excluded From Rulemaking

29. Finally, the Commission tentatively concludes that various Wireless Radio Services should not be affected by the renewal proposals in this rulemaking. Specifically, the Commission tentatively concludes that it will not apply the revised renewal paradigm to Wireless Radio Services where operations are licensed by rule (and thus there is no "license" to renew) or to Wireless Radio Services that can be considered to involve a "personal" license or that have no construction obligation. The following services are

licensed by rule and therefore there is no individual license to renew (or to cancel automatically) and no basis to adopt any of the proposals discussed above: Citizens Band Radio Service (47 CFR part 95, subpart D); Dedicated Short Range Communications Service (On-Board Units operating in the 5850–5925 MHz band) (47 CFR part 95, subpart L); Family Radio Service (47 CFR part 95, subpart B); Low Power Radio Service (47 CFR part 95, subpart G); Medical Device Radiocommunication Service (47 CFR part 95, subpart I); Multi-Use Radio Service (47 CFR part 95, subpart J); Personal Locator Beacons (47 CFR part 95, subpart K); Radio Control Radio Service (47 CFR part 95, subpart C); and Wireless Medical Telemetry Service (47 CFR part 95, subpart H).

30. The Commission also proposes to exclude from the proposals in the *Notice* services that involve licenses that are granted on a personal basis or that have no construction/performance requirement. Without a construction obligation, the Commission's proposal to require renewal applicants to make a showing of substantial service or to certify that they are operating consistent with prior filings regarding construction is inapplicable. These services include: 70–80–90 GHz Service (licenses in these bands are non-exclusive and do not authorize transmission unless/until each "pencil beam" link is registered in a private-sector database) (47 CFR part 101, subpart Q); Aeronautical Advisory Stations (Unicoms) (47 CFR part 87, subpart G); Aeronautical Enroute and Aeronautical Fixed Stations (47 CFR part 87, subpart I); Aeronautical Multicom Stations (47 CFR part 87, subpart H); Aeronautical Search and Rescue Stations (47 CFR part 87, subpart M); Aeronautical Utility Mobile Stations (47 CFR part 87, subpart L); Aircraft Stations (47 CFR part 87, subpart F); Airport Control Tower Stations (47 CFR part 87, subpart O); Alaska Fixed Stations (47 CFR part 80, subpart O); Amateur Radio Service (47 CFR part 97); Automatic Weather Stations (47 CFR part 87, subpart S); Aviation Support Stations (47 CFR part 87, subpart K); Commercial Radio Operator License Program (47 CFR part 13); Flight Test Stations (47 CFR part 87, subpart J); General Mobile Radio Service (47 CFR part 95, subpart A); Maritime Support Stations (47 CFR part 80, subpart N); part 80 Operational Fixed Stations (47 CFR part 80, subpart L); Private Coast Stations and Marine Utility Stations (47 CFR part 80, subpart K); Radiodetermination Service Stations (47 CFR part 80, subpart M); Ship Stations (47 CFR 80.13(c)); and Wireless Broadband Services in the 3650–3700 MHz Band (licenses in these bands are nationwide, non-exclusive, and do not authorize transmission unless and until each fixed or base station is registered; an unlimited number of base and fixed stations may be registered (not licensed) in this band on a nationwide, non-exclusive basis) (47 CFR part 90, subpart Z).

31. The Commission requests comment on its proposed identification of Wireless Radio Services to be excluded entirely from its revised renewal rules. Interested parties that recommend that the Commission's designation of services be revised should describe in detail the nature of the proposed change and the rationale for any such change.

B. Permanent Discontinuance of Operations for Wireless Radio Services

32. The Commission proposes to adopt a uniform regulatory framework governing the permanent discontinuance of operations for Wireless Radio Services under parts 22, 24, 27, 80, 90, 95 and 101 of the Commission's rules. The Commission's goal is to adopt a standardized approach for all services, whether licensed by geographic area or by site, to the maximum extent practicable.

33. Because an authorization will automatically terminate, without specific Commission action, if service is permanently discontinued, it is imperative that the Commission's rules provide a clear and consistent definition of permanent discontinuance of operations; they do not. The definition varies by service, and some service rules contain no clear definition. The Commission believes that standardizing the definition of permanent discontinuance of operations will serve the public interest by providing licensees and other interested parties much needed certainty and by affording similarly-situated licensees and like services comparable regulatory treatment.

1. Current Requirements

34. Under § 1.955(a)(3) of the Commission's rules (47 CFR 1.955(a)(3)), "[t]he Commission authorization or the individual service rules govern the definition of permanent discontinuance for purposes of this section." The rule provides that a "station that has not provided service to subscribers for 90 continuous days is considered to have been permanently discontinued * * *." Section 90.157(a), which applies to most part 90 services, provides that "[a]n authorization shall cancel automatically upon permanent discontinuance of operations." The rule further provides that "for the purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued."

35. In contrast to the part 22 and part 90 rules, many services, including those authorized by competitive bidding (such as the Commission's part 24 PCS rules and part 27 Miscellaneous Wireless Communication Services rules) contain no definition of permanent discontinuance. Thus, subject to meeting any service-specific construction and renewal requirements, a part 24 or part 27 licensee might conclude that it could discontinue service for a long period without fear of automatic license termination. Licensees in these services thus might retain their spectrum while it lies idle for extended periods, while part 22 licensees (including cellular service licensees, which may provide directly competing services) are subject to automatic license termination if they discontinue service to subscribers for 90 days (120 days with a 30-day extension). The public interest is not served by such marked regulatory disparities.

2. Proposed Requirements

36. The Commission believes that the adoption of a uniform discontinuance of service rule for parts 22, 24, 27, 80, 90, 95 and 101 Wireless Radio Services will serve the public interest by ensuring that similarly situated licensees are afforded comparable regulatory treatment. Under the Commission's proposal, part 24 and part 27 licensees would be definitely subject to the consequence of a discontinuance of service rule—*i.e.,* automatic termination of an authorization. The Commission also believes that adoption of uniform permanent discontinuance policies will serve the public interest by ensuring that valuable spectrum is not underutilized, and by providing certainty to licensees, investors, and other interested parties, which will facilitate business and network planning. Accordingly, the Commission seeks comment on the appropriate definition of permanent discontinuance of operations and whether to adopt a single definition for Wireless Radio Services licensed either by geographic area or by site.

37. The Commission seeks comment on the length of the period that should be used to define permanent discontinuance of service that would trigger automatic license termination. The Commission's goal is to strike an appropriate balance between providing

licensees operational flexibility while ensuring that spectrum does not lie fallow. As noted above, part 22 licensees are now afforded up to a 120-day discontinuance of service period. Technologies continue to evolve rapidly and the Commission seeks to encourage technological innovation by its licensees. The Commission believes that a discontinuance of service period longer than 90 or 120 days, such as 180 days, might better enable licensees to implement technology upgrades involving reconfiguration and possible relocation of cell sites and other network elements.

38. The Commission seeks comment on the costs and benefits of defining permanent discontinuance as 180 consecutive days or 12 consecutive months during which a licensee does not operate or, for certain services, does not serve at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier. The Commission also requests that interested parties address whether a 180-day or 12-month discontinuance period would enable spectrum warehousing.

39. Subject to certain limited exceptions noted below, the Commission tentatively concludes that for any Wireless Radio Service for which prior approval to discontinue service is not required, permanent discontinuance of service should be defined as 180 consecutive days during which a licensee does not operate or, in the case of Commercial Mobile Radio Service (CMRS) providers, does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier. The Commission proposes to consolidate its permanent discontinuance of service requirements via a new § 1.953 (below), and seeks detailed comment on the proposed language of § 1.953, and all aspects of its proposal. The Commission notes that a new § 1.953 would require a licensee that permanently discontinues service to notify the Commission of the discontinuance by filing FCC Form 601 or FCC Form 605 requesting license cancellation. The Commission seeks comment on this provision and whether there may be alternatives to a self-reporting requirement.

40. The Commission also tentatively concludes that its proposed permanent discontinuance rule should apply commencing on the date a licensee makes its initial construction showing or notification. Under this approach, if a CMRS provider makes a five-year construction showing, it would have to serve at least one subscriber that is not affiliated with, controlled by, or related to it in any ensuing 180-day period or else it would be deemed to have permanently discontinued service and its license would automatically terminate without specific Commission action. The Commission questions whether in the Narrowband PCS, for example, it would be inequitable for it to reclaim spectrum from a licensee that meets its five-year construction obligation, and then discontinues operations for 180 days before the end of its license term, while only applying a ten-year construction obligation to licensees that elect to demonstrate substantial service. The Commission seeks comment whether, under these circumstances, the public interest would be better served if it applied its permanent discontinuance of operations rule only after the initial license term.

41. The Commission notes that if it were to adopt a 180-day discontinuance period, a licensee could request more time to implement a network upgrade or to complete a distress sale, for example. The text of proposed § 1.953(f) sets forth a process under which a request for a longer discontinuance period may be filed for good cause, and subject to the requirement that it is filed at least 30 days before the end of the discontinuance period. Under the proposed rule, the filing of a request would automatically extend the discontinuance period a minimum of the latter of an additional 30 days or the date upon which the Wireless Telecommunications Bureau acts on the request. The Commission seeks comment on these proposed provisions.

42. In addition, the Commission tentatively concludes that operation of so-called channel keepers (*e.g.* devices that transmit test signals, tones and/or color bars) will not constitute operation for the purposes of the Commission's permanent discontinuance rules. The Commission seeks comment below on the application of this proposed framework to various services.

a. Part 22 Public Mobile Services

43. The Commission's part 22 rules govern operations in the Paging and Radiotelephone Service, Rural Radiotelephone Service, Air-Ground Radiotelephone Service, Cellular Radiotelephone Service, and Offshore Radiotelephone Service. Under § 22.317 of the Commission's rules, "any station that has not provided service to subscribers for 90 continuous days is considered to have been permanently discontinued, unless the applicant notified the FCC otherwise prior to the end of the 90 day period and provided a date on which operations will resume, which date must not be in excess of 30 additional days." Service to subscribers is defined as "[s]ervice to at least one subscriber that is not affiliated with, controlled by or related to the providing carrier." The Commission seeks comment on whether for each part 22 service (some of which are licensed by geographic area and some by site), the public interest would be served by defining permanent discontinuance as 180 consecutive days during which a licensee does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier. The Commission seeks specific comment on whether the additional operational flexibility that would be afforded by a 180-day or longer period would be beneficial.

b. Part 24 Personal Communications Services

44. Section 1.955(a)(3) of the Commission's rules provides that an authorization will "automatically terminate, without specific Commission action, if service is permanently discontinued." The rule also provides that "[t]he Commission authorization or the individual service rules govern the definition of permanent discontinuance for purposes of this section." For many of the Commission's services authorized by competitive bidding (such as PCS), the specific service rules do not define permanent discontinuance of operations.

45. The Commission seeks comment on whether, for Broadband and Narrowband PCS, the public interest would be served by defining permanent discontinuance as 180 consecutive days during which a licensee does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier. The Commission notes that the mid- and end-of-term performance requirements for these services vary based on the size of a market area and authorized bandwidth. Moreover, a narrowband PCS licensee may elect to forego making a five-year mid-term geographic area or population-based construction showing and, instead, elect to demonstrate substantial service by the end of its license term.

c. Part 27 Miscellaneous Wireless Communications Services

46. The Commission's part 27 Miscellaneous Wireless Communications Services include: (1) 700 MHz Commercial Service (Lower and Upper 700 MHz Bands); (2) 700 MHz Guard Band Service; (3) 1.4 GHz Service; (4) 1.6 GHz Service; (5) Advanced Wireless Service (AWS–1,

1710–1755 MHz, 2110–2155 MHz); (6) Wireless Communications Service (WCS, 2305–2320 and 2345–2360 MHz), and (7) the Broadband Radio Service and Educational Broadband Service. Part 27 does not define permanent discontinuance for any of these services. However, section 27.66(b) of the Commission's rules requires fixed common carriers in any of these services to obtain prior Commission authorization before voluntarily discontinuing service to a community or part of a community, which will be granted "within 31 days after filing if no objections have been received." Fixed non-common carrier licensees, on the other hand, may voluntarily discontinue service without prior Commission authorization and need only provide the Commission notice within seven days of such discontinuance.

47. Many part 27 licensees must, as a performance requirement (*i.e.,* construction requirement), make a showing of substantial service in their license area during their license term. For these part 27 licensees, the Commission proposes to apply the permanent discontinuance rule effective on the date that a licensee makes its performance showing. Thus, if a licensee makes its substantial service performance showing in year six of its initial license term, thereafter it must serve at least one subscriber that is not affiliated with, controlled by, or related to it in any ensuing 180-day period or else it would be deemed to have permanently discontinued service and its license would automatically terminate without specific Commission action. The Commission seeks comment on application of its proposed permanent discontinuance rule to licensees that must make a showing of substantial service in their license area within their initial license term.

48. Rather than demonstrate substantial service as their performance requirement, Part 27 licensees that hold 700 MHz Commercial Services Band authorizations for Blocks A, B, C, and E must satisfy population-based or geographic-area performance requirements. Licensees in these spectrum blocks must make their initial construction showing no later than June 13, 2013, or four years from license grant if an initial authorization is granted after June 13, 2009. The Commission proposes to apply a permanent discontinuance rule to these licensees effective upon the date that a licensee makes its first performance showing. The Commission notes that, unlike Narrowband PCS licensees, this group of 700 MHz licensees will not have the option of electing to show substantial service at the end of their license term in lieu of making an interim performance showing. Under these circumstances, the Commission finds the public interest would be served if it applies its proposed permanent discontinuance rule effective upon a licensee making its first performance showing. The Commission seeks comment on its findings and application of the proposed permanent discontinuance rules to licensees for 700 MHz Blocks A, B, C, and E.

49. *Broadband Radio Service and Educational Broadband Service.* The Commission is implementing a new band plan for BRS and EBS. To enable licensees to transition to the new band plan and deploy new and innovative wireless services, the Commission eliminated its discontinuance of service rules, and adopted a substantial service standard under which all licensees must demonstrate substantial service on or before May 1, 2011. The Commission tentatively concludes that it would not serve the public interest to re-impose a discontinuance of service rule on BRS and EBS at this time. The transition to the new band plan is ongoing, and licensee transition reports indicate that many are discontinuing existing operations as they transition. Accordingly, the Commission proposes to maintain the right of BRS and EBS licensees to discontinue service during the transition, and seek comment on the appropriate date thereafter on which to apply discontinuance of service rules to BRS and EBS.

d. Part 80 Safety and Special Radio Services

50. Part 80, which governs stations in the Maritime Services, does not currently define permanent discontinuance of operations. Section 80.31 of the Commission's rules provides that "[w]ireless telecommunications carriers subject to this part must comply with the discontinuance of service provisions of part 63 of this chapter," but this rule has limited applicability. The Commission seeks comment on whether to define permanent discontinuance of service for part 80 stations as 180 consecutive days during which a licensee does not operate or, in the case of certain stations, does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier.

e. Part 90 Private Land Mobile Radio Services

51. Section 90.157(a) of the Commission's rules provides that "[a]n authorization shall cancel automatically upon permanent discontinuance of operations." The rule further provides that "[u]nless stated otherwise in this part or in a station authorization, for the purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued." This rule applies to all part 90 services, except trunked Specialized Mobile Radio (SMR) Service, which is discussed below. Some part 90 services are used for seasonal operations such as ski resort operations or beach patrols. Because such operations may be conducted for less than six months in any given 12-month period, the Commission intends to retain the one-year discontinuance of operations rule. The Commission does, however, propose to modify this rule by also requiring service to at least one unaffiliated subscriber during the one-year period if the licensed spectrum is used for Commercial Mobile Radio Service (CMRS) purposes. The Commission would thus define permanent discontinuance for services licensed as CMRS under part 90 as a 12-month period during which a licensee does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier. Licenses used for private, internal communications do not involve the provision of service to unaffiliated subscribers, so the Commission proposes to retain the existing discontinuance of operations test for these types of licenses. The Commission seeks comment on its proposed approach.

f. Part 90 Specialized Mobile Radio Service

52. Section 90.631(f) of the Commission's rules, which governs permanent discontinuance of trunked SMR Service operations, is similar to § 22.317, governing permanent discontinuance of operations for all part 22 Public Mobile Services. The rule provides that an SMR "licensee with facilities that have discontinued operations for 90 continuous days is presumed to have permanently discontinued operations," unless it notifies the Commission "prior to the end of the 90 day period and provides a date on which operation will resume, which date must not be in excess of 30 additional days." Under the rule, a trunked SMR base station "is not considered to be placed in operation unless at least two associated mobile stations, or one control station and one mobile station, are also placed in operation." The Commission proposes to conform its requirements for permanent

discontinuance for part 90 trunked SMR and part 22 Public Mobile Services. Accordingly, the Commission seeks comment on whether, for part 90 trunked SMR Service, the public interest would be served by defining permanent discontinuance as 180 consecutive days during which a licensee does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier. The Commission encourages parties to address whether the practical effect of the rule would be undermined by not requiring service to at least two associated mobile stations, or one control station and one mobile station, as § 90.631(f) currently provides.

g. Part 95 218–219 MHz Service

53. Part 95 does not currently define permanent discontinuance of operations for licensees in the 218–219 MHz Service. The Commission seeks comment on whether for 218–219 MHz Service providers, the public interest would be served by defining permanent discontinuance of operations as 180 consecutive days during which a licensee does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier.

h. Part 101 Fixed Microwave Services

54. Section 101.65(b) of the Commission's rules provides that any part 101 "station which has not operated for one year or more is considered to have been permanently discontinued." The Commission notes that § 101.65(a), which applies to all part 101 stations, provides that "a license will be automatically forfeited in whole or in part * * * upon the voluntary removal or alteration of the facilities, so as to render the station not operational for a period of 30 days or more." The Commission seeks comment on the relationship of this 30-day rule to its proposed 180-day permanent discontinuance rule, including whether the rule should be eliminated or modified in any respect.

C. Geographic Partitioning and Spectrum Disaggregation Rules and Policies

55. The Commission tentatively concludes that the public interest would be well served if the Commission revises its geographic partitioning and spectrum disaggregation rules to require each party to such an arrangement to independently satisfy construction obligations under the applicable service rules. The Commission's experience with implementation of partitioning and disaggregation across myriad wireless radio services indicates that parties can, and sometimes do, manipulate the requirements in ways that result in spectrum in some services lying fallow for lengthy periods. The Commission therefore seeks to eliminate any provisions in its partitioning and disaggregation rules that enable parties to avoid timely construction.

56. The Commission's approach is intended to ensure that valuable spectrum does not lie fallow to the public's detriment, while still affording wireless service providers flexibility to configure geographic area licenses and spectrum blocks to meet their operational needs. The Commission's approach also will provide licensees greater regulatory certainty by eliminating service-specific inconsistencies regarding satisfaction of performance requirements when spectrum is partitioned or disaggregated. Harmonization of these rules across wireless radio services, moreover, will place licensees in different services on more comparable regulatory footing to the extent that partitioning or disaggregation is permitted in specific services.

1. Current Requirements

57. In the 1996 *CMRS Partitioning and Disaggregation Order,* 11 FCC Rcd 21831 (1996), the Commission adopted geographic partitioning and spectrum disaggregation rules for Broadband PCS. The Commission sought to provide licensees flexibility to determine the amount of spectrum they will occupy and the geographic area they will serve. The Commission echoed these goals when it subsequently adopted partitioning and disaggregation rules akin to the PCS rules on a service-by-service basis, including in the 800 MHz and 900 MHz Specialized Mobile Radio (SMR) Services, 39 GHz Service, Wireless Communications Service (WCS), 220–222 MHz Service, and Cellular Radiotelephone Service.

58. In adopting partitioning and disaggregation rules and policies, the Commission has sought to promote multiple, albeit sometimes competing, goals. The Commission specifically envisioned that partitioning and disaggregation would expedite the provision of service to rural and other underserved areas of America as well as to niche markets. These goals remain paramount today as the Commission develops a national strategy to extend the promise of broadband to all Americans.

59. The Commission also has previously determined that partitioning and disaggregation would promote the efficient use of spectrum by providing licensees with the flexibility to make offerings directly responsive to market demands for particular types of service. It thus adopted rules that provide geographic-area licensees discretion to determine the amount of spectrum they will occupy and the area they will serve consistent with their business plan, which may not necessarily coincide with predetermined spectrum blocks and geographic areas of the licenses in a specific service. In the Upper *700 MHz First Report and Order,* 15 FCC Rcd 476, 507 (2000), for example, the Commission "permit[ted] geographic partitioning of any service area defined by the partitioner and partitionee, spectrum disaggregation without restriction on the amount of spectrum to be disaggregated and combined partitioning and disaggregation." The Commission also sought to increase competition through its partitioning and disaggregation polices by enabling market entry. Numerous licensees and others have availed themselves of these options.

60. While seeking to afford licensees the significant flexibility described above, the Commission also has sought to ensure that licensees meet applicable service performance obligations (*i.e.,* construction and operation). Although the Commission has reiterated this goal when specifying performance requirements for partitioning and disaggregation across numerous wireless radio services, the text of the rules varies considerably across services, and often without a detailed explanation for the variations. Some of these variations have enabled parties to manipulate the requirements in unforeseen ways that result in spectrum in some services lying fallow for lengthy periods. The Commission seeks to rectify this problem.

2. Proposed Requirements

61. The Commission tentatively concludes that the public interest would be better served if it revises its rules to require each party to a partitioning, disaggregation, or combination of both to independently satisfy the service-specific construction obligations. Accordingly, the Commission proposes to adopt an independent construction requirement for each party to a geographic partitioning or spectrum disaggregation in those services that currently provide for partitioning or disaggregation. This approach would eliminate any provisions in the Commission's partitioning and disaggregation rules that enable parties to avoid timely construction. The Commission's goal is to harmonize its

disparate partitioning and disaggregation rules to address these concerns while affording licensees significant flexibility to structure their coverage areas and spectrum use as envisioned when these rules were adopted.

62. Specifically, the Commission tentatively concludes that the public interest will be served by requiring each party to a partitioning, disaggregation, or combination of both, in any of the services enumerated in proposed rule § 1.950(b), to individually meet the applicable service performance requirements (both construction and operation) for its license.

63. The Commission proposes to harmonize and consolidate all of the Commission's partitioning and disaggregation requirements in a new § 1.950 to the maximum extent practicable. This section will apply to the more than 20 wireless radio services in which geographic partitioning or spectrum disaggregation is now permitted. The proposed language for the new § 1.950 is set forth below The Commission seeks detailed comment on the wording of the proposed § 1.950 and all aspects of the Commission's proposal, including whether imposing a construction obligation on both parties to a partitioning or disaggregation could in some cases discourage publicly beneficial arrangements.

64. In the PCS disaggregation context (*CMRS Partitioning and Disaggregation Order,* 11 FCC Rcd at 21865), the Commission stated that "[b]ecause our rules do not dictate a minimum level of spectrum usage by the original PCS licensee, we believe it would be inconsistent to impose separate construction requirements on both disaggregator and disaggregatee for their respective spectrum portions." Does the fact that the Commission does not require minimum spectrum usage in many services militate against requiring both parties to a disaggregation to separately meet performance requirements? The Commission requests any commenters that take this position to support their arguments with as much detail as possible and to provide any appropriate supporting facts. The Commission also notes that despite its foregoing statement, it explained that "[s]hould both parties agree to share the responsibility for meeting the construction requirements and either party later fail to do so, both parties' licenses will be subject to forfeiture."

65. The Commission also observed in the *CMRS Partitioning and Disaggregation Order* (11 FCC Rcd at 21864) that "[t]he goal of our construction requirements in both the partitioning and disaggregation contexts is to ensure that the spectrum is used to the same degree that would have been required had the partitioning or disaggregation transaction not taken place." It is paramount that the Commission's construction requirements are not circumvented. Indeed, section 309(j)(4)(B) of the Communications Act requires that rules for auctionable services "include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services." The Commission thus requests comment regarding whether its proposal will eliminate the opportunities that exist under the Commission's current partitioning and disaggregation rules that may enable a party to avoid construction. The Commission also seeks comment on whether adoption of this proposal would lead to more efficient spectrum usage. Parties should support their positions with detailed comments and specific facts.

66. The Commission seeks comment on whether the public interest would be served by making any exceptions to the uniform, bright-line construction rules the Commission is proposing today for any service in which partitioning or disaggregation is permitted. For example, the Commission notes that 700 MHz spectrum licenses won in Auction 73 are subject to more stringent performance requirements than most Wireless Radio Services, including four-year and end-of-term construction benchmarks and keep-what-you-use policies. For these licenses, a disaggregator, disaggregatee, or both working together can meet the construction benchmarks for the entire license area. If neither party meets the four-year benchmark, then both parties' license terms will be reduced by two years. Likewise, if neither party meets the end-of-term benchmark, both will be subject to an automatic keep-what-you-use rule, and will lose their authorization for unserved portions of their license areas. The Commission seeks comment on whether the Commission should continue to afford 700 MHz spectrum licenses won in Auction 73 such treatment, or whether the public interest would be better served by requiring each party separately to meet applicable construction benchmarks.

67. Finally, while the Commission tentatively concludes that its proposal discussed above would be the best way to balance competing factors and to support partitioning and disaggregation arrangements that further the public interest, it welcomes any additional suggested rule or policy revisions that commenters might want to suggest. The Commission invites comment on whether there are other available mechanisms to deter circumvention of construction requirements under partitioning and disaggregation arrangements. The Commission requests that any alternative proposals be explained in detail. This explanation should include the goals of the proposal, and how adoption of the proposal would achieve such goals.

III. Procedural Matters

Ex Parte Rules—Permit-but-Disclose

68. This rulemaking shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed pursuant to the Commission's rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in 47 CFR 1.1206(b).

Comment Period and Procedures

69. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments and reply comments should refer to WT Docket No. 10–112, and may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

■ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.

■ *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two

additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

■ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

■ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

■ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

70. Parties should send a copy of their filings in this proceeding via e-mail or U.S. mail to: Richard Arsenault, Chief Counsel, Mobility Division, Wireless Telecommunications Bureau, *richard.arsenault@fcc.gov,* and Michael Connelly, Attorney Advisor, Mobility Division, Wireless Telecommunications Bureau, *michael.connelly@fcc.gov,* 445 12th Street, SW., Washington, DC 20554. Parties should also provide one copy of their filings to the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, Room CY–B402, 445 12th Street, SW., Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com.*

71. Documents in WT Docket No. 10–112 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail *fcc@bcpiweb.com.*

72. *People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Initial Regulatory Flexibility Analysis

73. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided in paragraph 116 of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Need for, and Objectives of, the Proposed Rules

74. In the NPRM, the Commission takes three actions. First, the NPRM proposes to adopt uniform renewal polices for licenses in Wireless Radio Services (WRS), based on the Commission's renewal framework for the 700 MHz Commercial Services Band. Specifically, the NPRM tentatively concludes to apply the Commission's 700 MHz Commercial Services Band framework to services licensed by geographic area and, with certain refinements, to services licensed on a site-by-site basis. Second, the NPRM proposes to harmonize the Commission's rules regarding the permanent discontinuance of operations by WRS licensees. Third, the NPRM proposes to standardize the Commission's requirements regarding the responsibilities of parties to geographic partitioning and spectrum disaggregation arrangements.

75. The NPRM proposes to harmonize the Commission's widely varying wireless license renewal requirements. Specifically, based on the Commission's 700 MHz renewal paradigm, applicants for geographic-area licenses would have to file a renewal showing that demonstrates the level of service they are providing to the public, and that they are compliant with the Commission's rules and policies and the Communications Act. For site-based services, renewal applicants would have to certify that they are operating consistent with their construction notification (NT) or most recent authorization, when no NT is required. The filing of applications that are mutually exclusive with a renewal application would be prohibited. If a renewal is denied, the spectrum in most cases would be returned to the Commission for reassignment, generally through competitive bidding.

76. The Commission's permanent discontinuance of operations rules are intended to provide licensees operational flexibility, while preventing spectrum warehousing. The definition of permanent discontinuance, however, varies by service, and some services contain no definition, enabling warehousing. The NPRM seeks comment on whether to adopt a uniform definition for discontinuance of operations (such as 180 days) for all wireless services that would trigger automatic license termination.

77. The Commission's experience with partitioning and disaggregation across myriad wireless services indicates that parties can, and sometimes do, manipulate requirements in ways that result in spectrum lying fallow. The wording of these rules varies, and the responsibilities of parties are inconsistent. The NPRM seeks to place licensees in different services on comparable regulatory footing and close regulatory loopholes. The NPRM tentatively concludes that each party to a partitioning or disaggregation should independently satisfy construction obligations.

Legal Basis

78. The proposed action is taken under §§ 1, 2, 4(i), 301, 303, 308, 309, and 332 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 301, 303, 308, 309, 332.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

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

80. *Small Businesses.* Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.

81. *Small Organizations.* Nationwide, there are approximately 1.6 million small organizations.

82. *Small Governmental Jurisdictions.* The term "small governmental jurisdiction" is defined as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." As of 2002, there were approximately 87,525 governmental jurisdictions in the United States. This number includes 38,967 county governments, municipalities, and townships, of which 37,373 (approximately 95.9 percent) have populations of fewer than 50,000, and of which 1,594 have populations of 50,000 or more. Thus, the Commission estimates the number of small governmental jurisdictions overall to be 85,931 or fewer. In completing this IRFA, the Commission recognizes that small governmental jurisdictions may be WRS licensees.

83. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, the Commission will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, the Commission estimates that the majority of wireless firms are small.

84. The Commission has determined that there are approximately 197,812 licensees in the Wireless Radio Services affected by the NPRM, as of May 18, 2010; the Commission does not know how many licensees in these bands are small entities, as the Commission does not collect that information for these types of entities. The Commission notes that, under the action it proposes in the NPRM, entities, including small businesses, will have to comply with a single set of rules regarding license renewal in the WRS. The Commission does not know how many entities that will file for WRS license renewal will be small entities. Thus, the Commission assumes, for purposes of this IRFA, that all prospective licensees are small entities as that term is defined by the SBA or by the Commission's proposed small business definitions for these bands.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

85. In paragraphs 16–32 and 37–39 of the NPRM, the Commission sets forth the rules with which geographic-area licensees in the Wireless Radio Services must comply; the rules for site-based licensees are specified in paragraphs 33–35 and 37–39. These rules would be generally applicable to all WRS licensees, large and small. For an incumbent geographic area WRS licensee to expect to renew its license, it must generally follow the three-part approach the Commission established for the 700 MHz Commercial Services Band, *i.e.,* (1) renewal applicants must demonstrate that they are providing substantial service to the public (or, when allowed under the relevant service rules, for private, internal communication), and substantially complying with the Commission's rules (including any applicable performance requirements) and policies and the Communications Act, (2) competing renewal applications are prohibited, and (3) if a license is not renewed, the associated spectrum is returned to the Commission for reassignment. Regarding the substantial service component of the first prong, the Commission has indicated that substantial service in the renewal context encompasses Commission consideration of a variety of factors including the level and quality of service, whether service was ever interrupted or discontinued, whether service has been provided to rural areas, and any other factors associated with a licensee's level of service to the public.

86. In paragraph 27, the Commission lists factors that WRS licensees in various services are required to address to demonstrate that the applicant should receive a renewal expectancy. The list includes the following factors: A description of the licensee's current service in terms of geographic coverage and population served; an explanation of the licensee's record of expansion, including a time table for the construction of new sites to meet changes in demand for service; a description of its investments in its system; a list, including addresses, of all cell transmitter stations constructed; identification of the type of facilities constructed and their operational status; consideration of whether the licensee is offering a specialized or technologically sophisticated service that does not require a high level of coverage to be of benefit to customers; consideration of whether the licensee's operations service niche markets or focus on serving populations outside of areas served by other licensees; and consideration of whether the licensee's operations serve populations with limited access to telecommunications services.

87. In paragraphs 37–39, applicable to both geographically and site-based services, the Commission indicates that in addition to making the requisite substantial service showing, a WRS licensee seeking renewal of its license must further indicate that it has substantially complied with all applicable Commission rules, policies, and the Communications Act of 1934, as amended, including any applicable performance requirements; the Commission believes such a showing will assist in character and other evaluations of the applicant. Included in this showing are the filing, if any, of all FCC orders, including letter rulings, finding a violation or an apparent violation of the Communications Act or any FCC rule or policy by the licensee, an entity that owns or controls the licensee, an entity that is owned or controlled by the licensee, or an entity that is under common control with the licensee (whether or not such an order relates specifically to the license for which renewal is sought). The Commission also proposes that a renewal applicant must provide a list of any pending FCC proceedings or investigations that relate to a potential violation of the Communications Act or any FCC rule or policy by the licensee, an entity that owns or controls the licensee, an entity that is owned or controlled by the licensee, or an entity that is under common control with the licensee. In the event there is no FCC order finding violations, the applicant will so certify.

88. Regarding requirements unique to site-based WRS licensees, in paragraphs 33–35, the Commission proposes to modify FCC Form 601 to require such renewal applicants to certify that they continue to operate consistent with the applicable filed construction notification(s) or most recent authorization(s) (when no notification was required to be filed under the Commission's rules); the licensee can expect license renewal if it files such certification and demonstrates substantial compliance with other applicable rules.

89. Harmonization of the rules in the affected wireless services will not impose any more administrative burden on a licensee than the licensee must currently comply with. The Commission believes its proposed action will have the effect of lessening the recordkeeping burden by making the renewal process more straight-forward; this is particularly so for an FCC licensee with authorizations in more than one of the affected services.

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

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

91. The Commission believes that the adoption of uniform renewal policies for licensees in the various Wireless Radio Services and harmonization of its rules regarding the permanent discontinuance of operations by WRS licensees will benefit all WRS applicants and licensees, regardless of size. The Commission believes that complying with the current license renewal rules, varied as they are, has the potential to place a particular burden on the limited financial resources of small businesses. The Commission therefore believes that uniform renewal rules throughout the Wireless Radio Services, and harmonizing its rules regarding the definition of, and what constitutes, permanent discontinuance of operation, will have the intended consequences of assisting small entities that are WRS licensees.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

92. None.

Initial Paperwork Reduction Analysis

93. This document contains proposed new and modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

IV. Ordering Clauses

94. Pursuant to §§ 1, 2, 4(i), 301, 303, 308, 309, and 332 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 301, 303, 308, 309, 332, this Notice of Proposed Rulemaking is hereby *adopted.*

95. *Notice is hereby given* of the proposed regulatory changes described in this Notice of Proposed Rulemaking, and that comment is sought on these proposals.

96. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking and Order, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Penalties, Radio, Reporting and recordkeeping requirements, Telecommunications, Television.

47 CFR Part 22

Communications common carriers, Radio, Reporting and recordkeeping requirements.

47 CFR Part 24

Administrative practice and procedure, Communications common carriers, Radio, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 27

Communications common carriers, Radio.

47 CFR Part 90

Administrative practice and procedure, Common carriers, Radio, Reporting and recordkeeping requirements.

47 CFR Part 101

Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 22, 24, 27, 90 and 101 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

2. Section 1.949 is revised to read as follows:

§ 1.949 Application for renewal of authorization.

(a) *Filing requirements.* Applications for renewal of authorizations in the Wireless Radio Services must be filed no later than the expiration date of the authorization, and no sooner than 90 days prior to the expiration date. Renewal applications must be filed on the same form as applications for initial authorization in the same service, *i.e.,* FCC Form 601 or 605.

(b) *Common expiration date.* Licensees with multiple authorizations in the same service may request a common date on which such authorizations expire for renewal purposes. License terms may be shortened by up to one year but will not be extended.

(c) *Renewal showing.* An applicant for renewal of a geographic-area authorization in the following services regulated under this chapter must make a Renewal Showing, independent of its performance requirements, as a condition of renewal: 1.4 GHz Service (part 27, subpart I); 1.6 GHz Service (part 27, subpart J); 24 GHz Service (part 101, subpart G); 39 GHz Service (part 101, subpart B); 218–219 MHz Service (part 95, subpart F); 220–222 MHz Service (part 90, subpart T); 700 MHz Commercial Services (part 27, subpart F); 700 MHz Guard Band Service (part 27, subpart G); 800 MHz Specialized Mobile Radio Service (part 90, subpart S); 900 MHz Specialized Mobile Radio Service (part 90, subpart S); Advanced Wireless Service (part 27, subpart L); Air-Ground Radiotelephone Service (Commercial Aviation) (part 22, subpart G); Broadband Personal Communications Service (part 24, subpart E); Cellular Radiotelephone Service (part 22, subpart H); Dedicated Short Range Communications Service

(part 90, subpart M); Local Multipoint Distribution Service (part 101, subpart L); Multichannel Video Distribution and Data Service (part 101, subpart P); Multilateration Location and Monitoring Service (part 90, subpart M); Multiple Address Systems (EAs) (part 101, subpart O); Narrowband Personal Communications Service (part 24, subpart D); Paging and Radiotelephone Service (part 22, subpart E; part 90, subpart P); Public Coast Stations, including Automated Maritime Telecommunications Systems (part 80, subpart J); and Wireless Communications Service (part 27, subpart D). For the Broadband Radio Service and Educational Broadband Service, this requirement shall not apply to any license that expires on or before May 1, 2011. The showing must include a detailed description of the applicant's provision of service during the entire license period and address:

(1) The level and quality of service provided by the applicant (*e.g.,* the population served, the area served, the number of subscribers, the services offered);

(2) The date service commenced, whether service was ever interrupted, and the duration of any interruption or outage;

(3) The extent to which service is provided to rural areas;

(4) The extent to which service is provided to qualifying tribal land as defined in § 1.2110(e)(3)(i); and

(5) Any other factors associated with the level of service to the public.

(d) *Service certification.* An applicant for renewal of a site-by-site authorization in the following services regulated under this chapter must make a Service Certification with its application: 220–222 MHz Service (site-based) (part 90, subpart T); 800/900 MHz (SMR and Business and Industrial Land Transportation Pool) (part 90, subpart S); Air-Ground Radiotelephone Service (General Aviation) (part 22, subpart G); Broadcast Auxiliary Service (part 74, subpart F); Common Carrier Fixed Point-to-Point, Microwave Service (part 101, subpart I); Digital Electronic Message Service (part 101, subpart G); Industrial/Business Radio Pool (part 90, subpart C); Local Television Transmission Service (part 101, subpart J); Multiple Address Systems (site-based), excluding systems licensed to public safety entities (part 101, subpart O); Non-Multilateration Location and Monitoring Service (part 90, subpart M); Offshore Radiotelephone Service (part 22, subpart I); Paging and Radiotelephone Service (site-based) (part 22, subpart E); Private Carrier Paging (part 90, subpart P); Private Operational Fixed Point-to-Point Microwave Service, excluding licenses held by public safety entities (part 101, subpart H); and Rural Radiotelephone Service (including Basic Exchange Telephone Radio Service) (part 22, subpart F). The Service Certification must certify that the applicant is continuing to operate consistent with its most recently filed construction notification (NT) or most recent authorization, when no NT is required to be filed under the Commission's rules.

(e) *Regulatory compliance demonstration.* An applicant for renewal of an authorization in the Wireless Radio Services identified in paragraphs (c) and (d) of this section must make a Regulatory Compliance Demonstration as a condition of renewal. A Regulatory Compliance Demonstration must include:

(1) A copy of each FCC order and letter ruling, which may or may not have been assigned a delegated authority number, finding a violation of the Communications Act or any FCC rule or policy by the applicant, an entity that owns or controls the applicant, an entity that is owned or controlled by the applicant, an entity that is under common control with the applicant, or an affiliate of the applicant (whether or not such an order or letter ruling relates specifically to the license for which renewal is sought); and

(2) A list of any pending petitions to deny any application filed by the applicant, an entity that owns or controls the applicant, an entity that is owned or controlled by the applicant, an entity that is under common control with the applicant, or an affiliate of the applicant (whether or not the petition to deny relates specifically to the license for which renewal is sought).

(f) *Regulatory compliance certification.* An applicant for renewal of an authorization in the Wireless Radio Services identified in paragraphs (c) and (d) of this section may, instead of making a Regulatory Compliance Demonstration as part of the renewal application, make a Regulatory Compliance Certification certifying the absence of any findings under paragraph (e)(1) of this section, and any pending petitions to deny under paragraph (e)(2) of this section.

(g) For the purposes of paragraphs (e)(1) and (e)(2) of this section, the term affiliate means affiliate as defined in § 1.2110(c)(5).

(h) If the Commission, or the Wireless Telecommunications Bureau acting under delegated authority, finds that a licensee's Renewal Showing under paragraph (c) of this section, its Service Certification under paragraph (d) of this section, its Regulatory Compliance Demonstration under paragraph (e) of this section, or its Regulatory Compliance Certification under paragraph (f) of this section is insufficient, its renewal application will be denied, and its licensed spectrum will return automatically to the Commission for reassignment (by auction or other mechanism). In the case of certain services licensed site-by-site, the spectrum will revert automatically to the holder of the related overlay geographic-area license.

3. Add § 1.950 to subpart F to read as follows:

§ 1.950 Geographic partitioning and spectrum disaggregation.

(a) *Definitions.* The terms "County and County Equivalent," "Geographic Partitioning," and "Spectrum Disaggregation" as used in this section are defined as follows:

(1) *County and county equivalent.* The terms county and county equivalent as used in this part are defined by Federal Information Processing Standards (FIPS) 6–4, which provides the names and codes that represent the counties and other entities treated as equivalent legal and/or statistical subdivisions of the 50 States, the District of Columbia, and the possessions and freely associated areas of the United States. Counties are considered to be the "first-order subdivisions" of each State and statistically equivalent entity, regardless of their local designations (county, parish, borough, *etc.*). Thus, the following entities are considered to be equivalent to counties for legal and/or statistical purposes: The parishes of Louisiana; the boroughs and census areas of Alaska; the District of Columbia; the independent cities of Maryland, Missouri, Nevada, and Virginia; that part of Yellowstone National Park in Montana; and various entities in the possessions and associated areas. The FIPS codes and FIPS code documentation are available online at *http://www.itl.nist.gov/fipspubs/index.htm.*

(2) *Geographic partitioning.* Geographic partitioning is the assignment of a geographic portion of a licensee's license area.

(3) *Spectrum disaggregation.* Spectrum disaggregation is the assignment of portions or blocks of a licensee's spectrum.

(b) *Eligibility.* Licensees in the wireless radio services regulated under this chapter are eligible for Geographic Partitioning and Spectrum Disaggregation: 1.4 GHz Service (part 27, subpart I); 1.6 GHz Service (part 27,

subpart J); 24 GHz Service (part 101, subpart G); 39 GHz Service (part 101, subpart B); 218–219 MHz Service (part 95, subpart F); 220–222 MHz Service (part 90, subpart T); 700 MHz Commercial Services (part 27, subpart F); 700 MHz Guard Band Service (part 27, subpart G); 800 MHz Specialized Mobile Radio Service (part 90, subpart S); 900 MHz Specialized Mobile Radio Service (part 90, subpart S); Advanced Wireless Services (part 27, subpart L); Air-Ground Radiotelephone Service (Commercial Aviation) (part 22, subpart G); Broadband Personal Communications Service (part 24, subpart E); Broadband Radio Service and Educational Broadband Service (part 27, subpart M); Cellular Radiotelephone Service (part 22, subpart H); Local Multipoint Distribution Service (part 101, subpart L); Multichannel Video Distribution and Data Service (part 101, subpart P); Multilateration Location and Monitoring Service (part 90, subpart M); Multiple Address Systems (part 101, subpart O); Narrowband Personal Communications Service (part 24, subpart D); Paging and Radiotelephone Service (part 22, subpart E; part 90, subpart P); Public Coast Stations, including Automated Maritime Telecommunications Systems (part 80, subpart J); and Wireless Communications Service (part 27, subpart D).

(1) *Geographic partitioning.* An eligible licensee may partition any geographic portion of its license area, at any time following grant of its license, subject to the following exceptions:

(i) 220 MHz Service licensees must comply with § 90.1019 of this chapter.

(ii) Cellular Radiotelephone Service licensees must comply with § 22.948 of this chapter.

(2) *Spectrum disaggregation.* An eligible licensee may disaggregate spectrum in any amount, at any time following grant of its license, subject to the following exceptions:

(i) 220 MHz Service licensees must comply with § 90.1019 of this chapter.

(ii) Cellular Radiotelephone Service licensees must comply with § 22.948 of this chapter.

(iii) VHF Public Coast (156–162 MHz) spectrum may only be disaggregated in frequency pairs, except that the ship and coast transmit frequencies comprising Channel 87 (see § 80.371(c) of this chapter) may be disaggregated separately.

(iv) Disaggregation is not permitted in the Multichannel Video & Distribution and Data Service 12.2–12.7 GHz band.

(c) *Filing requirements.* Parties seeking approval for geographic partitioning, spectrum disaggregation, or a combination of both must apply for a partial assignment of authorization by filing FCC Form 603 pursuant to § 1.948. Each request for geographic partitioning must include an attachment defining the perimeter of the partitioned area by geographic coordinates to the nearest second of latitude and longitude, based upon the 1983 North American Datum (NAD83). Alternatively, applicants may specify an FCC-recognized service area (*e.g.,* Basic Trading Area, Economic Area, Major Trading Area, Metropolitan Service Area, or Rural Service Area), county, or county equivalent, in which case, applicants need only list the specific FCC-recognized service area, county, or county equivalent names comprising the partitioned area.

(d) *Relocation of incumbent licensees.* Applicants for geographic partitioning, spectrum disaggregation, or a combination of both must, if applicable, include a certification with their partial assignment of authorization application stating which party will meet any incumbent relocation requirements.

(e) *License term.* The license term for a partitioned license area or disaggregated spectrum license is the remainder of the original licensee's license term.

(f) *Frequency coordination.* Any existing frequency coordination agreements convey with the partial assignment of authorization for geographic partitioning, spectrum disaggregation, or a combination of both.

(g) *Performance requirements.* Each party to a geographic partitioning, spectrum disaggregation, or a combination of both must individually meet any service-specific performance requirements (*i.e.,* construction and operation requirements). If a licensee fails to meet any service-specific performance requirements on or before the required date, its authorization will terminate automatically on that date without further Commission action pursuant to § 1.946.

(h) *Unjust enrichment.* Licensees making installment payments or that received a bidding credit, that partition their licenses or disaggregate their spectrum to entities that do not meet the eligibility standards for installment payments or bidding credits, are subject to the unjust enrichment requirements of § 1.2111.

4. Add § 1.953 to subpart F to read as follows:

§ 1.953 Discontinuance of service.

(a) *Termination of authorization.* A licensee's authorization will automatically terminate, without specific Commission action, if it permanently discontinues service.

(b) *180-day rule.* Permanent discontinuance of service is defined as 180 consecutive days during which a licensee does not operate or, in the case of commercial mobile radio service providers, does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier. This 180-day rule applies to: All radio services regulated under parts 22, 24, 27 (except the Broadband Radio Service and Educational Broadband Service), and 80 of this chapter; trunked Specialized Mobile Radio Service (part 90, subpart S of this chapter); the 218–219 MHz Service (part 95, subpart S of this chapter), and the 220–222 MHz Service (part 90, subpart T of this chapter).

(c) *365-day rule.* Permanent discontinuance of service is defined as 365 consecutive days during which a licensee does not operate or, in the case of commercial mobile radio service providers, does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the providing carrier. This 365-day rule applies to all radio services regulated under parts 90 (except trunked Specialized Mobile Radio Service and the 220–222 MHz Service) and 101 of this chapter.

(d) *Channel keepers.* Operation of channel keepers (devices that transmit test signals, tones, color bars, or some combination of these, for example) does not constitute operation for the purposes of this section.

(e) *Filing requirements.* A licensee that permanently discontinues service as defined in this section must notify the Commission of the discontinuance within 10 days by filing FCC Form 601 or 605 requesting license cancellation. An authorization will automatically terminate, without specific Commission action, if service is permanently discontinued as defined in this section, even if a licensee fails to file the required form requesting license cancellation.

(f) *Extension request.* A licensee may file a request for a longer discontinuance period for good cause. An extension request must be filed at least 30 days before the end of the applicable 180-day or 365-day-discontinuance period. The filing of an extension request will automatically extend the discontinuance period a minimum of the latter of an additional 30 days or the date upon which the Wireless Telecommunications Bureau acts on the request.

PART 22—PUBLIC MOBILE SERVICES

5. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309 and 332.

§§ 22.935 and 22.936 [Removed]

6. Remove §§ 22.935 and 22.936.

§§ 22.939 and 22.940 [Removed]

7. Remove §§ 22.939 and 22.940.

§ 22.943 [Removed]

8. Remove § 22.943.

PART 24—PERSONAL COMMUNICATIONS SERVICES

9. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309 and 332.

§ 24.16 [Removed]

10. Remove § 24.16.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

11. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336 and 337 unless otherwise noted.

12. Section 27.14 is amended by revising the section heading and by removing and reserving paragraphs (b) through (f) to read as follows:

§ 27.14 Construction requirements.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

13. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7).

14. Section 90.165 is amended as follows:

a. Remove paragraphs (b)(1), (c)(3)(i), and (c)(4)(i).

b. Redesignate paragraphs (b)(2) through (b)(4) as paragraphs (b)(1) through (b)(3).

c. Redesignate paragraphs (c)(3)(ii) through (c)(3)(iii) as paragraphs (c)(3)(i) through (c)(3)(ii).

d. Redesignate paragraphs (c)(4)(ii) through (c)(4)(iv) as paragraphs (c)(4)(i) through (c)(4)(iii).

e. Revise newly redesignated paragraph (c)(3)(ii) as follows:

§ 90.165 Procedures for mutually exclusive applications.

* * * * *

(c) * * *

(3) * * *

(ii) If any mutually exclusive application filed on the earliest filing date is an application for modification, a same-day filing group is used.

* * * * *

§ 90.743 [Removed]

15. Remove § 90.743.

PART 101—FIXED MICROWAVE SERVICES

16. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 101.1327 [Removed]

17. Remove § 101.1327.

18. Revise § 101.1413 to read as follows:

§ 101.1413 License term.

The MVDDS license term is ten years, beginning on the date of the initial authorization grant.

[FR Doc. 2010–16351 Filed 7–6–10; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 75, No. 129
Wednesday, July 7, 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

Forest Service

Francis Marion Sumter National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Francis Marion Sumter National Forests Resource Advisory Committee will meet in Columbia, South Carolina. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose is to hold the first meeting of the newly formed committee.

DATES: The meeting will be held on August 26, 2010, and will begin at 9:30 a.m.

ADDRESSES: The meeting will be held at the Forest Service office, Large Conference Room, 4931 Broad River Road, Columbia, SC. Written comments should be sent to Mary Morrison, Francis Marion Sumter National Forests, 4931 Broad River Road, Columbia, SC 29212. Comments may also be sent via e-mail to *mwmorrison@fs.fed.us,* or via facsimile to 803–561–4004.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Francis Marion Sumter National Forests Office, 4931 Broad River Road, Columbia, SC 29212. Visitors are encouraged to call ahead to 803–561–4058 to facilitate review of the comments.

FOR FURTHER INFORMATION CONTACT: Mary Morrison, RAC coordinator, USDA, Francis Marion Sumter National Forests, 4931Broad River Road, Columbia, SC 29212; (803) 561–4058; E-mail *mwmorrison@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Introductions of all committee members, replacement members and Forest Service personnel; (2) Selection of a chairperson by the committee members; (3) Receive materials explaining the process for considering and recommending Title II projects; and (4) Public Comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: June 30, 2010.

Paul Bradley,

Designated Federal Officer.

[FR Doc. 2010–16424 Filed 7–6–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Foreign Fishing Reporting Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 7, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mi Ae Kim, 301–713–2276 or *mi.ae.kim@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Foreign fishing activities can be authorized under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The collection of information from permitted foreign vessels is necessary to monitor their activities and whereabouts in U.S. waters. The reports are also necessary to monitor the amounts of fish, if any, such vessels receive from U.S. vessels in joint venture operations, wherein U.S. vessels catch and transfer at-sea to permitted foreign vessels certain species for which U.S. demand is low relative to the abundance of the species. This notice is for the extension of a currently approved information collection.

II. Method of Collection

Activity reports are made by radio when fishing begins or ceases, to report on transfers of fish, and to file weekly reports on the catch or receipt of fish. Foreign vessels are also subject to recordkeeping requirements. These include a communications log, a transfer log, a daily fishing log, a consolidated fishing or joint venture log, and a daily joint venture log. These records must be maintained for three years.

III. Data

OMB Control Number: 0648–0075.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 6.

Estimated Time per Response: 6 minutes for a joint venture report; 30 minutes per day for joint venture recordkeeping; and 7.5 minutes per day for recordkeeping by transport vessels.

Estimated Total Annual Burden Hours: 88.

Estimated Total Annual Cost to Public: $500 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 30, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–16381 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Precanvass Operation for the 2012 Economic Census Covering Transportation of Commodities

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before September 7, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Cynthia Davis Hollingsworth, Census Bureau, Room 8K047—South Building, Washington, DC 20233 (or via the Internet at *cynthia.davis.hollingsworth @census.gov).*

SUPPLEMENTARY INFORMATION

I. Abstract

The Census Bureau plans to conduct a Precanvass Operation in preparation for the 2012 Commodity Flow Survey to improve the efficiency and accuracy of the sample frame. The Commodity Flow Survey itself will be the subject of a later notice planned for publication in early 2011.

The Commodity Flow Survey, a component of the Economic Census, is the only comprehensive source of multimodal, system-wide data on the volume and pattern of goods movement in the United States. The Commodity Flow Survey is conducted in partnership with the Bureau of Transportation Statistics, Research and Innovative Technology Administration, U.S. Department of Transportation.

In conducting the Precanvass, the Census Bureau will mail a one-page questionnaire to manufacturing, mining, and wholesale establishments, enterprise support establishments, electronic shopping, mail-order houses, and publisher establishments, selected from its Business Register. The Precanvass will determine if these establishments are engaged in shipping activities, and if so obtain an estimate of the annual value of those shipments, along with updating address and contact information for the 2012 Commodity Flow Survey. Those establishments that do not engage in shipping activity will be eliminated from the sample frame. Identification and elimination of the non-shippers will significantly improve the efficiency of the sample for the 2012 Commodity Flow Survey. Also, those establishments excluded from the sample frame will be saved the added burden of receiving a 2012 Commodity Flow Survey.

II. Method of Collection

The Census Bureau will mail the Precanvass questionnaire to (a) enterprise support establishments in the Census Bureau's Business Register, and (b) the largest establishments in the industries listed in Section I that are likely to be included in the 2012 Commodity Flow Survey. The estimated size of the Precanvass mailing is 100,000 establishments.

The Census Bureau will use a mailout, mail-back or electronic reporting methodology, with telephone follow-up for selected nonresponse cases. General information on shipping activity and value of shipments will be collected via check box style questions. Contact information also will be collected and used to improve the mailing and follow-up activities for the 2012 Commodity Flow Survey.

III. Data

OMB Control Number: 0607–0932.

Form Number: CFS–0001.

Type of Review: Regular submission.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 100,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 8,333.

Estimated Total Annual Cost: $266,666

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, U.S.C. 131.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval of this information collection; they also will become a matter of public record.

Dated: June 30, 2010.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–16396 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–946]

Pre–Stressed Concrete Steel Wire Strand from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing a countervailing duty order on pre–stressed concrete steel wire strand (PC strand) from the People's Republic of China (PRC). On June 22, 2010, the ITC notified the Department of its affirmative determination of material injury to a U.S. industry. See Pre–Stressed Concrete Steel Wire Strand from the People's Republic of China, USITC Pub. 4162, Inv. Nos. 701–TA–464 (Final) (June 2010) (ITC Final Determination Report).

EFFECTIVE DATE: July 7, 2010.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–8362.

SUPPLEMENTARY INFORMATION:

Case History

On May 21, 2010, the Department published its final determination in the countervailing duty investigation of PC strand from the PRC. *See Pre–Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (*Final Determination*).

On June 22, 2010, the ITC notified the Department of its final determination pursuant to sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured by reason of subsidized imports of subject merchandise from the PRC. *See ITC Final Determination*.

Scope of Order

The merchandise covered by this order is PC strand. PC strand is steel wire strand, other than of stainless steel, which is suitable for use in, but not limited to, pre–stressed concrete (both pre–tensioned and post–tensioned) applications. The scope of this order encompasses all types and diameters of PC strand whether uncoated (uncovered) or coated (covered) by any substance, including but not limited to, grease, plastic sheath, or epoxy. This merchandise includes, but is not limited to, PC strand produced to the American Society for Testing and Materials (ASTM) A–416 specification, or comparable domestic or foreign specifications. PC strand made from galvanized wire is excluded from the scope if the zinc and/or zinc oxide coating meets or exceeds the 0.40 oz./ft^2 standard set forth in ASTM–A–475.

The PC strand subject to this order is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Amendment to the Final Determination

In accordance with sections 705(d) and 777(i)(1) of the Act, on May 21, 2010, the Department published its notice of final affirmative countervailing duty determination in the countervailing duty investigation of PC strand from the PRC. See Final Determination. On June 19, 2010, petitioners in the investigation submitted a timely ministerial error allegation with respect to the Final Determination.[1]

In accordance with 19 CFR 351.224(e), on June 28, 2010, the Department issued its Ministerial Error Correction Memorandum addressing petitioners' ministerial error allegations. See Memorandum to, John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Final Determination Ministerial Error Allegation," (June 28, 2010), a proprietary document of which the public version is on file in the Central Records Unit, room 1117, in the main Commerce building. After analyzing petitioners' ministerial error allegation, we have determined, in accordance with 19 CFR 351.224(e), that we made a ministerial error in our calculations performed for the final determination. As a result of correcting for this error, the countervailing duty calculated for the Fasten Group Corporation (Fasten Corp.), Fasten Group Import & Export Co., Ltd. (Fasten I&E), Jiangyin Hongsheng Co. Ltd. (Hongsheng), Jiangyin Fasten Steel (Fasten Steel), Jiangyin Hongyu Metal Products Co., Ltd. (Hongyu Metal), and Jiangyin Walsin Steel Cable Co., Ltd. (Walsin) (collectively, the Fasten Companies) has changed from 8.85 percent to 9.42 percent.

Section 705(c)(5)(A) of the Act states that for companies not investigated, an all–others rate will be determined by weight averaging the subsidy rates established for each individually investigated respondent. The all–others rate may not include zero and de minimis net subsidy rates, or any rates based solely on the facts available. Notwithstanding the language of section 705(c)(5)(A) of the Act, we have not calculated the all–others rate by weight averaging the rates of the Fasten Companies and the other mandatory respondent, Xinhua Metal Products Company (Xinhua), Xinyu Iron and Steel Joint Stock Limited Company (Xinyu), and Xinyu Iron and Steel Limited Liability Company (Xingang) (collectively, the Xinhua Companies), because doing so risks disclosure of proprietary information. Therefore, for the all–others rate, we have calculated a simple average of the two responding firms' rates.

In accordance with 19 CFR 351.224 (e), we are amending the subsidy rates of PC strand from the PRC. The revised subsidy rates are listed in the chart below.

Producer/Exporter	Original Subsidy Rate	Amended Subsidy Rate
Fasten Group Corporation (Fasten Corp.), Fasten Group Import & Export Co., Ltd. (Fasten I&E), Jiangyin Hongsheng Co. Ltd. (Hongsheng), Jiangyin Fasten Steel Products Co., Ltd. (Fasten Steel), Jiangyin Hongyu Metal Products Co., Ltd. (Hongyu Metal), and Jiangyin Walsin Steel Cable Co., Ltd. (Walsin) (Collectively, the Fasten Companies).	8.85 percent *ad valorem*	9.42 percent *ad valorem*

[1] Petitioners are American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp.

Producer/Exporter	Original Subsidy Rate	Amended Subsidy Rate
Xinhua Metal Products Company Ltd. (Xinhua), Xinyu Iron and Steel Joint Stock Limited Company (Xinyu), and Xingang Iron and Steel Joint Stock Limited Liability Company (Xingang) (Collectively the Xinhua Companies).	45.85 percent *ad valorem*	45.85 percent *ad valorem*
All Others	27.35 percent *ad valorem*	27.64 percent ad valorem

Countervailing Duty Order

On November 2, 2009, the Department published its *Preliminary Determination* and instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise entered or withdrawn from warehouse, for consumption, on or after November 2, 2009. *See Pre–Stressed Concrete Steel Wire Strand from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 74 FR 56576 (November 2, 2009) (*Preliminary Determination*). In accordance with section 703(d) of the Act, which states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months, the Department terminated suspension of liquidation effective March 2, 2010.

On June 22, 2010, in accordance with section 705(d) of the Act, the ITC notified the Department of its final determination that the industry in the United States producing PC strand is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of PC strand from the PRC. *See ITC Final Determination Report*. Therefore, in accordance with section 706 of the Act, the Department will direct CBP to reinstitute suspension of liquidation effective the date of publication of the *ITC Final Determination* in the **Federal Register**. *See Pre–Stressed Concrete Steel Wire Strand from China: Determinations*, 75 FR 36678 (June 28, 2010) (*ITC Final Determination*). The Department will also direct CBP to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the amended net countervailable subsidy rates for the subject merchandise as noted above.

This notice constitutes the countervailing duty order with respect to PC strand from the PRC, pursuant to section 706(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 1117 of the Commerce building, for copies of an updated list of countervailing duty orders currently in effect.

This order is issued and published in accordance with section 706(a) of the Act, 19 CFR 351.211(b) and 19 CFR 351.224(e).[1]

Dated: June 29, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–16500 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–DS–S

[1] Petitioners are American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–886, A–557–813, A–549–821]

Polyethylene Retail Carrier Bags From the People's Republic of China, Malaysia, and Thailand: Continuation of Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (Department) and the International Trade Commission (ITC) that revocation of the antidumping duty orders on polyethylene retail carrier bags (PRCBs) from the People's Republic of China (PRC), Malaysia, and Thailand would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty orders.

DATES: *Effective Date:* July 7, 2010.

FOR FURTHER INFORMATION CONTACT: Dustin Ross or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0747 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2009, the Department initiated and the ITC instituted sunset reviews of the antidumping duty orders on PRCBs from the PRC, Malaysia, and Thailand[1] pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-year ("Sunset") Review,* 74 FR 31412 (July 1, 2009); *see also Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand,* 74 FR 31750 (July 2, 2009).

As a result of these sunset reviews, the Department determined that revocation of the antidumping duty orders on PRCBs from the PRC, Malaysia, and Thailand would be likely to lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail should the orders be revoked. *See Polyethylene Retail Carrier Bags From the People's Republic of China, Thailand, and Malaysia: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders,* 74 FR 53470 (October 19, 2009).

On June 8, 2010, pursuant to section 752(a) of the Act, the ITC determined that revocation of the antidumping duty orders on PRCBs from the PRC, Malaysia, and Thailand would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Polyethylene Retail Carrier Bags From China, Malaysia, and Thailand; Determinations,* 75 FR 36679 (June 28, 2010), and ITC Publication 4160 (June 2010) entitled *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand: Inv. Nos. 731–TA–1043–1045 (Review*).

Scopes of the Orders

The merchandise subject to the antidumping duty orders is PRCBs which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as nonsealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without

[1] On August 9, 2004, the Department published the following antidumping duty orders: *Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People's Republic of China,* 69 FR 48201 (August 9, 2004); *Antidumping Duty Order: Polyethylene Retail Carrier Bags From Malaysia,* 69 FR 48203 (August 9, 2004); *Antidumping Duty Order: Polyethylene Retail Carrier Bags From Thailand,* 69 FR 48204 (August 9, 2004).

gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scopes of the orders exclude (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

As a result of changes to the Harmonized Tariff Schedule of the United States (HTSUS), imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the HTSUS. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written descriptions of the scopes of the orders are dispositive.

Continuation of the Orders

As a result of the determinations by the Department and the ITC that revocation of these antidumping duty orders would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on PRCBs from the PRC, Malaysia, and Thailand.

U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of these orders not later than 30 days prior to the fifth anniversary of the effective date of continuation.

These five-year sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: June 30, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–16510 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XU50

Endangered and Threatened Species; Initiation of a 5–Year Review of the Eastern Distinct Population Segment of the Steller Sea Lion

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

ACTION: Notice; correction.

SUMMARY: NMFS published a notice on June 29, 2010, announcing the initiation of a 5–year review of the eastern Distinct Population Segment (DPS) of the Steller Sea Lion (*Eumetopias jubatus*) under the Endangered Species Act of 1973, as amended (ESA) and requesting information related to that review. The document contained incorrect information about the email address and fax number to which comments and information should be sent.

DATES: This correction is effective July 7, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Lisa Rotterman (907–271–1692), *lisa.rotterman@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 2010, NMFS published a notice of initiation of a 5–year review for the eastern Distinct Population Segment of the Steller sea lion (75 FR 37385). NMFS inadvertently gave incorrect e-mail and fax information. The correct email is *ssldps@noaa.gov* and the correct fax number is 907–586–7557. It is requested that all information be sent to the corrected e-mail or fax, although information sent to the e-mail and fax in the previous notice will be accepted. On page 37386, first column under **ADDRESSES**, the correct email address is *ssldps@noaa.gov* and the correct fax number is 907–586–7557.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: June 30, 2010.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–16497 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1691]

Expansion/Reorganization of Foreign-Trade Zone 204, Tri-Cities Area, TN/VA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Tri-Cities Airport Commission, grantee of Foreign-Trade Zone 204, submitted an application to the Board for authority to expand FTZ 204 to include a site in Bristol, Tennessee, adjacent to the Tri-Cities Customs and Border Protection port of entry (FTZ Docket 13–2010, filed February 24, 2010);

Whereas, notice inviting public comment has been given in the **Federal Register** (75 FR 12731, 3/17/2010) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 204 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, and to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and further subject to a sunset provision that would terminate authority on June 30, 2015 for Sites 1, 2, 3, 4, 6, 7, 8, and 9; and June 30, 2017 for Site 11 where no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, this 22nd day of June 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2010–16202 Filed 7–6–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Extension of Time Limit for the Preliminary Results for New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* July 7, 2010.

FOR FURTHER INFORMATION CONTACT: Josh Startup, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5260.

Background

On February 4, 2010, the Department of Commerce ("Department") initiated this new shipper review of the antidumping duty order on honey from the People's Republic of China ("PRC"), covering the period December 1, 2008, through November 30, 2009. *See Honey from the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews,* 75 FR 5764 (February 4, 2010) ("*Initiation*"). The preliminary results of this new shipper review were due no later than July 28, 2010.

On February 12, 2010, the Department exercised its discretion to toll the deadlines for all Import Administration cases by seven calendar days due to the February 5, through February 12, 2010, Federal Government closure. *See* "Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding 'Tolling of Administrative Deadlines as a Result of the Government Closure During the Recent Snowstorm,'" dated February 12, 2010. As a result, the preliminary results of this new shipper review are currently due on August 4, 2010.

Extension of Time Limit for the Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.214(i)(1) require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the new shipper review was initiated and final results of a review within 90 days after the date on which the preliminary results were issued. The Department may, however, extend the time period for completion of the preliminary results of a new shipper review to 300 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

The Department has determined that the review is extraordinarily complicated as the Department must gather additional publicly available information, issue additional supplemental questionnaires, and allow time for parties to comment on those responses. Based on the timing of the case and the additional information that must be gathered, the preliminary results of this new shipper review cannot be completed within the 180 day time limit. Accordingly, the Department is extending the time limit for the completion of the preliminary results of this new shipper review by 90 days. The preliminary results will now be due no later than November 2, 2010 in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2). The final results will, in turn, be due 90 days after the date of issuance of the preliminary results, unless extended.

This notice is published pursuant to sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act.

Dated: June 30, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–16512 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–827]

Certain Cased Pencils From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On December 22, 2009, the Department of Commerce (the "Department") published the preliminary results of the administrative review of the antidumping duty order on certain cased pencils from the People's Republic of China ("PRC"), covering the period December 1, 2007, through November 30, 2008. *See Certain Cased Pencils From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review,* 74 FR 68047 (December 22, 2009) ("*Preliminary Results*"). We gave the interested parties an opportunity to comment on the *Preliminary Results.* After reviewing the interested parties' comments, we made changes to our calculations for the final results of the review. The final dumping margin for this review is listed in the "Final Results of the Review" section below.

DATES: *Effective Date:* July 7, 2010.

FOR FURTHER INFORMATION CONTACT: Alexander Montoro or Joseph Shuler, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0238 or (202) 482–1293, respectively.

SUPPLEMENTARY INFORMATION:

Background

Following the *Preliminary Results,* the Department issued additional supplemental questionnaires to mandatory respondent China First Pencil Co., Ltd. ("China First") on December 28, 2009 and January 19, 2010. China First responded on January 11, 2010, and January 20, 2010, respectively. The Department also issued an additional supplemental questionnaire to Shanghai Three Star Stationery Industry Co., Ltd. ("Three Star"), the other mandatory respondent, on December 22, 2009 and received a response on December 29, 2009.

China First and Three Star submitted post-preliminary surrogate value comments on January 12, 2010.

On February 11, 2010, Beijing Dixon Stationery Company Ltd. ("Dixon") submitted a case brief and, on February 19, 2010, China First, Three Star, and Orient International Holding Shanghai Foreign Trade Co., Ltd. ("SFTC") submitted a joint case brief. None of the parties requested a hearing.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding were extended by seven days. The revised deadline for the final results of this administrative review was thus extended to April 28, 2010. *See*

Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorms," dated February 12, 2010.

On April 21, 2010, the Department published in the **Federal Register** an extension of the time limit for the completion of the final results of this review until no later than May 28, 2010, 2010, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (" the Act"), and 19 CFR 351.213(h)(2). *See Certain Cased Pencils From the People's Republic of China: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review,* 75 FR 20815 (April 21, 2010).

On May 27, 2010, the Department published in the **Federal Register** an extension of the time limit for the completion of the final results of this review until no later than June 28, 2010, 2010, in accordance with section 751(a)(3)(A) of the Act, and 19 CFR 351.213(h)(2). *See Certain Cased Pencils From the People's Republic of China: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review,* 75 FR 29720 (May 27, 2010).

On June 9, 2010, the Department notified parties that as a result of the recent decision in *Dorbest Limited et. al.* v. *United States,* No. 2009–1257,–1266 (Fed. Cir. May 14, 2010), issued by the United States Court of Appeals for the Federal Circuit ("CAFC"), the Department would be reconsidering its valuation of the labor wage rate in this review. The Department placed export data on the record of the review and gave parties until June 14, 2010 to comment on the narrow issue of the labor wage value in light of the CAFC's decision. On June 11, 2010, the Department placed additional export data on the record, and extended the deadline for parties to comment until June 16, 2010. On June 16, 2010, China First, Three Star and SFTC, submitted comments and additional data regarding the wage rate issue. The Department, on June 21, 2010, placed on the record further data regarding the wage rate issue.

Scope of the Order

Imports covered by the order are shipments of certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (*e.g.,* with erasers, *etc.*) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: (1) Length: 13.5 or more inches; (2) sheath diameter: Not less than one-and-one quarter inches at any point (before sharpening); and (3) core length: Not more than 15 percent of the length of the pencil.

In addition, pencils with all of the following physical characteristics are excluded from the scope of the order: Novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case briefs are addressed in the "Issues and Decision Memorandum for the 2007–2008 Administrative Review of Certain Cased Pencils from the People's Republic of China" ("Issues and Decision Memorandum"), which is dated concurrently with and hereby adopted by this notice. A list of the issues which parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document which is on file in the Central Records Unit in room 1117 in the main Department building, and is accessible on the web at *http://www.ia.ita.doc.gov/frn.* The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we made the following changes in calculating dumping margins: (1) We made changes to the surrogate value calculation for China First's and Three Star's labor costs; (2) we changed the surrogate value for slats, using slat prices from "Paper and Stationery" [1] instead of U.S. prices for basswood lumber from "Hardwood Market Report;" (3) we changed the surrogate value for cores, using core prices from "Paper and Stationery" instead of Indian import data from World Trade Atlas; (4) based on China First's January 12 and 20, 2010 fifth and sixth supplemental questionnaire responses, we adjusted the supplier distances used in calculating freight costs from those used in the *Preliminary Results;* (5) we made corrections to certain ministerial errors made in the *Preliminary Results* relating to the paperboard surrogate value. For further details, *see* "Analysis for the Final Results of Antidumping Duty Administrative Review of Certain Cased Pencils from the People's Republic of China: Shanghai Three Star Stationery Industry Co., Ltd.," "Analysis for the Final Results of Antidumping Duty Administrative Review of Certain Cased Pencils from the People's Republic of China: China First Pencil Co., Ltd.," and "2007–2008 Antidumping Duty Administrative Review of Certain Cased Pencils from the People's Republic of China: Factor Valuation for the Final Results" memoranda, all dated May 28, 2010.

Final Results of the Review

We determine that the following margins exist for the period December 1, 2007, through November 30, 2008:

Manufacturer/exporter	Margin (percent)
China First Pencil Company, Ltd.	

[1] "Pencil Industry in India—A Robust Future," Divya Jha, in "Paper & Stationery Samachar" (Delhi November 2008), an Indian trade journal, attached as Exhibit SV–3A to China First and Three Star's November 20, 2009 Surrogate Value submission ("Paper and Stationery").

Manufacturer/exporter	Margin (percent)
(which includes subsidiaries Shanghai First Writing Instrument Co., Ltd.; Shanghai Great Wall Pencil Co., Ltd.; and China First Pencil Fang Zheng Co., Ltd.)	01.00
Shanghai Three Star Stationery Industry Co., Ltd	06.10
Beijing Dixon Stationery Company Ltd.	03.55
Orient International Holding Shanghai Foreign Trade Corporation	03.55
Shandong Rongxin Import and Export Co., Ltd.	03.55
PRC-wide Entity [2]	114.90

[2] The PRC-wide entity includes Guangdong Stationery, Tianjin Wood, and Anhui I&E.

As noted in the *Preliminary Results,* six respondents subject to this review were not selected as mandatory respondents. Of these non-mandatory respondents, Dixon filed its separate rate certification on March 2, 2009, and Shandong Rongxin Import and Export Co., Ltd. ("Rongxin") and SFTC both filed separate rate certifications on March 4, 2009. In our analysis of the information on the record regarding SFTC, Rongxin, and Dixon, we found no information indicating the existence of government control of each company's export activities. *See* Dixon's submission of March 2, 2009 and Rongxin's and SFTC's submissions of March 4, 2009. Consequently, we determine that SFTC, Rongxin, and Dixon have met the criteria for the application of a separate rate. The remaining three non-mandatory respondents, Guangdong Provincial Stationery & Sporting Goods Import & Export Corporation ("Guangdong Stationery"), Tianjin Custom Wood Processing Co., Ltd. ("Tianjin Wood"), and Anhui Import & Export Co., Ltd. ("Anhui I&E"), did not submit either a separate rates certification or application. Consequently, Anhui I&E, Guangdong Stationery, and Tianjin Wood have not satisfied the criteria for separate rates for the POR and are considered as being part of the PRC-wide entity.

As stated above, SFTC, Rongxin, and Dixon qualify for a separate rate in this review. Moreover, we did not select SFTC, Rongxin, or Dixon as mandatory respondents in this review. Therefore, SFTC, Rongxin, and Dixon are being assigned dumping margins based on the calculated margins of mandatory respondents, in accordance with Department practice. Accordingly, we have assigned SFTC, Rongxin, and Dixon the simple-average of the dumping margins assigned to the China First and Three Star.

Assessment Rates

The Department has determined, and 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 the final results of review. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer-specific (or customer-specific) assessment rates for merchandise subject to this review.

China First and Three Star did not report entered values for their U.S. sales. Therefore, we calculated a per-unit assessment rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer-specific (or customer-specific) rate is *de minimis* (*i.e.,* less than 0.50 percent), the Department will instruct CBP to liquidate that importer's (or customer's) entries of subject merchandise without regard to antidumping duties.

For companies receiving a separate rate that were not selected for individual review (*i.e.,* Dixon, Rongxin, and SFTC), we calculated an assessment rate based on the simple-average of the cash deposit rates calculated for companies selected for individual review, where those rates were not *de minimis* or based on adverse facts available, in accordance with Department practice.

With respect to the PRC-wide entity (including Guangdong Stationery, Tianjin Wood, and Anhui I&E), we will instruct CBP to liquidate appropriate entries at PRC-wide rate of 114.90 percent.

Cash Deposit Requirements

The following cash-deposit requirements will apply to all shipments of certain cased pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of this administrative review; (2) for any previously reviewed or investigated PRC or non-PRC exporter, not covered in this review, with a separate rate, the cash deposit rate will be the company-specific rate established in the most recent segment of this proceeding; (3) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate established in the final results of this review which is 114.90 percent; and (4) the cash-deposit rate for any non-PRC exporter of subject merchandise from the PRC will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

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.

This notice also serves as a final reminder to parties subject to the administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice of final results is issued and published in accordance with

sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 28, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Comment 1: Appropriate Labor Rate
Comment 2: Surrogate Values
a. Slats
b. Cores
c. Lacquer
Comment 3: Correction of Clerical Errors: Use of Wrong Surrogate Value for Paperboard
Comment 4: Separate Rate Calculation

[FR Doc. 2010–16502 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896, A–821–819]

Magnesium Metal From the People's Republic of China and the Russian Federation: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 1, 2010, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty orders on magnesium metal from the People's Republic of China ("PRC") and the Russian Federation ("Russia"), pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On March 16, 2010, US Magnesium LLS, the petitioner in the magnesium metal investigation, notified the Department that it intended to participate in the PRC and Russia sunset reviews. The Department did not receive a substantive response from any respondent party in either review. Based on the notices of intent to participate and adequate responses filed by the domestic interested party, and the lack of response from any respondent interested party, the Department conducted expedited sunset reviews of the orders pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2). As a result of these sunset reviews, the Department finds that revocation of the orders would likely lead to continuation or recurrence of dumping, at the levels indicated in the "Final Results of Sunset Reviews" section of this notice, *infra.*

DATES: *Effective Date:* July 7, 2010.

FOR FURTHER INFORMATION CONTACT: Frances Veith, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4295.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2010, the Department initiated sunset reviews of the Chinese and Russian antidumping duty orders on magnesium metal pursuant to section 751(c) of the Act. *See Initiation of Five-Year ("Sunset") Review,* 75 FR 9160 (March 1, 2010); *see also Notice of Antidumping Duty Order: Magnesium Metal From the People's Republic of China,* 70 FR 19928 (April 15, 2005) and *Notice of Antidumping Duty Order: Magnesium Metal From the Russian Federation,* 70 FR 19930 (April 15, 2005) (collectively, the "*Orders*"). On March 16, 2010, the Department received timely notices of intent to participate in each of the sunset reviews from US Magnesium, pursuant to 19 CFR 351.218(d)(1)(i). In accordance with 19 CFR 351.218(d)(1)(ii)(A), US Magnesium claimed interested party status under section 771(9)(C) of the Act as a producer of the domestic like product.

On March 31, 2010, US Magnesium filed substantive responses in each of the sunset reviews, within the 30-day deadline as specified in 19 CFR 351.218(d)(3)(i). The Department did not receive a substantive response from any respondent interested party in either sunset review. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited sunset reviews of the *Orders.*

Scope of the Order

PRC

The merchandise covered by the order is magnesium metal, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by the order includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: Products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an "ASTM Specification for Magnesium Alloy" [1] and thus are outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as "alloy" magnesium).

The scope of the order excludes the following merchandise: (1) All forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an "ASTM Specification for Magnesium Alloy;" [2] (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form, by weight, and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[3]

[1] The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.*

[2] This material is already covered by existing antidumping orders. See Notice of Antidumping Duty Orders: *Pure Magnesium From the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium From the Russian Federation,* 60 FR 25691 (May 12, 1995), and *Antidumping Duty Order: Pure Magnesium in Granular Form From the People's Republic of China,* 66 FR 57936 (November 19, 2001).

[3] This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from the PRC, Israel, and Russia. *See Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China,* 66 FR 49345 (September 27, 2001)("*Pure Magnesium Granular PRC Final*"); *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel,* 66 FR 49349 (September 27, 2001) ("*Pure Magnesium Granular Israel Final*"); *Notice of Final Determination of Sales at Not Less Than Fair Value:*

Continued

The merchandise subject to the order is currently classifiable under items 8104.19.00 and 8104.30.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS items are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Russia

The merchandise covered by the order are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by the order includes blends of primary and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium, including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: (1) Products that contain at least 99.95 percent magnesium, by weight (generally referred to as "ultra-pure" magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by weight (generally referred to as "pure" magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less that 99.8 percent, by weight, whether or not conforming to an "ASTM Specification for Magnesium Alloy." [4]

The scope of the order excludes: (1) Magnesium that is in liquid or molten form; and (2) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[5]

The merchandise subject to this investigation is classifiable under items 8104.11.00, 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in these sunset reviews are addressed in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice. *See* the Department's memorandum entitled, "Issues and Decision Memorandum for the Final Results in the Expedited Sunset Reviews of the Antidumping Duty Orders on Magnesium Metal from the People's Republic of China and the Russian Federation," dated June 29, 2010 ("I&D Memo"). The issues discussed in the accompanying I&D Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margin likely to prevail if the *Orders* were revoked. Parties can obtain a copy of this public memorandum on file in the Central Records Unit, room 1117, of the main Commerce building. In addition, a complete public copy of the I&D Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the I&D Memo are identical in content.

Final Results of Sunset Reviews

The Department determines that revocation of the *Orders* on magnesium metal would likely lead to continuation or recurrence of dumping. The Department also determines that the dumping margins likely to prevail if the *Orders* were revoked are as follows:

Manufacturers/Exporters/Producers	Weighted-Average margin (%)
The People's Republic of China	
Tianjin Magnesium International Co., Ltd.	49.66
Beijing Guangling Jinghua Science & Technology Co., Ltd.	49.66
PRC-Wide Entity	141.49
The Russian Federation	
PSC VSMPO–AVISMO Corporation	21.71
Solikamsk Magnesium Works	18.65
All-Others' Rate	21.01

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: June 29, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–16508 Filed 7–6–10; 8:45 am]

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Pure Magnesium From the Russian Federation, 66 FR 49347 (September 27, 2001) ("*Pure Magnesium Granular Russia Final*"). These mixtures are not magnesium alloys because they are not chemically combined in liquid form and cast into the same ingot.

[4] The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.*

[5] This second exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. *See Pure Magnesium Granular PRC Final; Pure Magnesium Granular Israel Final; Pure Magnesium Granular Russia Final.* These mixtures are not magnesium alloys, because they are not chemically combined in liquid form and cast into the same ingot.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Fifth New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") is conducting a new shipper review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam ("Vietnam"). *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam,* 68 FR 47909 (August 12, 2003) ("*Order*"). This new shipper review includes NTSF Seafoods Joint Stock Company ("NTSF"). Based upon our analysis of the comments and information received, we made changes to the dumping margin calculation for the final results. The final dumping margin is listed below in the section entitled "Final Results of the Review."

DATES: *Effective Date:* July 7, 2010.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2243.

SUPPLEMENTARY INFORMATION:

Case History

On January 19, 2010, the Department issued the preliminary results of the fifth new shipper review for the period August 1, 2008, through January 31, 2009. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results of New Shipper Review,* 75 FR 4350 (January 29, 2010) ("*Preliminary Results*"). On February 12, 2010, the Department tolled administrative deadlines, including the instant review, by one calendar week. *See* Tolling of Administrative Deadlines As a Result of the Government Closure during the Recent Snowstorm, dated February 12, 2010 ("Tolling Memo").

On February 16, 2010, the Department extended the deadlines for submission of surrogate value data, surrogate value rebuttal comments, case and rebuttal briefs. *See* Memorandum to the File, from Javier Barrientos, Senior Case Analyst, Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, dated February 16, 2010. On February 23, 2010, Petitioners submitted additional publicly available information with which to value the factors of production.

On March 4, 2010, the Department extended the deadlines for submission of case and rebuttal briefs. *See* Memorandum to the File, from Javier Barrientos, Senior Case Analyst, Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, dated March 4, 2010. On March 12, 2010, Petitioners and NTSF submitted their respective case briefs. On March 17, 2010, Petitioners and NTSF submitted their respective rebuttal case briefs.

On April 26, 2010, the Department extended the deadline for the final results in the instant review by 30 days. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Extension of Time Limit for Final Results of the Fifth New Shipper Review,* 75 FR 26199 (April 30, 2010). On May 19, 2010, the Department extended the deadline for the final results in the instant review by an additional 30 days. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Extension of Time Limit for Final Results of the Fifth New Shipper Review,* 75 FR 30374 (May 25, 2010).

Scope of the Order

The product covered by the *Order* is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus.* Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact ("regular" fillets), boneless fillets with the belly flap removed ("shank" fillets), boneless shank fillets cut into strips ("fillet strips/finger"), which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly-flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone-in, cross-section cuts of dressed fish. Nuggets are the belly-flaps.

The subject merchandise will be hereinafter referred to as frozen "basa" and "tra" fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article codes 1604.19.4000, 1604.19.5000, 0305.59.4000, 0304.29.6033 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States ("HTSUS").[1] The order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum ("Final Decision Memo"), which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this new shipper review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit ("CRU"), room 1117, of the main Department of Commerce building. In addition, a copy of the Final Decision Memo can be accessed directly on our Web site at *http://ia.ita.doc.gov/*. The paper copy and electronic version of the Final Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on a review of the record as well as comments received from parties regarding our *Preliminary Results,* we have made revisions to the margin calculation for NTSF in the final results. For all changes to the calculations, *see* the Final Decision Memo and company specific analysis memoranda. For changes to the surrogate values *see* Memorandum to the File, through Alex Villanueva, Program Manager, AC/CVD Operations, Office 9, from Javier Barrientos, Senior Case Analyst, AD/CVD Operations, Office 9; Fifth Antidumping Duty New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Surrogate Values for the Final Results.

Final Results of the Review

The weighted-average dumping margins for the POR are as follows:

[1] Until July, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS. Until February 1, 2007, these products were classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the HTSUS.

CERTAIN FROZEN FISH FILLETS FROM VIETNAM

Manufacturer/ exporter	Weighted-average margin
NTSF	0.00

Assessment

The Department will determine, and U.S. Customs and Border Protection ("CBP") shall assess, antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). We have calculated importer-specific duty assessment rates on a per-unit basis. Specifically, we divided the total dumping margins (calculated as the difference between normal value and export price or constructed export price) for each importer by the total quantity of subject merchandise sold to that importer during the POR to calculate a per-unit assessment amount. In this and any future review, we will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.,* per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this new shipper review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this final results of this new shipper review for all shipments of subject merchandise by NTSF, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended ("Act"): (1) For subject merchandise produced and exported by NTSF, the cash deposit rate will be zero; (2) for subject merchandise exported by NTSF, but not manufactured by NTSF, the cash deposit rate will continue to be the Vietnam-wide rate of $2.11/Kilogram; and (3) for subject merchandise manufactured by NTSF, but exported by any party other than NTSF, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements will remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i) of the Act, and 19 CFR 351.214(h) and 351.221(b)(5).

Dated: June 27, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

Appendix I—Decision Memorandum

Comment 1: Surrogate Country.
Comment 2: Surrogate Values.
A. Whole Live Fish.
B. Surrogate Financial Ratios.
Comment 3: Indirect Labor.
Comment 4: Factors of Production Denominator.

[FR Doc. 2010–16496 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1686]

Grant of Authority for Subzone Status; Schwarz Pharma Manufacturing, Inc. (Pharmaceutical Products); Seymour, IN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for "* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Ports of Indiana, grantee of Foreign-Trade Zone 170, has made application to the Board for authority to establish a special-purpose subzone at the pharmaceutical manufacturing and distribution facility of Schwarz Pharma Manufacturing, Inc., located in Seymour, Indiana, (FTZ Docket 36–2009, filed 8/25/2009);

Whereas, notice inviting public comment has been given in the **Federal Register** (74 FR 45612–45613, 9/3/2009) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacturing and distribution of pharmaceutical products at the facility of Schwarz Pharma Manufacturing, Inc., located in Seymour, Indiana (Subzone 170B), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 22 day of June, 2010.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2010–16199 Filed 7–6–10; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Initiation of New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has determined that three timely requests for a new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC), meet the statutory and regulatory requirements for initiation.

DATES: *Effective Date:* July 7, 2010.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0780.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on fresh garlic from the PRC was published on November 16, 1994. *See Antidumping Duty Order: Fresh Garlic from the People's Republic of China,* 59 FR 59209 (November 16, 1994) (*Order*). On May 28, 2010, we received timely requests for a new shipper review from Shenzhen Bainong Co. Ltd. (Bainong), Yantai Jinyan Trading Co. Ltd. (Jinyan), and Jining Yifa Garlic Produce Co., Ltd. (Yifa) in accordance with 19 CFR 351.214(c) and 351.214(d)(2). Jinyan and Yifa have each certified that they are both the producer and exporter of all of the fresh garlic they exported to the United States, which is the basis for their requests for a new shipper review. Bainong has certified that it is the exporter of the fresh garlic it exported to the United States, while Mingkai Garlic Industry Co. Ltd. (Mingkai) is the producer of the fresh garlic exported by Bainong.

Pursuant to the requirements set forth in 19 CFR 351.214(b)(2), in their requests for a new shipper review, Bainong, Jinyan, and Yifa each certified that (1) they did not export fresh garlic to the United States during the period of investigation (POI); (2) since the initiation of the investigation, they have never been affiliated with any company that exported subject merchandise to the United States during the POI, including any exporter or producer not individually examined during the investigation; and (3) their export activities are not controlled by the central government of the PRC. In addition, Mingkai, the producer of the subject merchandise for Bainong, certified that it did not export the subject merchandise to the United States during the POI. In accordance with 19 CFR 351.214(b)(2)(iv), Bainong, Jinyan, and Yifa submitted documentation establishing the following: (1) The date on which each company first shipped fresh garlic for export to the United States and the date on which fresh garlic was first entered, or withdrawn from warehouse, for consumption; (2) the volume of the first shipment; and (3) the date of the first sale to an unaffiliated customer in the United States.

Periods of Review

In accordance with 19 CFR 351.214(g)(1)(i)(B), the period of review (POR) for new shipper reviews initiated in the month immediately following the semi-annual anniversary month will be the six-month period immediately preceding the semiannual anniversary month. Therefore, under this order, the POR is November 1, 2009 through April 30, 2010. The sales and entries into the United States of subject merchandise exported by Bainong and Yifa occurred during this six-month POR. Therefore, the POR for these new shippers is November 1, 2009 through April 30, 2010.

When the sale of the subject merchandise occurs within the POR specified by the Department's regulations but the entry occurs after the POR, the specified POR may be extended unless it would be likely to prevent the completion of the review within the time limits set by the Department's regulations. *See* 19 CFR 351.214(f)(2)(ii). Additionally, the preamble to the Department's regulations states that both the entry and the sale should occur during the POR, but that under "appropriate" circumstances the Department has the flexibility to extend the POR. *See* Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27319–27320 (May 19, 1997). In this instance, Jinyan's sale of subject merchandise was made during the POR specified by the Department's regulations but the shipment entered almost a month after the end of that POR. In its request for a new shipper review, Jinyan requested that the Department extend the POR for its NSR to capture its entry. The Department finds that extending the POR to capture this entry would not prevent the completion of the review within the time limits set by the Department's regulations. Therefore, the Department has extended the POR for Jinyan's new shipper review by one month, making the POR for Jinyan November 1, 2009 through May 31, 2010.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.214(d)(1), we find that the requests submitted by Bainong, Jinyan, and Yifa meet the threshold requirements for initiation of a new shipper review for shipments of fresh garlic from the PRC. *See* Memoranda to the File through Barbara E. Tillman, Director, AD/CVD Operations, Office 6, *Fresh Garlic from the People's Republic of China: Initiation of Antidumping New Shipper Review—Bainong, Fresh Garlic from the People's Republic of China: Initiation of Antidumping New Shipper Review—Jinyan,* and *Fresh Garlic from the People's Republic of China: Initiation of Antidumping New Shipper Review—Yifa,* each dated concurrently with this notice. *See* 19 CFR 351.214(g)(1)(i)(A).

The Department will conduct these reviews according to the deadlines set forth in section 751(a)(2)(B)(iv) of the Act. It is the Department's usual practice, in cases involving non-market economies, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue questionnaires to Bainong, Jinyan, and Yifa, which will include a separate rate section. The review will proceed if the response provides sufficient indication that Bainong, Jinyan, and Yifa are each not subject to either *de jure* or *de facto* government control with respect to the export of fresh garlic.

We will instruct U.S. Customs and Border Protection to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from Bainong, Jinyan, and Yifa in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Jinyan and Yifa each certified that it both produced and exported the subject merchandise, the sale of which is the basis for this new shipper review request, we will apply the bonding privilege to Jinyan and Yifa only for subject merchandise which Jinyan and Yifa each both produced and exported. Because Bainong certified that its subject merchandise was produced by Mingkai, we will apply the bonding privilege to Bainong only for subject merchandise produced by Mingkai.

Interested parties requiring access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: June 30, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–16506 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV90

Marine Mammals; File No. 14636

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Daniel P. Costa, Ph.D., University of California at Santa Cruz, Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, CA has been issued a permit to conduct research on northern elephant seals (*Mirounga angustirostris*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On April 20, 2010, notice was published in the **Federal Register** (75 FR 20565) that a request for a permit to conduct research on the species identified above had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The permit authorizes Dr. Costa to continue long-term studies on northern elephant seals in California, including population growth and status, reproductive strategies, behavioral and physiological adaptations for diving and fasting, general physiology and metabolism, and sensory capacities. The permit expires June 30, 2015.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: June 29, 2010.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–16495 Filed 7–6–10; 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 for 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 6/7/2010 THROUGH 6/24/2010

Firm	Address	Date accepted for filing	Products
Flinchbaugh Engineering, Inc ...	4387 Run Way, York, PA 17406.	6/7/2010	Precision manufacturing of CNC machined metal parts.
S&H Cabinets & Manufacturing, Inc.	10860 Mulberry Avenue, Fontana, CA 92337–7027.	6/7/2010	Manufactures wood and plastic laminate cabinets, countertops, reception desks, partitions, shelving, and millwork on a production and custom basis for commercial, industrial and other businesses.
American Products, Inc	45 Leigh Drive, York, PA 17406.	6/8/2010	American Products is a manufacturer of electronic controls.
First Priority, Inc	1590 Todd Farm Drive, Elgin, IL 60123.	6/8/2010	The company is a manufacturer of pharmaceuticals for the veterinary industry.
OK Fabricators, LLC	8630 S. Regency Drive, Tulsa, OK 74131.	6/9/2010	Heavy equipment parts fabrication, to include but not limited to HVAC, boilers, steam vents.
Pace Machine &Tool, Inc	1425 Commerce Lane, Jupiter, FL 33458.	6/9/2010	The firm produces custom-made machine parts; primary manufacturing material is metal.
Rio Rico Farms, Inc	P.O. Box 100, Progreso, TX 78579.	6/9/2010	Grower and processor of edible roots for human consumption.
Ted Hosmer Enterprises, Inc	1249 Lehigh Station Rd., Henrietta, NY 14467.	6/9/2010	The firm offers design/build for landscape and nursery supplies and plant material consisting of shrubs, trees, perennials, annuals, and a wide variety of mulches. In the winter months, the firm provides snow removal services.
Windham Castings, Inc	151 Jimmy Carter, Plains, GA 31780.	6/9/2010	The firm produces cast aluminum furniture; primary manufacturing material is aluminum.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT 6/7/2010 THROUGH 6/24/2010—Continued

Firm	Address	Date accepted for filing	Products
Fulford Manufacturing Company, Inc.	65 Tripps Lane, East, RI 02915.	6/10/2010	Fulford Manufacturing company manufactures hardware, plumbing fixtures and fittings, metal stampings, costume jewelry using materials that include stainless steel, brass and aluminum.
Trelleborg Sealing Solutions US, Inc.	2531 Bremer Rd, Fort Wayne, IN.	6/10/2010	The company manufactures precision plastic bearings and sealing systems.
The Marwin Company, Inc	1703 Atlas Road P.O., Columbia, SC 29290.	6/11/2010	The firm produces attic stairways, bi-fold doors, & pocket door frames; primary manufacturing material is wood.
Elmet Technologies, Inc	1560 Lisbon Street, Lewiston, ME 04240.	6/14/2010	Elmet is global supplier of high performance materials including molybdenum, refractory metals, wire products and lighting products.
IQE, Inc	119 Technology Drive, Bethlehem, PA 18015.	6/14/2010	IQE manufactures epitaxial wafers used in cell phones, cell phone towers, advanced military communications, defense radar and guidance systems, sensors and optoelectronics.
Oklahoma Safety Equipment Co., Inc.	1710 W. Tacoma, Broken Arrow, OK 74012.	6/14/2010	Pressure measuring instruments.
Oliver Manufacturing Company, Inc.	17777 U.S. Highway 50, Rocky Ford, CO 81067.	6/14/2010	Manufacturer of farm machinery and equipment, specializing in cleaning machines for fruit, grain or vegetables.
Dry Corp, LLC	349 Military Cutoff Road, Wilmington, NC 28405.	6/15/2010	The firm produces waterproof cast, bandage, prosthetic and ostomy protectors. The primary manufacturing materials include natural rubber latex, neoprene, PVC vinyl, and injection molded plastic.
Lorbern Manufacturing, Inc	708 Morse Avenue, Schaumburg, IL 60193.	6/15/2010	The company is a manufacturer of machine parts and tooling for the fastener industry. The firm manufactures machined metal parts and tooling.
MicroMax, Inc	5840 N. Canton Center Rd., Canton, MI 48187.	6/15/2010	Engineering design and testing services.
Pollmann North America, Inc	950 Chicago Tube Drive, Romeoville, IL 60446.	6/15/2010	The company is a manufacturer of electro-mechanical and mechanical subassemblies for the automotive, medical, appliance, and consumer electronics industries.
DJ Acquisition Management Corp. d/b/a Weco.	6364 Dean Parkway, Ontario, NY 14519.	6/18/2010	The Company is engaged in contract manufacturing for original equipment manufacturers (OEMs). This includes metal fabrication, machining, finishing and assembly to the customer's product specifications.
Fletcher Rugs, Inc d/b/a Mountain Rug Mills.	609 North King Street, Hendersonville, NC 28792.	6/22/2010	The firm produces area rugs and carpets. The primary manufacturing material is wool and cotton.
AG Devices of Colorado, Inc	9595 Highway 65, Austin, CO 81410.	6/24/2010	AG Devices produces custom electrical cables for a range of applications.
Eldre Corporation	1500 Jefferson Road, Rochester, NY 14623.	6/24/2010	Manufacturer of laminated Bus Bars or current carrying wiring devices.
Tanury Industries	1500 Jefferson Road, Lincoln, RI 02865.	6/24/2010	The firm provides metal finishing services to a wide group of decorative products.

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: June 25, 2010.

Miriam J. Kearse,

Eligibility Certifier.

[FR Doc. 2010–16449 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–857]

Welded Large Diameter Line Pipe From Japan: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 29, 2010, the U.S. Department of Commerce (the Department) published a notice of initiation of an administrative review of the antidumping duty order on welded large diameter line pipe from Japan. The review covers 4 producers/exporters of welded large diameter line pipe from Japan, which are, JFE Steel Corporation, Nippon Steel Corporation, Sumitomo Corporation, and Sumitomo Metal Industries, Ltd. (a.k.a. Sumimoto Metals Pipe & Tube Company). Based on a withdrawal of the request for review from United States Steel Corporation (hereafter "U.S. Steel"), a domestic producer of welded large diameter line pipe, we are now rescinding this administrative review in full.

DATES: *Effective Date: July 7, 2010.*

FOR FURTHER INFORMATION CONTACT: John Drury, or Angelica Mendoza, AD/CVD Operations, Office 7, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0195, or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2009, the Department published in the **Federal Register** the notice of opportunity to request an administrative review of the antidumping duty order on welded large diameter line pipe from Japan for the period December 1, 2008, through November 30, 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 74 FR 62743 (December 1, 2009). On December 31, 2009, the Department received a request from U.S. Steel that the Department conduct an administrative review covering producers/exporters of welded large diameter line pipe from Japan. On January 29, 2010, the Department published in the **Federal Register** the notice of initiation of the 2008–2009 administrative review of welded large diameter line pipe from Japan. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Initiation of Administrative Review,* 75 FR 4770 (January 29, 2010).

On March 1, 2010, the Department received notice on behalf of both Sumitomo Corporation and Sumitomo Metal Industries informing the Department that neither had made any exports, sales or entries of subject merchandise into the U.S. for the period of review.

On April 8, 2010, the Department issued its antidumping duty questionnaire to JFE Steel Corporation. At the time that U.S. Steel withdrew its request for review, JFE Steel Corporation had not submitted responses to the Department's questionnaire.

On April 14, 2010, the Department received a notice on behalf of Nippon Steel Corporation informing the Department that it had not made any exports, sales or entries of subject merchandise into the U.S. for the period of review.

On June 1, 2010, U.S. Steel withdrew its request for administrative review for all companies.

Period of Review

The period of review (POR) is December 1, 2008, through November 30, 2009.

Scope of the Order

The merchandise under review is welded large diameter line pipe from Japan. The product covered by this order is certain welded carbon and alloy line pipe, of circular cross section and with an outside diameter greater than 16 inches, but less than 64 inches, in diameter, whether or not stenciled. This product is normally produced according to American Petroleum Institute (API) specifications, including Grades A25, A, B, and X grades ranging from X42 to X80, but can also be produced to other specifications. The product currently is classified under U.S. Harmonized Tariff Schedule (HTSUS) item numbers 7305.11.10.30, 7305.11.10.60, 7305.11.50.00, 7305.12.10.30, 7305.12.10.60, 7305.12.50.00, 7305.19.10.30. 7305.19.10.60, and 7305.19.50.00. Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the scope is dispositive. Specifically not included within the scope of this order is American Water Works Association (AWWA) specification water and sewage pipe and the following size/grade combinations; of line pipe:

- Having an outside diameter greater than or equal to 18 inches and less than or equal to 22 inches, with a wall thickness measuring 0.750 inch or greater, regardless of grade.
- Having an outside diameter greater than or equal to 24 inches and less than 30 inches, with wall thickness measuring greater than 0.875 inches in grades A, B, and X42, with wall thickness measuring greater than 0.750 inches in grades X52 through X56, and with wall thickness measuring greater than 0.688 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 30 inches and less than 36 inches, with wall thickness measuring greater than 1.250 inches in grades A, B, and X42, with wall thickness measuring greater than 1.000 inches in grades X52 through X56, and with wall thickness measuring greater than 0.875 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 36 inches and less than 42 inches, with wall thickness measuring greater than 1.375 inches in grades A, B, and X42, with wall thickness measuring greater than 1.250 inches in grades X52 through X56, and with wall thickness measuring greater than 1.125 inches in grades X60 or greater.
- Having an outside diameter greater than or equal to 42 inches and less than 64 inches, with a wall thickness measuring greater than 1.500 inches in grades A, B, and X42, with wall thickness measuring greater than 1.375 inches in grades X52 through X56, and with wall thickness measuring greater than 1.250 inches in grades X60 or greater.
- Having an outside diameter equal to 48 inches, with a wall thickness measuring 1.0 inch or greater, in grades X–80 or greater.
- Having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.90 inch or more in grade X80 or above.
- Having an outside diameter of 48 inches to and including 52 inches, and with a wall thickness of 0.54 inch or more in grade X100 or above.
- Having an outside diameter of 21 inches and wall thickness of 0.625 inch or more in grade X80.

Rescission of Antidumping Administrative Review

19 CFR 351.213(d)(1) of the Department's regulations provides that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws at a later date if the Department determines it is reasonable to extend the time limit for withdrawing the request. Therefore, although petitioners withdrew their request with regard to all four companies after the 90-day deadline, the Department has the discretion to extend this time limit. Consistent with the Department's practice,[1] we find it reasonable to extend the withdrawal deadline, because the Department has not yet devoted significant time or resources to this review and petitioners were the only party to request a review.

Assessment Instructions

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For companies for which this review is rescinded, antidumping duties shall be assessed at

[1] *See Persulfates from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review,* 71 FR 13810 (Mar. 17, 2006); *see also Honey from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 42032 (Jul. 21, 2005); and *Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review,* 70 FR 44560 (Aug. 3, 2005); and *Notice of Rescission of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China,* 70 FR 33733 (Jun. 9, 2005).

rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a 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 doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice serves as a 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 the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 29, 2010.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–16504 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–AY99

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Space Vehicle and Missile Launch Operations at Kodiak Launch Complex, Alaska

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

ACTION: Notice; receipt of application for regulations and subsequent letters of authorization; request for comments and information.

SUMMARY: NMFS has received an application from the Alaska Aerospace Corporation (AAC) for authorization to take marine mammals incidental to launching space launch vehicles, long range ballistic target missiles, and other smaller missile systems at Kodiak Launch Complex (KLC) for the period of February 2011 through February 2016. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the AAC's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the AAC's application and request.

DATES: Comments and information must be received no later than August 6, 2010

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648–AY99 @noaa.gov*. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size.

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly or Michelle Magliocca, Office of Protected Resources, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the AAC's application may be obtained by writing to the address specified above (see **ADDRESSES**), telephoning the contact listed above (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) if certain findings are made and regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

The National Defense Authorization Act (NDAA; Pub. L. 108 136) removed the "small numbers" and "specified geographical region" limitations and amended the definition of "harassment" as it applies to a "military readiness activity" to read as follows (Section 3(18)(B) of the MMPA):

(i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On June 4, 2010, NMFS received a complete application from the AAC requesting authorization for the take of Steller sea lions (Eumetopias jubatus) and harbor seals (Phoca vitulina), incidental to space vehicle and missile launch activities from KLC for a period of 5 years. These launches are designed to support the U.S. Department of Defense training and operations and hence are considered military readiness activities. Marine mammals, specifically pinnipeds on nearby haulouts, may be exposed to launch noise. AAC is requesting the take, by harassment, of juvenile and adult Steller sea lions and all age class of harbor seals.

Specified Activities

AAC is proposing to launch small to medium space launch vehicles ranging in size from the small Castor 120 and the related Peacekeeper derived Minotaur IV and V vehicles to the medium lift Taurus II (currently under development) from the KLC. KLC can also support launch of the Minuteman II and III derived Minotaur I (a space launch vehicle) through III (which are primarily used as ballistic targets). Additional target missiles include the C–4 Trident, Quick Reaction Launch

Vehicles, and tactical missiles such as the Patriot and Theater High Altitude Area Defense (THAAD). A number of smaller target and interceptor missile systems may also be flown from KLC. The AAC anticipates ability to accommodate nine launches per year.

Marine mammals, specifically pinnipeds hauled out on Ugak Rock, which lies immediately south of Narrow Cape, would be subjected to rocket launch noise. Sound monitoring previously conducted on Ugak Rock demonstrates that noise levels could reach up to 101.4 dBA for the loudest vehicle, the Castor 120. AAC is requesting the take of 10 Steller sea lions per launch and the take of 125 harbor seals per launch.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the AAC's request (see **ADDRESSES**). All information, suggestions, and comments related to the AAC's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the AAC near the KLC will be considered by NMFS in developing, if appropriate, regulations governing the issuance of letters of authorization.

Dated: June 29, 2010.

Helen M. Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–16493 Filed 7–6–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Department of Defense Military Family Readiness Council (MFRC)

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Department of Defense Military Family Readiness Council (MFRC). The purpose of the Council meeting is to review the Council's Charter, review the status of warrior care, and address selected concerns of military family organizations.

DATES: The meeting will be held on August 5, 2010, from 2 to 4 p.m.

ADDRESSES: The meeting will be held at the Pentagon Conference Center B1 (escorts will be provided from Pentagon Conference Center entrance).

FOR FURTHER INFORMATION CONTACT: Mr. Matt Wiest, Office of the Deputy Under Secretary (Military Community & Family Policy), 4000 Defense Pentagon, Room 2E319, Washington, DC 20301–4000. Telephone (571) 256–1738 and/or e-mail: *FamilyReadinessCouncil@osd.mil.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public, subject to the availability of space. Persons desiring to attend may contact Mr. Matt Wiest at 571–256–1738 or e-mail *FamilyReadinessCouncil@osd.mil* no later than 5 pm on Monday, August 2, 2010, to arrange for parking and escort into the conference room inside the Pentagon.

Interested persons may submit a written statement for consideration by the Council. Persons desiring to submit a written statement to the Council must notify the point of contact listed below no later than 5 p.m., Monday, August 2, 2010.

Meeting Agenda

Thursday, August 5, 2010 (2 p.m.–4 p.m.)

Welcome & Administrative Remarks.

Review and Comment on Council DoD Report on Plans for Support of Military Family Readiness.

Follow-up on Council's FY 2009 Recommendations.

Discussion of Assessment Process.

Discuss Defense Planning and Programming Guidance.

Intentions for the Fall 2010 Meeting.

Closing Remarks.

Note: Exact order may vary.

Dated: July 1, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–16530 Filed 7–6–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before August 6, 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 Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which:

- 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.

Dated: July 1, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Reinstatement.

Title of Collection: Education Longitudinal Study (ELS) 2002 Third Follow-up 2011 Field Test Batch Tracing.

OMB Number: 1850–0652.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Individuals or household.

Estimated Number of Annual Responses: 6,692.

Estimated Annual Burden Hours: 558.

Abstract: The Education Longitudinal Study of 2002 (ELS:2002) is a nationally representative longitudinal study of two high school grade cohorts (spring 2002 tenth-graders and spring 2004 twelfth-graders) comprising over 16,000 sample

members. The study focuses on achievement growth, and its correlates, in the high school years; the family and school social context of secondary education; and transitions from high school to postsecondary education and/or the labor market. Major issues for the postsecondary years include postsecondary educational access and choice, and persistence and baccalaureate and sub-baccalaureate attainment, as well as the work experiences of the non-college-bound, and other markers of adult status, such as family formation and civic participation. Data collections took place in 2002, 2004, 2006 (two years out of high school), and now a final data collection will take place in 2012, when most sample members are around 26 years of age. This submission requests OMB's approval for batch tracing for the third follow-up 2011 field test and 2012 full scale respondents.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4292. 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 and OMB Control Number of the information collection when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–16478 Filed 7–6–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before August 6, 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 Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which:

- 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.

Dated: July 1, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Educational Sciences

Type of Review: New.

Title of Collection: Common Core of Data—Teacher Compensation Survey (TCS): 2010–2013.

OMB #: PENDING.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: State, Local, or Tribal Government, Secondary Educational Agencies (SEAs) or Local Educational Agencies (LEAs).

Estimated Number of Annual Responses: 31.

Estimated Annual Burden Hours: 2,666.

Abstract: National data on teachers are limited to periodic sample surveys or to simple counts at the district or school level. In response to the need for individual teacher-level data, the National Center for Education Statistics (NCES) developed the Teacher Compensation Survey (TCS), an administrative records survey that collects total compensation, teacher status, and demographic data about individual teachers from multiple state education agencies (SEAs). In 2007, NCES launched the pilot TCS data collection, with seven states volunteering to provide administrative records for school year (SY) 2005–06. In the second year of the data collection, the TCS expanded to 17 states reporting SY 2006–07 data. The information collected from these records included base salary, total salary, benefits, highest level of education, years of teaching experience, gender, and race/ethnicity for each teacher. The TCS file can be merged with the Common Core of Data (CCD) Public Elementary/Secondary School Universe Survey file to obtain such school information as school type, operational status, locale code, number of students eligible for free and reduced-price lunch, student enrollment by grade, race/ethnicity, gender, and pupil/teacher ratio. NCES will continue to request data from more SEAs and to make the data more comparable across them. It is anticipated that an average of 31 SEAs per year will volunteer to participate in the TCS between 2010 and 2013 (up to thirty-five states in 2013).

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4288. 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 and OMB Control Number of the information collection when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–16474 Filed 7–6–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information Native American-Serving Nontribal Institutions (NASNTI) Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2010

Catalog of Federal Domestic Assistance (CFDA) Number: 84.031X.

Dates:

Applications Available: July 7, 2010.

Deadline for Transmittal of Applications: August 6, 2010.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The NASNTI Program provides grants and related assistance to Native American-Serving Nontribal Institutions to enable these institutions to improve and expand their capacity to serve Native Americans and low-income individuals by increasing their self-sufficiency in improving academic programs, institutional management, and fiscal stability.

To qualify for funds under the NASNTI Program, an institution of higher education (IHE) must: Be an eligible institution under section 312(b) of the Higher Education Act of 1965, as amended (HEA); have an enrollment of undergraduate students that is at least 10 percent Native American at the time of application for a grant; and not be a Tribal College or University under section 316 of the HEA.

Priorities: Under this competition, we are particularly interested in applications that address the following invitational priorities:

Invitational Priorities: For FY 2010, there are six invitational priorities for this program. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

These invitational priorities are:

Invitational Priority 1.

Develop programs that meet the unique educational and culturally-related academic needs of Native Americans, particularly in the area of language preservation.

Invitational Priority 2.

Work with Native American tribes to develop programs that meet the unique academic and cultural needs of Native American students.

Invitational Priority 3.

Support activities that will improve the institution's persistence and graduation rates.

Invitational Priority 4.

Work with the appropriate State agencies to develop strategies for using State longitudinal data systems to track outcomes for students attending the grantee institution, including the extent to which the students complete certificates, two-year degrees, and four-year degrees at other institutions.

Invitational Priority 5.

Develop academic programs to improve course completion rates or develop innovative support programs that are designed to increase completion rates.

Invitational Priority 6.

Develop dual enrollment programs that facilitate the transition between high school and college or career pathways programs that integrate basic academic instruction with technical or professional occupational training to advance individuals, particularly adult learners, on a career path toward high-wage occupations in high-demand industries.

Program Authority: Title III, Part A, Section 319 of the HEA.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except Federally recognized Indian tribes.

II. Award Information

Type of Award: Title III, Part A—Five-year Individual Development grants and five-year Cooperative Arrangement Development grants will be awarded in FY 2010.

Estimated Available Funds: Title III, Part A $3,600,000.

Program name and type of award	Minimum/maximum award amount	Estimated number of awards	Estimated average award amount
Native American-serving Nontribal Institutions (NASNTI):			
Title III, Part A Five-Year Individual Development Grants	$200,000–$400,000	8	$383,000
Five-Year Cooperative Arrangement Development Grants	$200,000–$500,000	1	$350,000

Note: The Department is not bound by any estimates in this notice. Applicants should periodically check the Title III Program's Web site for further information. The address is: *http://www.ed.gov/about/offices/list/ope/idues/index.html.*

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* An IHE is eligible to receive funds under this program if it is a Native American-Serving Nontribal Institution (NASNTI).

Native American. The term "Native American" means an individual who is of a tribe, people, or culture that is indigenous to the United States as defined in the Office of Management and Budget's Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity as published on October 30, 1997 (62 FR 58789). As part of the application for a grant, applicants will be required to complete and submit a certification assurance form on which the applicant provides their total undergraduate headcount enrollment and certifies that 10 percent of its enrollment is Native American for the purpose of the NASNTI program. The form must be submitted and signed by an official with the authority to represent the institution.

To qualify as an eligible institution under the NASNTI program, an institution must, among other requirements—

(1) Be accredited or preaccredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(2) Be legally authorized by the State in which it is located to be a junior college or to provide an educational program for which it awards a bachelor's degree;

(3) Be designated as an "eligible institution" by demonstrating that it: (A) Has an enrollment of needy students as described in 34 CFR 607.3; and (B) has low average educational and general expenditures per full-time equivalent (FTE) undergraduate student as described in 34 CFR 607.4.

Note: The notice for applying for designation as an eligible institution for FY 2010 was published on December 7, 2009, 74 FR 64059, and applications were due on January 6, 2010. Only institutions that submitted applications by the deadline date of January 6, 2010 and that the Department determined are eligible may apply for a grant.

Relationship between the Title III, Part A programs and the Hispanic-Serving Institutions (HSI) program.

Note 1: A grantee under the Developing Hispanic-Serving Institutions (HSI) program, which is authorized by Title V of the HEA, may not receive a grant under any HEA, Title III, Part A program including the NASNTI program. Further, a current HSI program grantee may not give up its HSI grant in order to receive a grant under any Title III, Part A program.

Note 2: An eligible HSI that does not fall within the limitation described in Note 1 (*i.e.,* is not a current grantee under the HSI program) may apply for a FY 2010 grant under all Title III, Part A programs for which it is eligible, as well as receive consideration for a grant under the HSI program. However, a successful applicant may receive only one grant.

Note 3: The Department will make grant awards in rank order from the funding slates according to the average score received from a panel of three readers.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address To Request Application Package:*

You can obtain an application via the Internet using the following address: *http://e-grants.ed.gov.* If you do not have access to the Internet, please contact LaTonya Brown or Darlene Collins, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8513. You may contact these individuals at the following e-mail addresses or telephone numbers:

LaTonya.Brown@ed.gov; (202) 502–7619
Darlene.Collins@ed.gov; (202) 502–7576

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limits: We have established mandatory page limits for both the Individual Development Grant and the Cooperative Arrangement Development Grant applications. You must limit the section of the narrative that addresses the selection criteria to no more than 50 pages for the Individual Development Grant application and 70 pages for the Cooperative Arrangement Development Grant application, using the following standards:

- A "page" is 8.5″ × 11″, on one side only, with 1 inch margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margins.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions. However, you may single space all text in charts, tables, figures, and graphs. Charts, tables, figures, and graphs presented in the application narrative count toward the page limit.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, graphs, footnotes, and endnotes.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including (Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the Application for Federal Assistance (SF 424); the Supplemental Information for SF 424 Form required by the Department of Education; Part II, the Budget Information Summary Form (ED Form 524); and Part IV, the Assurances and Certifications. The page limit also does not apply to the Table of Contents, the Program one-page Abstract, the resumes, the bibliography, or the letters of support. If you include any attachments or appendices, these items will be counted as part of the Program Narrative (Part III of the application) for purposes of the page limit requirement. You must include your complete response to the selection criteria in the program narrative.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: July 7, 2010.

Deadline for Transmittal of Applications: August 6, 2010.

Applications for grants under this program must be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants Web site at: *http://e-grants.ed.gov.* For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission in Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under *For Further Information Contact* in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference the regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and Central Contractor Registry:* To do business with the Department of Education, (1) you must have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN); (2) you must register both of those numbers with the Central Contractor Registry (CCR), the Government's primary registrant database; and (3) you must provide those same numbers on your application.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one business day.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The CCR registration process may take five or more business days to complete. If you are currently registered with the CCR, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

7. *Other Submission Requirements:* Applications for grants under the NASNTI program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the NASNTI Program CFDA Number 84.031X must be submitted electronically using e-Application, accessible through the Department's e-Grants Web site at: *http://e-grants.ed.gov.*

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this program after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance). You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgement that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

(1) Print SF 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

(4) Fax the signed SF 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date. *Application Deadline Date Extension in Case of e-Application Unavailability:* If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) E-Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) E-Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under *For Further Information Contact* (*see* VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If e-Application is unavailable due to technical problems with the system, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of e-Application.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through e-Application because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to e-Application; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: LaTonya Brown or Darlene Collins, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8513. FAX: (202) 502–7861. You may contact these individuals at the following e-mail addresses or telephone numbers:

LaTonya.Brown@ed.gov; (202) 502–7619

Darlene.Collins@ed.gov; (202) 502–7576

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031X) LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031X) 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424, the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. Selection Criteria—The selection criteria for this program are in the Education Department General Administrative Regulations (EDGAR) section 75.210. Applicants must address each of the following selection criteria (separately for each proposed activity). The total weight of the selection criteria is 100 points; the weight of each criterion is noted in parentheses.

a. Need for the project. (Maximum 20 points) In determining the need for the proposed project, the Secretary considers:

1. The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (10 points)

2. The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (5 points)

3. The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (5 points)

b. Quality of the project design. (Maximum 15 points) In determining the quality of the design of the proposed project, the Secretary considers:

1. The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)

2. The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (5 points)

c. Quality of project services. (Maximum 15 points) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers:

1. The extent to which the services provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (10 points)

2. The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (5 points)

d. Quality of project personnel. (Maximum 10 points) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary considers:

1. The qualifications, including relevant training and experience, of the project director or principal investigator. (5 points)

2. The qualifications, including relevant training and experience, of key project personnel. (5 points)

e. Adequacy of resources. (Maximum 5 points) In determining the adequacy of resources for the proposed project, the Secretary considers:

1. The extent to which the budget is adequate to support the proposed project. (3 points)

2. The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (2 points)

f. Quality of the management plan. (Maximum 20 points) In determining the quality of the management plan for the proposed project, the Secretary considers:

1. The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (10 points)

2. The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (5 points)

3. The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (5 points)

g. Quality of the project evaluation. (Maximum 15 points) In determining the quality of the evaluation, the Secretary considers:

1. The extent to which the methods of evaluation are thorough, feasible and appropriate to the goals, objectives and

outcomes of the proposed project. (5 points)

2. The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (5 points)

3. The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points)

2. *Review and Selection Process:* For five-year individual development grants and five-year cooperative arrangement development grants, awards will be made in rank order according to the average score received from a panel of three readers. All Title III Part A applications for individual development grants will be ranked together from the highest to the lowest score for funding purposes and all cooperative arrangement development grants will be ranked in the same manner.

3. *Tie-breaker for Title III, Part A Development Grants.* In tie-breaking situations, 34 CFR 607.23(b) requires that we award one additional point to an application from an IHE that has an endowment fund of which the current market value per FTE enrolled student is less than the average current market value of the endowment funds, per FTE enrolled student at comparable institutions that offer similar instruction. We award one additional point to an application from an IHE that had expenditures for library materials per FTE enrolled student that are less than the average expenditures per FTE enrolled student at comparable institutions that offer similar instruction. We also add one additional point to an application from an IHE that proposes to carry out one or more of the following activities—

1. Faculty development;
2. Funds and administrative management;
3. Development and improvement of academic programs;
4. Acquisition of equipment for use in strengthening management and academic programs;
5. Joint use of facilities; and
6. Student services.

For the purpose of these funding considerations, we use 2007–2008 data. If a tie remains after applying the tie-breaker mechanism above, priority will be given in the case of applicants for: (a) Individual development grants to applicants that have the lowest endowment values per FTE enrolled student; and (b) cooperative arrangement development grants to applicants in accordance with section 394(b) of the HEA, if the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary in 34 CFR 75.118 and 34 CFR 607.31. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the NASNTI programs:

a. The percentage change, over a five-year period, of the number of full-time degree-seeking undergraduates enrolling at NASNTIs. Note that this is a long-term measure, which will be used to periodically gauge performance;

b. The percentage of first-time, full-time degree-seeking undergraduate students at four-year NASNTIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same NASNTI;

c. The percentage of first-time, full-time degree-seeking undergraduate students at two-year NASNTIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same NASNTI;

d. The percentage of first-time, full-time degree-seeking undergraduate students enrolled at four-year NASNTIs who graduate within six years of enrollment; and

e. The percentage of first-time, full-time degree-seeking undergraduate students enrolled at two-year NASNTIs who graduate within three years of enrollment.

VII. Agency Contacts

For Further Information Contact: LaTonya Brown or Darlene Collins, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8513. You may contact these individuals at the following e-mail addresses or telephone numbers:

LaTonya.Brown@ed.gov; (202) 502–7619
Darlene.Collins@ed.gov; (202) 502–7576

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact persons listed in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: June 30, 2010.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. 2010–16378 Filed 7–6–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Perkins Loan Program: Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Requirements, definitions, eligibility criteria, and procedures for the Civil Legal Assistance Attorney Student Loan Repayment Program for fiscal year (FY) 2010.

SUMMARY: The Secretary announces the requirements, definitions, eligibility criteria, and procedures for the implementation of the Civil Legal Assistance Attorney Student Loan Repayment Program, authorized under section 428L of the Higher Education Act of 1965, as amended (HEA), 20 USC 1078–12. Under this program, civil legal assistance attorneys who meet certain qualifications may have a portion of their Federal Perkins Loan (Perkins Loan), Federal Family Education Loan (FFEL), and William D. Ford Federal Direct Loan (Direct Loan) program loans repaid by the Secretary based on qualifying full-time employment for at least three years.

DATES: *Availability and Beginning Receipt Date for Applications and Service Agreements:* The Civil Legal Assistance Attorney Student Loan Repayment Application and Service Agreement, along with the beginning date for the Secretary's receipt of Applications and Service Agreements, can be found at: *www.studentaid.ed.gov*.

Deadline date for receipt of Applications and Service Agreements: August 16, 2010.

Additional information about the awarding of funds to eligible borrowers under this program on a first-come, first-served basis, based on the receipt date by the Secretary of the borrower's Application and Service Agreement, can be found in the Background section of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela Moran, U.S. Department of Education, 1990 K Street, NW., room 8023, Washington, DC 20006–8502. Telephone: (202) 502–7732 or via Internet: *Pamela.Moran@ed.gov*.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

This notice implements the Civil Legal Assistance Attorney Student Loan Repayment Program authorized by Section 428L of the HEA. This program is intended to encourage qualified individuals to enter and continue employment as civil legal assistance attorneys. The HEA authorizes the Secretary, contingent upon annual appropriations, to repay a portion of the outstanding balance of eligible Perkins Loan, FFEL, and Direct Loan Program loans obtained by borrowers who are employed full time as civil legal assistance attorneys. Congress has appropriated $5,000,000 for the program for FY 2010.

Under the Civil Legal Assistance Attorney Student Loan Repayment Program, a Perkins Loan, FFEL, or Direct Loan Program borrower with one or more eligible loans (as defined in the "Program Definitions" section of this notice) who has executed a Service Agreement with the Secretary and who performs service as a civil legal assistance attorney for a period of not less than three years (as "year" is defined in the "Program Definitions" section of this notice) may receive up to $6,000 in student loan repayment each year up to an aggregate total of $40,000 for any borrower.

The borrower must be employed, full-time, as a civil legal assistance attorney by either: (1) A nonprofit organization that provides legal assistance, without a fee, on civil matters to low-income individuals; or (2) a protection and advocacy system or client assistance program that provides legal assistance on civil matters to clients and receives funding under specific Federal programs identified in this notice.

Subject to available funding, student loan repayment benefits will be paid after the borrower completes each year of service required under the borrower's Service Agreement with the Secretary. The Secretary does not reimburse a borrower for any payments the borrower made on a student loan prior to the date on which the borrower entered into a written Service Agreement with the Secretary. Upon an employer's certification of a borrower's completion of a given year of required service under the borrower's Service Agreement, the Secretary sends the approved repayment amount to the borrower's loan holder(s) to be applied to the outstanding balance of the borrower's eligible student loans, not to exceed the annual maximum of $6,000. A borrower who voluntarily ceases qualifying employment before completing the full period of service required under the borrower's agreement with the Secretary, or who is involuntarily separated from qualifying employment due to misconduct, will be required to repay any repayment benefit the borrower received.

Upon completion of the required period of service, a borrower and the Secretary may enter into an additional agreement. Under an additional agreement, the Secretary may repay additional loan amounts for additional periods of qualifying employment. An additional agreement may require a borrower to be employed as a civil legal assistance attorney for less than a three-year period.

Loan repayment commitments are limited to the amount appropriated for the program for a given fiscal year by Congress and are only available to eligible applicants until those funds are fully committed. Therefore, eligibility to participate in the Civil Legal Assistance Attorney Student Loan Repayment Program will be available to eligible borrowers on a first-come, first-served basis, based on the receipt date by the Secretary (under the submission instructions of the Secretary) of the borrower's Application and Service Agreement. A loan repayment commitment to a borrower in one fiscal year does not guarantee a commitment for the remainder of the years covered by the borrower's Service Agreement or in future years. The Secretary is required to give priority for student loan repayment in any fiscal year to borrowers who have received forgiveness benefits during the preceding fiscal year and have not yet completed the three years of service under their first service agreement and to new applicants who have practiced law for a period of five years or less and have spent not less than 90 percent of that period working as civil legal assistance attorneys.

Loan repayment benefits will only be paid for years in which Congress appropriates money for the program. If Congress does not appropriate money, benefits will not be paid even if a borrower has a Service Agreement with the Secretary. A borrower is obligated to complete the entire period of service covered under the Service Agreement even if additional loan repayments are not made.

Procedures

Funding for this program in the amount of $5,000,000 was included in the Consolidated Appropriations Act, 2010, enacted on December 16, 2009 (Public Law 111–117) for FY 2010. In light of the limited amount of funds available and the uncertainty surrounding the availability of future funding, the Secretary is issuing this notice to announce the program and establish the requirements, definitions, eligibility criteria, and procedures for awarding benefits under the Civil Legal

Assistance Attorney Student Loan Repayment Program in accordance with section 437(d)(1) of the General Education Provisions Act, 20 U.S.C. 1232(d)(1). The eligibility criteria, requirements, definitions, and application and repayment procedures specified in this notice are based on section 428L of the HEA. If continued funding for the program is provided through annual appropriations, the Secretary intends to undertake formal rulemaking.

Eligibility Criteria for Borrowers: (A) To qualify for the Civil Legal Assistance Attorney Student Loan Repayment Program, a borrower must:

(1) Have an "eligible loan," as defined in the "Program Definitions" section of this notice;

(2) Not be in default on a loan for which the borrower seeks repayment;

(3) Be employed as a "civil legal assistance attorney", as defined in the "Program Definitions" section of this notice;

(4) Be continually licensed to practice law; and

(5) Execute a Service Agreement with the Secretary.

(B) A borrower may not receive benefits for the same service under both the Civil Legal Assistance Attorney Student Loan Repayment Program and the Loan Forgiveness for Service in Areas of National Need Program under section 428K of the HEA, 20 U.S.C 1078–11, or the Public Service Loan Forgiveness Program under section 455(m) of the HEA, 20 U.S.C 1087e(m).

Requirements

Terms of Service Agreement with the Secretary: (A) To be eligible to receive and retain payment benefits under the Civil Legal Assistance Attorney Student Loan Repayment Program, the borrower must enter into a written Service Agreement with the Secretary that specifies that:

(1) The borrower is, at the time the Service Agreement is signed by the borrower, employed as a civil legal assistance attorney and will remain employed as a civil legal assistance attorney for a period of not less than three years after the Service Agreement is signed, unless the borrower is involuntarily separated from that employment.

(2) If the borrower fails to meet the continued employment condition, the borrower must repay the Secretary the amount of any benefits received by the borrower under the Service Agreement;

(3) If the borrower is involuntarily separated from qualifying employment as a result of misconduct or voluntarily separates from employment before the end of the service period specified in the Service Agreement, the borrower must repay the Secretary the amount of any benefits received by the borrower under the Service Agreement;

(4) If a borrower who is required to repay an amount to the Secretary fails to do so, the amount will be collected by the Federal Government as a Federal debt using all the methods provided by law for recovery of amounts owed to the Federal Government;

(5) On a case-by-case basis, the Secretary may waive, in whole or in part, the right to recover an amount owed under this program if, in the Secretary's judgment, the recovery would be contrary to the public interest; and

(6) The Secretary makes student loan payments on behalf of the borrower for the period of the agreement, subject to the availability of annual appropriations.

(B) Upon completion of a required period of service, the Secretary may enter into an additional agreement with the borrower. An additional agreement may require the borrower to remain employed as a civil legal assistance attorney for a period of less than three years. The Secretary would make additional student loan payments on the borrower's behalf for this additional period of service.

Repayment Amounts

(A) A borrower employed as a civil legal assistance attorney who meets all of the criteria for student loan repayment under the borrower's Service Agreement with the Secretary may receive repayment of up to $6,000 for each year of completed service under a service agreement, up to a total amount of $40,000.

(B) The Secretary does not reimburse a borrower for any payment on a loan made by the borrower prior to the date the Secretary determines that the borrower has met each year's employment commitment under the borrower's Service Agreement.

(C) The Secretary pays the approved repayment amount to the borrower's loan holder(s) to be applied to the outstanding balance of the borrower's eligible loans, not to exceed the annual maximum of $6,000.

Program Definitions

Year means a consecutive 12-month period that begins on a date identified by the Secretary that is on or after the date of the signed written Service Agreement between the borrower and the Secretary.

Civil legal assistance attorney means an attorney who is a full-time employee of—

(A) A nonprofit organization that provides legal assistance, without a fee, with respect to civil matters to low-income individuals; or

(B) A protection and advocacy system or client assistance program that provides legal assistance to clients with respect to civil matters and that receives funding under—

(1) Subtitle C of Title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 *et seq.*);

(2) Section 112 or 509 of the Rehabilitation Act of 1973 (29 U.S.C. 732, 794e);

(3) Part A of Title I of the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 *et seq.*);

(4) Section 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3004);

(5) Section 1150 of the Social Security Act (42 U.S.C. 1320b–21);

(6) Section 1253 of the Public Health Service Act (42 U.S.C. 300d–53); or

(7) Section 291 of the Help America Vote Act of 2002 (42 U.S.C. 15461).

Eligible Student Loan is a loan made under the Perkins Loan, FFEL, or Direct Loan Program, excluding PLUS loans made under the FFEL and Direct Loan Programs to parents of dependent undergraduate students and Federal Consolidation Loans and Direct Consolidation Loans that repaid a parent PLUS loan.

Employee means an individual who, under Federal tax law, is considered an employee of the non-profit organization, protection and advocacy system, or client assistance program.

Full-time employment (A) Means working in qualifying employment in one or more jobs for the greater of—

(1) An annual average of at least 30 hours per week, or

(2) Unless the qualifying employment is with two or more employers, the number of hours the employer considers full-time.

(B) Vacation or leave time provided by the employer or leave taken for a condition that is a qualifying reason under the Family and Medical Leave Act of 1993, 29 U.S.C. 2612(a)(1) and (3), is not considered in determining the average hours worked on an annual basis.

Non-profit organization means an organization, under section 501(c)(3) of the Internal Revenue Code, that is exempt from taxation under section 501(a) of the Internal Revenue Code.

Involuntary separation due to misconduct means termination from

employment which results in the borrower not being eligible to receive unemployment benefits under applicable State law.

Application Procedures for Loan Repayment and Payment Processing

(A) A borrower may request loan repayment by completing the Application and Service Agreement approved by the Secretary and providing any required supporting documentation.

(B) The Secretary makes a student loan repayment commitment for each consecutive 12-month period of service to a qualified applicant on a first-come, first-served basis, according to the date that the borrower's complete and accurate signed Application and Service Agreement is received by the Secretary, contingent upon the availability of funds for the fiscal year on that date. The date the application is received by the Secretary is:

(1) No earlier than the first receipt date established by the Secretary;

(2) No later than the deadline date for receipt of applications specified in this Notice; and

(3) If the borrower's application is incomplete or inaccurate, the date the Secretary considers the borrower's application to be complete and accurate.

(C) The Secretary notifies applicants of—

(1) Their eligibility or ineligibility for a student loan repayment commitment;

(2) For eligible borrowers, the required service period covered under the borrower's Service Agreement with the Secretary;

(3) For eligible borrowers, the loan repayment amount to be paid following completion of the first consecutive 12-month period of service covered under the borrower's Service Agreement; and

(4) Any other terms and conditions of the Secretary's payment of benefits.

(D) No later than 90 days after the end of each consecutive 12-month period for which the Secretary committed a loan repayment amount for the borrower, the borrower must submit to the Secretary a certification of completed service certified by the borrower's employer on a form approved by the Secretary.

(E) Upon receipt of the borrower's certification of completed service, the Secretary will send the approved repayment amount for which the borrower qualified to the holder of the borrower's highest current outstanding unsubsidized loan, if any, for payment on that loan. If the borrower has no outstanding unsubsidized loans, the Secretary forwards the repayment amount to the holder of the borrower's highest outstanding subsidized loan.

(F) If the holder of the borrower's loan(s) determines that the repayment amount received from the Secretary exceeds the remaining balance of the loan for which it is designated in accordance with paragraph (E) of this section, the holder must apply the remaining balance to another eligible loan of the borrower held by the holder, if applicable. If the holder has no other eligible loans of the borrower, the holder must return the balance to the Secretary. If applicable, the Secretary will forward that balance to another holder of the borrower's eligible loans.

Repayment Procedures

(A) A borrower must repay to the Secretary any repayment benefit received if the borrower—

(1) Fails to complete all of the service required under the Service Agreement; or

(2) Before the end of the period of employment required by the Service Agreement, is involuntarily separated from eligible employment due to misconduct or voluntarily leaves that eligible employment.

(B) Upon notification of a borrower's involuntary separation due to misconduct or voluntary separation from eligible employment, or upon a borrower's failure to submit a certification of completed service within 90 days of the end date of the second or subsequent consecutive 12-month service period required to retain the repayment benefit, the Secretary notifies the borrower that the borrower must repay any benefit received under the Service Agreement unless the borrower provides the Secretary, within 30 days of the date of the Secretary's notice, with documentation that establishes to the satisfaction of the Secretary that such repayment should not be required.

(C) If, within 30 days of the date of the Secretary's notice under paragraph (B) of this section, the borrower fails to provide the Secretary with documentation that establishes to the satisfaction of the Secretary why the borrower should not be required to repay a benefit received, the Secretary treats the payment amount as a Federal debt and provides the borrower with a repayment schedule that includes a monthly payment amount, the first payment due date, the applicable interest rate, and any accrued interest. The Secretary also informs the borrower of any other terms and conditions of repayment.

(D) If a borrower who is required to repay a benefit received under a Service Agreement fails to make a monthly payment within 20 days of the due date, the Secretary undertakes collection of the amount owed by the borrower using all the methods provided for by law for the recovery of Federal debts.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

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Catalog of Federal Domestic Assistance (CFDA) Number: 84.409.

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: June 30, 2010.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. 2010–16360 Filed 7–6–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2010–IES–0008]

Notice Inviting Comments on Priorities To Be Proposed to the National Board for Education Sciences of the Institute of Education Sciences

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice inviting comments on priorities to be proposed to the National Board for Education Sciences of the Institute of Education Sciences.

SUMMARY: The Director of the Institute of Education Sciences (Institute) has developed priorities to guide the work of the Institute. The National Board for Education Sciences (Board) must approve the priorities, but before proposing the priorities to the Board, the Director must seek public comment on the priorities. The public comments

will be provided to the Board prior to its action on the priorities.

DATES: We must receive your comments on or before September 7, 2010.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How To Use This Site."
- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed priorities, address your comments to Elizabeth Payer, U.S. Department of Education, 555 New Jersey Avenue, NW., room 602c, Washington, DC 20208.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *http://www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: Elizabeth Payer. Telephone: (202) 219–1310.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: *Invitation to Comment:* We invite you to submit comments regarding these proposed priorities. During and after the comment period, you may inspect all public comments about these proposed priorities by accessing Regulations.gov. You may also inspect the comments, in person, in room 602q, 555 New Jersey Avenue, NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background: The Education Sciences Reform Act of 2002 (20 U.S.C. 9516) requires that the Director of the Institute propose to the Board priorities for the Institute. The Director is to identify topics that require long term research and topics that are focused on understanding and solving education problems and issues, including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965, as amended; the Individuals with Disabilities Education Act, as amended; and the Higher Education Act of 1965, as amended; such as closing the achievement gap; ensuring that all children have the ability to obtain a high-quality education and reach, at a minimum, proficiency on State standards and assessments; and ensuring access to, and opportunities for, postsecondary education.

Before submitting proposed priorities to the Board, the Director must make the priorities available to the public for comment for not less than 60 days. Each comment submitted must be provided to the Board.

The Director anticipates submitting to the Board proposed priorities for the Institute at a meeting to be held in September, 2010.

The Board must approve or disapprove the priorities for the Institute proposed by the Director, including any necessary revision of the priorities. Approved priorities are to be transmitted to appropriate congressional committees by the Board.

The Director will publish in the **Federal Register** the Institute's plan for addressing the priorities and make it available for comment for not less than 60 days.

Proposed Priorities

The overall mission of the Institute is to expand fundamental knowledge and understanding of education and to provide education leaders and practitioners, parents and students, researchers, and the general public with unbiased, reliable, and useful information about the condition and progress of education in the United States; about education policies, programs, and practices; and about the effectiveness of Federal and other education programs.

The work of the Institute is grounded in the principle that effective education research must be informed by the interests and needs of education practitioners and policymakers. To this end, the Institute will encourage close partnerships between researchers and practitioners in the conceptualization, planning, and conduct of research and evaluation. The Institute will facilitate the use of education statistics, research, and evaluation in educational planning both by including members of the practitioner community in the design and conduct of the work and by producing reports that are accessible, timely, and meaningful to the day-to-day work of education practitioners and policymakers. Further, the Institute will seek to increase the capacity of education policymakers and practitioners to use the knowledge generated from high quality data analysis, research, and evaluation.

To accomplish this mission, the Institute will compile statistics, support research, conduct evaluations, and facilitate the use of scientific evidence addressing a broad range of education outcomes for all students, including those with disabilities. These education outcomes may include, but are not limited to: School readiness and developmental outcomes for infants, toddlers, and young children; learning, higher order thinking, and achievement in reading and writing, mathematics, and the sciences; behaviors, skills, and dispositions that support learning in school and later success in the workforce; educational attainment in postsecondary, vocational, and adult education; and the training, recruitment, and retention of educators.

Within these areas, the Institute will sponsor work to: Examine the state of education in the United States; develop and evaluate innovative approaches to improving education outcomes; understand the characteristics of high-quality teaching and how better to train current and prospective teachers; understand the processes of schooling through which educational policies, programs, and practices affect students; and understand classroom, school, and other social contextual factors that moderate the effects of education practices and contribute to their successful implementation and sustainability. In doing so, the Institute will seek to identify education policies, programs, and practices that improve education outcomes; and to determine how, why, for whom, and under what conditions these policies, programs, and practices are effective. In particular, the Institute will promote research to improve education outcomes for those

students who have traditionally been poorly served by the education system because of their socioeconomic status, race/ethnicity, disability, limited English proficiency, and residential or school mobility, with a goal of generating knowledge to assist educators and policymakers in assessing and improving the equity of the education system.

The Institute will maintain rigorous scientific standards for the technical quality of its statistics, research, and evaluation activities, ensuring that the methods applied are appropriate to the questions asked and the results are valid and reliable. The work of the Institute will include a variety of research and statistical methods. The Institute will support the development of improved research methods; improved measures of a broad range of education processes, systems, and outcomes; and improved analytical approaches for designing and conducting education research. Where needed, the Institute will develop and publish rigorous technical standards for these methods. The Institute will ensure the quality and objectivity of its work by submitting all products to rigorous scientific review. In addition to supporting new research, the Institute will facilitate the synthesis of existing and ongoing research to construct coherent bodies of scientific knowledge about education. The Institute will build the capacity of the education research community by supporting post-doctoral and interdisciplinary doctoral training in the education sciences, equipping education researchers with the skills to conduct rigorous research and effectively engage the practitioner community in that research, and by conducting training in research design and methods and in the use of longitudinal data.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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You may also view this document in text (Word and PDF) at the following site: *http://ies.ed.gov/whatsnew/.*

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(Catalog of Federal Domestic Assistance number does not apply.)

Program Authority: 20 U.S.C. 9501 *et seq.*

Dated: July 1, 2010.

John Q. Easton,

Director, Institute of Education Sciences.

[FR Doc. 2010–16527 Filed 7–6–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2010–OPE–0007]

SAFRA Act Payments to Loan Servicers for Job Retention

ACTION: Interim final requirements; request for comments.

SUMMARY: The U.S. Secretary of Education (Secretary) establishes requirements to implement section 458(a)(7) of the Higher Education Act of 1965, as amended (HEA), as added by section 2212(b)(1) of the SAFRA Act, title II of the Health Care and Education Reconciliation Act of 2010 (SAFRA). Under this provision of the law, the Secretary provides payments to student loan servicers in Federal fiscal year (FY) 2010 and FY 2011 for retaining jobs at locations in the United States where such servicers were operating under title IV, part B of the HEA (the Federal Family Education Loan Program) on January 1, 2010.

As discussed in more detail elsewhere in these interim final requirements, the Department adopts these requirements for FY 2010 on an interim final basis. We also request public comment on these requirements. After consideration of these comments, the Secretary will publish final requirements that will govern the program for FY 2011.

DATES: These requirements are effective July 7, 2010. We must receive your comments by August 6, 2010.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How To Use This Site."
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these interim final requirements, address them to Donald Conner, 1990 K Street, NW., Room 8030, Washington, DC 20006.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *http://www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the Internet.

FOR FURTHER INFORMATION CONTACT: Donald Conner, Telephone: 202–502–7818 or by e-mail: *Donald.conner@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding these interim final requirements. To ensure that your comments have maximum effect in developing the requirements for FY 2011 for this program, we urge you to identify clearly the specific section or sections of the interim final requirements that each of your comments addresses and to arrange your comments in the same order as in the interim final requirements.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these interim final requirements. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these interim final requirements by accessing Regulations.gov. You may

also inspect the comments, in person, in room 8031, 1990 K Street, NW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these interim final requirements. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

On March 30, 2010, the President signed into law the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, title II of which is the SAFRA Act. SAFRA made a number of changes to the Federal student financial aid programs under title IV of the HEA. One of the most significant changes made by SAFRA is to end new loans under the Federal Family Education Loan (FFEL) Program authorized by title IV, part B of the HEA as of July 1, 2010. Beginning July 1, 2010, borrowers will receive any Stafford, PLUS, and Consolidation loans made under the William D. Ford Federal Direct Loan Program. In connection with the termination of the FFEL Program, SAFRA amended the HEA to require the Secretary to provide payments to loan servicers for retaining jobs at locations in the United States where such servicers were operating under the FFEL Program on January 1, 2010. SAFRA authorized and appropriated $25,000,000 for each of FY 2010 and FY 2011 for the Department to make these payments.

For FY 2010, the Secretary will allocate funds directly to loan servicers actively engaged in servicing FFEL loans in the United States as of January 1, 2010. Eligible entities may apply for funding in accordance with the procedures included in these interim final requirements, for each location at which it operated on January 1, 2010. The Secretary will allocate the payments among eligible applicants based on the servicer's relative annualized payroll of employees engaged in FFEL loan origination activities at each location in the United States where it was servicing loans as of January 1, 2010, weighted by the local unemployment rate of the county or county equivalent in which the facility is located.

For FY 2011 the Secretary will use, subject to consideration of public comments received on these interim final requirements, the same approach as that for FY 2010 but will also take into account the status of the servicer's job retention efforts since the enactment of SAFRA.

Note: To ensure consideration of an application for funding under this program, a complete, signed application and all required information must be received by the Department on or before August 6, 2010. Instructions for completing and submitting the application are in the application package, which can be obtained by contacting Donald Conner, 202–502–7818, or by e-mail: *Donald.conner@ed.gov;* or by going to *http://www.ed.gov/programs/safra/index.html.*

Waiver of Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department is generally required to publish a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed regulations prior to establishing a final rule. However, we are waiving the notice-and-comment rulemaking requirements under the APA. Section 553(b) of the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. Although these requirements are subject to the APA's notice-and-comment requirements, the Secretary has determined that it would be impracticable and contrary to the public interest to conduct notice-and-comment rulemaking.

These interim final requirements are needed to ensure timely allocation of funds to loan servicers to meet the intent of the law. The Secretary is required to award these funds by September 30, 2010. Even on an extremely expedited timeline, the Department believes that it would be impracticable for it to conduct notice-and-comment rulemaking and to promulgate final requirements in time for FY 2010 funds to be distributed in accordance with section 458(a)(7) of the HEA by that deadline. More specifically, the Department will need to provide potential applicants with 30 days to submit their applications, and the Department's review of the applications will take approximately 20 days. Upon conclusion of that review and the initial selection of applicants for funding, the selected applicants will require 15 days to submit their revised plans, and the Department will then need 15 days to prepare its final funding list and make awards by September 30, 2010. It simply would not be possible for the Department to solicit and respond to public comments, establish final requirements, and then conduct the competition for funding in the short amount of time remaining before September 30, 2010.

Accordingly, the Secretary is issuing these interim final requirements without first publishing proposed requirements for public comment.

Although the Department is adopting these requirements on an interim final basis, the Department requests public comment on these requirements so that any modifications, if necessary, can be made for implementation of the program in FY 2011. After consideration of public comments, the Secretary will publish final requirements.

The APA also requires that a substantive rule be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). For the reasons outlined in the preceding paragraphs, the Secretary has determined that a delayed effective date for these interim final requirements would be unnecessary and contrary to the public interest, and that good cause exists to waive the requirement for a delayed effective date. As such, these requirements are effective on the date they are published.

Summary of the Interim Final Requirements

These interim final requirements include the following provisions, which we have determined are necessary to implement section 458(a)(7) of the HEA:

- *Application process and eligibility requirements.* This notice describes the application process requirements for eligible entities to receive funds for FY 2010 and FY 2011. Applicants need not be recipients of FY 2010 funds to be eligible to apply for FY 2011 funds.
- *Definitions.* This notice establishes definitions for key terms used for this program, including *adjusted eligible payroll, domestic employees, eligible employees, eligible entity, eligible payroll, local unemployment rate, review period, servicing FFEL loans,* and *total payroll.*
- *Allowable Use of Funds.* This notice describes the types of activities for which grantees can use funds awarded under this program.
- *Content of application requirements.* This notice describes the information, including a job retention

plan, that eligible entities must include in their applications.

• *Reporting requirements and required deadlines.* This notice describes the annual reporting requirements on the use of funds and the deadlines for the reports.

• *Funding allocation formulas for FY 2010 and FY 2011.* This notice describes the allocation formula to be used for the distribution of funds for both FY 2010 and FY 2011; however, the requirements for FY 2011 may be amended in response to the request for public comments in this notice.

Interim Final Requirements

Process

Any entity submitting an application for a payment under section 458(a)(7) of the HEA must be an eligible entity (as defined in this notice). Applicants that submit an application, including a plan to use FY 2010 funds that meets the requirements set forth in this notice, and that have an eligible payroll, will be notified by the Department of the actual amount of funds they will receive for FY 2010. After receiving this notification, but before the Department disburses funds to the applicant, the applicant must submit to the Secretary an updated plan that describes how the applicant will use the funds to preserve jobs; this updated plan must be based on the actual amount of funding the applicant will receive.

Applicants need not be recipients of FY 2010 funds to be eligible to apply for FY 2011 funds.

Only eligible entities submitting complete applications by the application deadline will be considered for funding. Any funds received and not used in accordance with the *Allowable Use of Funds* requirement established in this notice must be returned to the Secretary.

Definitions: For purposes of this program, we are establishing the following definitions:

Adjusted Eligible Payroll: For each location, the adjusted eligible payroll is the payroll amount determined by applying the unemployment adjustment formula (described in these requirements) to the eligible payroll for that location.

Domestic Employees: The eligible entity's employees, but not contractors, working for a location in a State as defined by section 103(20) of the HEA.

Eligible Employees: The eligible entity's domestic employees, employed by the eligible entity as of March 31, 2010, who spent more than 50 percent of their time during the review period working for one of the eligible entity's locations to market, evaluate, authorize, or recommend approval of FFEL Program loans.

Eligible Entity: Any company or organization that was engaged in servicing FFEL loans on January 1, 2010, and that submits a complete application by the deadline established by the Secretary.

Eligible Payroll: The total annual contribution and benefit base, as defined by 42 U.S.C. 430, for all eligible employees at each location.

Local Unemployment Rate: The unemployment rate of the county or county equivalent in which a facility is located for the 12-month period ending on March 31, 2010. For purposes of this definition, the Secretary will use current local area unemployment statistics for counties and county equivalents compiled by the U.S. Bureau of Labor Statistics, rounded to the nearest one-tenth of one percent: *http://www.bls.gov/lau.*

Review Period: For the purposes of determining total payroll for FY 2010 funds, the one-year period ending on March 31, 2010, the date of enactment of the SAFRA Act, used to calculate the number of eligible employees. For the purposes of determining total payroll for FY 2011 funds, the one-year period ending on March 31, 2011.

Servicing FFEL Loans: Providing collection, origination, deferment processing, and borrower contact services to a lender in connection with FFEL Loans.

Total Payroll: The total annual contribution and benefit base as defined by 42 U.S.C. 430, for all domestic employees at each location during the review period.

Requirements

Allowable Use of Funds: Eligible entities must use funds awarded under this program for either or both of the following:

(a) Job training and related services to permit current employees, whose employment status has been negatively affected by SAFRA, to maintain employment with the eligible entity.

(b) Job training and related services that lead laid-off eligible employees to a position at another entity.

Content of Application: Eligible entities that apply to the Secretary for funding under this program must include, as part of their application, a job retention plan. That job retention plan must include, for each location for which the applicant is requesting funds:

(a) A viable business plan describing how the applicant plans to continue the employment of employees who might otherwise lose their jobs due to the termination of new originations in the FFEL Program;

(b) The address of each facility in each location for which the applicant is requesting payment;

(c) For each location, the number of total employees and total payroll and the number of eligible employees and eligible payroll; and

(d) A budget and timeline outlining how the applicant will use the funds in accordance with this program's *Allowable Use of Funds* requirement (described in this notice).

Reporting Requirements: Each recipient of funds under this program must submit a report to the Secretary for each year funds are received.

Content of Report. The report must include—

(a) An accounting of how all funds were used at each location;

(b) A description of all activities funded at each location; and

(c) A description and analysis of the effect of the use of those funds on job retention of eligible employees.

Deadlines. Eligible entities that receive FY 2010 funds under this program, but that will not apply for FY 2011 funds, must submit the report to the Secretary no later than one year from the receipt of funds for FY 2010.

Eligible entities that receive funds for FY 2010 and that will apply for FY 2011 funds under this program must submit the required report prior to the application deadline for FY 2011 funding.

Eligible entities that receive funds under this program for FY 2011 must submit a report regarding those funds to the Secretary no later than one year from the date of receipt of FY 2011 funds.

Funding Allocation Formula—FY 2010

General. To determine the amount of funding to be disbursed to eligible entities under this program, the Secretary will calculate the adjusted eligible payroll for each location of each eligible entity as a proportion of the total adjusted eligible payroll for all locations across all eligible entities. The Secretary will then distribute the $25 million available based on those proportions.

Calculating Adjusted Eligible Payroll. For each location of an eligible entity, the Secretary will adjust the location's eligible payroll by applying a formula that takes into consideration the local unemployment rate for the location.

Unemployment Adjustment Formula. The Secretary will apply a sliding scale formula based on the difference (D) between the Local Unemployment Rate (L) for each location and the national

historical unemployment rate for 1948–2009 (N), which is used to compute an adjustment multiplier (M).

N = 5.8
D = L–N
If D < 2, then M = 1
If D >= 2, then M = D/2

Adjusted eligible payroll for each location is calculated by multiplying the location's eligible payroll by the adjustment multiplier (M).

The following chart contains six examples of the application of the unemployment adjustment formula:

Difference (D)	Multiplier (M)
−1	1
1.3	1
2.7	1.35
3.5	1.75
5.8	2.9
9	4.5

Funding Allocation Formula—FY 2011

For FY 2011, funds will be distributed according to the Funding Allocation Formula—FY 2010, except that the Secretary will also consider the facility's job retention performance. Specifically, to determine the facility's job retention performance, the Secretary will adjust each eligible entity's eligible payroll for FY 2011 to take into account any decrease in total payroll for each of the eligible entity's domestic U.S. locations on a dollar-for-dollar basis. The Secretary will adjust an entity's eligible payroll *only* when there is a decrease in total payroll; no adjustments will otherwise be made.

Example: At one location, an entity's eligible payroll before being adjusted for unemployment was $15,000,000 and the total payroll for the applicant at the same time was $100,000,000. If by the time the entity applies for FY 2011 funds, its total payroll at that location decreases by $5,000,000 to $95,000,000, then its eligible payroll at that one location, before being adjusted for unemployment, decreases by $5,000,000 to $10,000,000. After these new eligible payroll amounts are determined and then adjusted for unemployment for all of the eligible entity's locations, proportions will be determined and the $25,000,000 for 2011 will be divided among eligible entities' locations accordingly.

Executive Order 12866

Under Executive Order 12866, the Secretary must determine whether a regulatory action is "significant" and therefore subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities in a material way (also referred to as an "economically significant" rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or local programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order. The Secretary has determined that this regulatory action is not significant under section 3(f) of the Executive order.

Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action and have determined that this rule will not impose additional costs to State applicants, grantees, or the Federal government. The Department is issuing these requirements to implement a new legislative provision resulting from the enactment of the SAFRA Act. Additionally, the Department has determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Regulatory Flexibility Act Certification

The Secretary certifies that these interim final requirements will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define for-profit servicers as "small businesses" if they are independently owned and operated and not dominant in their field of operation with total annual revenue below $7,000,000. Other servicers would be considered small if they are a nonprofit servicer independently owned and operated and not dominant in their field of operation, or if they are institutions controlled by governmental entities with populations below 50,000. The Department estimates that approximately thirty-seven servicers will apply. Of this group, approximately fifteen are expected to be for-profit servicers, none of which are expected to fall below the $7,000,000 revenue threshold for small business status. Approximately twenty-two non-profit or public servicers could apply. Even if we assume all servicers are considered to be small entities, the rule does not impose significant costs.

The Secretary makes this certification because the rule offers servicers the opportunity to apply for payments for job retention, but does not mandate participation or impose cost-matching requirements. Even if all thirty-seven servicers expected to apply are assumed to be small entities, the estimated cost to apply for funds, update their job retention plans, and submit the required reports is approximately $723 per institution. An hourly rate of $21.60 was used to monetize the burden of these provisions. This was a blended rate based on wages of $18.82 for office staff and $37.37 for managers, assuming that office staff would perform 85 percent of the work affected by these regulations. The Secretary invites comments from small institutions and other affected entities as to whether they believe the proposed changes would have a significant economic impact on them and, if so, requests evidence to support that belief.

Paperwork Reduction Act of 1995

The interim final requirements contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these requirements to the Office of Management and Budget (OMB) for its review.

Collection of Information: SAFRA Act Payments to Loan Servicers for Job Retention.

I. Application and Initial Plan

Any entity submitting an application for a payment under section 458(a)(7) of the HEA must be an eligible entity (as defined in this notice). Applicants that submit an application, including a plan to use FY 2010 funds that meets the requirements set forth in this notice, and that have an eligible payroll, will be notified by the Department of the actual amount of funds they will receive for FY 2010. We estimate that 37 servicers would submit an application, including a plan describing how they would use FY 2010 funds in accordance with the requirements in this notice. We estimate that each application would take an applicant 1 hour to complete, totaling 37 hours of new burden that would be included for approval under OMB Control Number 1840–0815. We estimate that development of each plan would take, on average, 14 hours for a total of 518 hours of new burden that would be included for approval under OMB Control Number 1840–0815. Collectively, the total estimated burden

for servicers to complete an application for these job retention funds, including developing their initial plans describing how the applicants would use funds, would be 555 hours of new burden under OMB Control Number 1840–0815.

II. Updated Plan

After the Department notifies the applicant, but before the Department disburses funds to the applicant, the applicant must submit to the Secretary an updated plan that describes how the applicant will use the funds to preserve jobs; this updated plan must be based on the actual amount of funding the applicant will receive, as indicated in the notification provided by the Department. We estimate that each of the projected 37 applicants would take an additional 7 hours to update their plans for final submission to the Secretary for a total of 259 hours of new burden under OMB Control Number 1840–0815.

III. Reporting

Each recipient of funds under this program must submit a report to the Secretary for each year funds are received. We expect that all 37 estimated applicants would ultimately receive funds under this program.

Each recipient's report must include an accounting of how all funds were used at each location; a description of all activities funded at each location; and a description and analysis of the effect of the use of those funds on job retention of eligible employees. We estimate that each of the projected 37 recipients of these job retention funds would take, on average, 25 hours to collect the required information and report it to the Secretary, for a total of 925 hours of new burden under OMB Control Number 1840–0815.

COLLECTION OF INFORMATION

Regulatory section	Information collection	Collection
I. Application	Qualified student loan servicers can complete an application and an initial job retention plan to obtain funding consistent with the requirements of this notice.	OMB 1840–0815. This is a new collection for which the Office of Management and Budget has provided emergency approval. The Department will also conduct a regular clearance in order to award FY 2011 funds and will publish a separate 60-day FEDERAL REGISTER notice seeking public comment. The burden would increase by 555 hours.
II. Updated plan	Qualified student loan servicers who are selected to participate in this program must, prior to receiving their funding, update and submit their plan once the amount awarded is known to the recipient.	OMB 1840–0815. This is a new collection for which the Office of Management and Budget has provided emergency approval. The Department will also conduct a regular clearance in order to award FY 2011 funds and will publish a separate 60-day FEDERAL REGISTER notice seeking public comment. The burden would increase by 259 hours.
III. Reporting	Annually, each recipient entity must report consistent with the requirements in this notice by the deadline established by the Secretary.	OMB 1840–0815. This is a new collection for which the Office of Management and Budget has provided emergency approval. The Department will also conduct a regular clearance in order to award FY 2011 funds and will publish a separate 60-day FEDERAL REGISTER notice seeking public comment. The burden would increase by 925 hours.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR 79.

Electronic Access to This Document

You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF, you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: June 30, 2010.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. 2010–16372 Filed 7–6–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

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), Savannah River Site. 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:

Monday, July 26, 2010 1 p.m.–5 p.m.

Tuesday, July 27, 2010 8:30 a.m.–4:30 p.m.

ADDRESSES: The North Augusta Municipal Center, 100 Georgia Avenue, North Augusta, SC 29861.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Office of External Affairs, Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952–7886.

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

Monday, July 26, 2010

1 p.m. Combined Committee Session

5 p.m. Adjourn

Tuesday, July 27, 2010

8:30 a.m.

Approval of Minutes, Agency Updates

Public Comment Session

Chair and Facilitator Updates

Facility Disposition and Site Remediation Committee Report

Waste Management Committee Report

Public Comment Session

12 p.m. Lunch Break

1 p.m.

Strategic and Legacy Management Committee Report

Nuclear Materials Committee Report

Administrative Committee Report

Public Comment Session

4:30 p.m. Adjourn

If needed, time will be allotted after public comments for items added to the agenda and administrative details. A final agenda will be available at the meeting on Monday, July 26, 2010.

Public Participation: The EM SSAB, Savannah River Site, 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 Gerri Flemming 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 Gerri Flemming's office at the address or telephone 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 Gerri Flemming at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.srs.gov/general/outreach/srs-cab/srs-cab.html.*

Issued at Washington, DC, on June 29, 2010.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2010–16441 Filed 7–6–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

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), Idaho National Laboratory. 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, July 14, 2010 8 a.m.–5 p.m.

Opportunities for public participation will be from 1:30 p.m. to 1:45 p.m. and from 3:30 p.m. to 3:45 p.m.

These times are subject to change; please contact the Federal Coordinator (below) for confirmation of times prior to the meeting.

ADDRESSES: Shilo Inn, 780 Lindsay Boulevard, Idaho Falls, Idaho 83402.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, ID 83415. Phone (208) 526–6518; Fax (208) 526–8789 or e-mail: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://www.inlemcab.org.*

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 Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Progress to Cleanup.
- Idaho Completion Project—Contract Re-Compete.
- Naval Reactor Facility Discussions.
- DOE–Idaho White Paper on Spent Fuel and High-Level Waste.
- Completion—Transfer Wet to Dry Storage.
- Waste Area Group—7 Update.
- In-Situ Grouting.
- Comment Resolution—Environmental Assessment—Multi-Purpose Haul Road.
- EBR–II Facilities Sodium Treatment.

Public Participation: The EM SSAB, Idaho National Laboratory, 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 Robert L. Pence 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 presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request 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. This notice is being published less than 15 days prior to the meeting date due to programmatic issues that had to be resolved prior to the meeting date.

Minutes: Minutes will be available by writing or calling Robert L. Pence, Federal Coordinator, at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.inlemcab.org/meetings.html.*

Issued at Washington, DC, on June 29, 2010.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2010–16443 Filed 7–6–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

ACTION: Notice and Request for Comments.

SUMMARY: The Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this proposed information collection must be received on or before September 7, 2010. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Jeffery Dowd, Solar Decathlon Evaluation Lead; EE–3B, Forrestal Building; U.S. Department of Energy; 1000 Independence Ave., SW., Washington, DC 20585; (O) 202–586–7258; or by fax at 202–586–2176; or by e-mail at *Jeff.Dowd@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jeffery Dowd at *Jeff.Dowd@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.* 1910 New;

(2) *Information Collection Request Title:* DOE Solar Decathlon Impact Evaluation Surveys;

(3) *Type of Request:* New;

(4) *Purpose:* The information collected by this information collection will be used for an impact evaluation of the Solar Decathlon Program. The evaluation will contribute to the effective administration; program monitoring, and management of the Solar Decathlon Program; and for measuring attainment of DOE's program goals as required by the Government Performance and Results Act (GPRA), and the Office of Management and Budget's (OMB's) Program Assessment Rating Tool (PART);

(5) *Annual Estimated Number of Respondents:* 810;

(6) *Annual Estimated Number of Total Responses:* 810;

(7) *Annual Estimated Number of Burden Hours:* 104 hours;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* No cost burden to the respondents is expected.

Statutory Authority: Department of Energy Organization Act of 1977 (42 U.S.C. 5815(b)); Government Performance and Results Act (31 U.S.C. 1115(a)); Executive Order 13450, November 13, 2007; and Memo, Peter R. Orszag, Director, Office of Management and Budget, "Increased Emphasis on Program Evaluations," dated October 7, 2009.

Issued in Washington, DC, on June 25, 2010.

Scott Hine,

Acting Deputy Assistant Secretary-Business Administration (DAS–BA), Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2010–16440 Filed 7–6–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for OMB Review; Comment Request.

SUMMARY: The EIA has submitted the Electric Power Program to the Office of Management and Budget (OMB) for review and a three-year extension under section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq*).

DATES: Comments must be filed by August 6, 2010. If you anticipate that you will be submitting comments but find it difficult to do so within that period, you should contact the OMB Desk Officer for DOE listed below as soon as possible.

ADDRESSES: Send comments to OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX (202–395–7285) or e-mail to *Christine_J._Kymn@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–4638. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Jason Worrall. To ensure receipt of the comments by the due date, submission by FAX (202–586–5271) or e-mail (*Jason.worrall@eia.doe.gov*) is also recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–0670. Mr. Worrall may be contacted by telephone at (202) 586–6075.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection numbers and title; (2) the sponsor (*i.e.,* the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (*i.e.,* new, revision, extension, or reinstatement); (5) response obligation (*i.e.,* mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; (8) estimate number of respondents; and (9) an estimate of the total annual reporting burden (*i.e.,* the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Form EIA–411, "Coordinated Bulk Power Supply & Demand Program Report".

Form EIA–826, "Monthly Electric Sales and Revenue with State Distributions Report".

Form EIA–860, "Annual Electric Generator Report".

Form EIA–860M, "Monthly Update to the Annual Electric Generator Report".

Form EIA–861, "Annual Electric Power Industry Report".

Form EIA–923, "Power Plant Operations Report."

2. Energy Information Administration.

3. OMB Number 1905–0129.

4. Three-year extension requested with revisions.

5. Mandatory.

6. The Electric Power Surveys collect electric power information including capacity, generation, fuel consumption, fuel receipts, fuel stocks, and prices, along with financial information. Respondents include both regulated and unregulated entities that comprise the U.S. electric power industry. Electric power data collected are used by the Department of Energy for analysis and forecasting. Data are published in various EIA reports.

Below are additional proposed changes to the electric power surveys that have been made subsequent to the October 15, 2009 **Federal Register** Notice (74 FR 52955) requesting public comments. The proposed changes resulted from EIA's consideration of public comments and internal reviews of the electric power surveys.

The following proposed changes will not be made:

(a) EIA–923: Schedule 2. Cost and Quality of Fuel Receipts, Plant-Level: Collect receipts of uranium ownership transfers and enrichment services.

7. Business or other for-profit; State, local or tribal government; Federal Government.

8. 38958 responses per year, 13592 respondents.

9. 145429 hours.

Please refer to the supporting statement as well as the proposed forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible nonstatistical uses) of the information. For instructions on obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, P.L. 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, June 17, 2010.

Stephanie Brown,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 2010–16442 Filed 7–6–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP10–457–000; CP10–458–000; PF10–1–000]

National Fuel Gas Supply Corporation; Notice of Application

June 29, 2010.

Take notice that on June 11, 2010, National Fuel Gas Supply Corporation (National Fuel), 363 Main Street, Williamsville, New York 14221, filed applications in Docket No. CP10–457–000 and Docket No. CP10–458–000 pursuant to sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations, for a certificate of public convenience and necessity to construct and operate its Line N Compressor Installation Expansion Project and its Line N Relocation and Interconnect Project (together, the Line N Projects). The application is on file with the Commission and open to public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.fer.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Specifically, the Line N Projects consist of approximately 20.1 miles of 20-inch natural gas pipeline, the new Holbrook Metering and Regulation facility near a relocated interconnection with the facilities of Texas Eastern Transmission L.P in Greene County, Pennsylvania, and a new 4,740hp Buffalo Compressor Station in Washington County, Pennsylvania. National Fuel states that the project will create an additional 150,000 Dekatherms per day of firm capacity. The estimated cost of the Line N Projects is approximately $55.7 million.

Any questions regarding this application should be directed to David W. Reitz, Deputy General Counsel for National Fuel, 6363 Main Street, Williamsville, New York 14221, or call at (716) 857–7949.

National Fuel states that by letter dated October 20, 2009, in Docket No. PF10–1–000, the Commission's Office of Energy Projects granted National Fuel's October 13, 2009, request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process for the Line N Projects. National Fuel has also submitted an applicant-prepared Draft Environmental Assessment that was prepared during the Pre-Filing Process that was included with this application. Now, as of the filing of this application on June 11, 2010, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket Nos. CP10–457–000 and CP10–458–000, as noted in the caption of this notice.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

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 with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

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.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right

to seek court review of the Commission's final order.

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: July 20, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–16393 Filed 7–6–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL10–72–000]

Puget Sound Energy, Inc.; Notice of Petition for Declaratory Order

June 29, 2010.

Take notice that on June 11, 2010, pursuant to Rule 207(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207(a)(2) (2010), Puget Sound Energy, Inc. filed a Petition for Declaratory Order requesting that the Commission confirm its firm priority rights to use the capacity on generator lead lines that will connect the Lower Snake River Project to the integrated transmission system of the Bonneville Power Administration.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 12, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–16394 Filed 7–6–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2010–0410; FRL–9171–9]

Agency Information Collection Activities; Proposed Collection; Comment Request; Nomination Application for the U.S. EPA Montreal Protocol Awards; EPA ICR No. 2389.01, OMB Control No. 2060–NEW

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request for a new Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 7, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0410 by one of the following methods:

- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Docket EPA–HQ–OAR–2010–0410, Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Mail code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Docket EPA–HQ–OAR–2010–0410, Air and Radiation Docket at EPA West, 1301 Constitution Avenue, NW., Room B108, Mail Code 6102T, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2010–0410. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment, and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: For further information about this proposed rule, contact Jeremy Arling by telephone at (202) 343–9055, or by e-mail at *arling.jeremy@epa.gov* or by mail at U.S.

Environmental Protection Agency, Stratospheric Protection Division, Stratospheric Program Implementation Branch (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. You may also visit the U.S. EPA Montreal Protocol Awards section of the Ozone Depletion Web site at http://*www.epa.gov/ozone/awards* for further information about the awards program that is the subject of this ICR.

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2010–0410, which is available for online viewing at 0 or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room B108, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What information is EPA particularly interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) 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;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ fewer than 25 people) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under DATES.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected Entities: Entities potentially affected by this action include those working in public administration; chemical manufacturing; professional, scientific and technical services; voluntary health organizations; environment, conservation and wildlife organizations; business associations; and professional organizations.

Title: Nomination Application for the U.S. EPA Montreal Protocol Awards

ICR Numbers: EPA ICR No. 2389.01, OMB Control No. 2060–NEW.

ICR Status: This ICR is for a new information collection activity. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The U.S. Environmental Protection Agency (EPA) Stratospheric Protection Division established the U.S. EPA Montreal Protocol Award (USMPA) program in 1990 to recognize outstanding contributions to the protection of the Earth's stratospheric ozone layer. It is named after the international treaty that aims to reverse erosion of the ozone layer by replacing and/or phasing out the production of ozone-depleting substances (ODS). Since 1990, EPA has presented more than 500 awards to outstanding individuals, teams, companies, organizations, and government institutions in 54 countries. Awards are particularly prestigious because nominees compete globally against the accomplishments of many other potential awardees, and recipients are selected by previous awardees and EPA.

Participation in the program is voluntary, and EPA expects that respondents will participate only if the benefits of participation outweigh the information collection burden. This information collection request requires applicants (called nominees or nominators) to complete a nomination form that details the project or activity they believe is worthy of the USMPA award. EPA seeks nominations for the following accomplishments: Originality and public purpose; leadership and corporate responsibility; global perspective and implication; actual elimination of ozone-depleting substance emissions; success in eliminating substances that deplete the ozone layer and contribute to climate change or in transitioning to alternatives with reduced environmental impact; or leadership in improving awareness of the harmful health effects of overexposure to ultraviolet radiation.

The Stratospheric Protection Division of EPA uses the collected information to evaluate award nominations, in conjunction with past awardees, and to choose USMPA program award recipients. The submitted information is edited by EPA and then included in the award ceremony program and posted to EPA's USMPA Web site. EPA hosts an annual awards ceremony where the award recipients are honored.

No information collected by EPA for the USMPA program comprises confidential business information. Nor is any information collected considered to be of a sensitive nature.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the

time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

Respondents/affected entities: US EPA Montreal Protocol Award nominees can be individuals, organizations, government, public- or private-sector, and domestic or international, as can the entities that nominate the nominees. The following is a list of industries that may be affected by information collection requirements covered under this ICR (followed by their NAICS codes), based on a review of the pool of past award nominees: Public administration (92); chemical manufacturing (325); professional, scientific and technical services (541); voluntary health organizations (813212); environment, conservation and wildlife organizations (813312); business associations (813910); professional organizations (813920). This list is intended to be illustrative; entities from other industries may elect to apply to the U.S. EPA Montreal Protocol Awards program, or nominate potential awardees.

Estimated total number of potential respondents, annually: 25.

Frequency of response: Annual.

Estimated total average number of responses for each respondent: 1.

Estimated total annual burden hours: 62.5. This burden estimate includes time required to read the nomination instructions; provide contact information for the nominee/nominator; contact references to obtain their consent to include their names and contact information on the nomination form; write a summary of accomplishments in no more than 600 words; create supporting materials (this is optional); write a cover letter; submit the nomination via mail, electronic mail or fax; and, review subsequent nominations for merit.

Estimated total annual costs: $2,080. This cost estimate is associated with all the activities listed under estimated total annual burden hours, above.

What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 29, 2010.

Drusilla Hufford,

Director, Stratospheric Protection Division.

[FR Doc. 2010–16487 Filed 7–6–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9172–1]

National Environmental Justice Advisory Council; Notification of Public Meeting and Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will meet on the dates and times described below. All meetings are open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the NEJAC. For additional information about signing up for public comment, please see **SUPPLEMENTARY INFORMATION.** Due to limited space, seating at the NEJAC meeting will be on a first-come basis. Pre-registration before July 16 is highly recommended (*see* **FOR FURTHER INFORMATION CONTACT** section below for registration details).

DATES: The NEJAC meeting will convene Tuesday, July 27, 2010 from 9 a.m. to 5 p.m.; reconvene Wednesday, July 28, 2010 from 9 a.m. to 5 p.m.; and Thursday, July 29, 2010, from 9 a.m. to 1 p.m. All noted times are Eastern Time.

One public comment session relevant to the specific issues being considered by the NEJAC (*see* **SUPPLEMENTARY INFORMATION**) is scheduled for Tuesday, July 27, from 6:30 p.m. to 9:30 p.m. All noted times are Eastern Time. Members of the public who wish to participate in the public comment period are encouraged to pre-register by July 16, 2010.

ADDRESSES: The NEJAC meeting will be held at the Fairfax at Embassy Row Hotel, 2100 Massachusetts Avenue NW., Washington, DC 20008, telephone (202) 293–2100, FAX (202) 736–1420 or toll-free: (888) 364–1200.

FOR FURTHER INFORMATION CONTACT: Questions concerning the meeting should be directed to Mr. Aaron Bell, U.S. Environmental Protection Agency, at 1200 Pennsylvania Avenue, NW., (MC2201A), Washington, DC 20460; by telephone at (202) 564–1044, via e-mail at *Bell.Aaron@epa.gov;* or by FAX at (202) 501–0936. Additional information about the meeting is available on the following Web site: *http://www.epa.gov/environmentaljustice/nejac/meetings.html.*

Meeting Registration: Pre-registration by July 16, 2010, for all attendees is highly recommended. To register online, visit the Web site above. Requests for pre-registration forms should be sent to Ms. Estela Rosas, EPA Contractor, APEX Direct, Inc., at 877–773–0779 or *meetings@AlwaysPursuingExcellence.com.* Non-English speaking attendees wishing to arrange for a foreign language interpreter also may make appropriate arrangements using these numbers.

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee shall provide independent advice to the Administrator on areas that may include, among other things, "advice about broad, cross-cutting issues related to environmental justice, including environment-related strategic, scientific, technological, regulatory, and economic issues related to environmental justice."

The meeting shall be used to receive comments, and to discuss and provide recommendations regarding these primary areas: (1) Federal interagency coordination; (2) integrating environmental justice into EPA's regulatory development process; (3) proposed air emissions rules for power plants; (4) EPA's response to the NEJAC's Goods Movement Report; (5) an update on EPA activities related to the Gulf of Mexico oil spill; and (6) voluntary testing for lead in school drinking water.

A. Public Comment: Individuals or groups making oral presentations during the public comment period will be limited to a total time of five minutes. Only one representative of a community, organization, or group will

be allowed to speak. Any number of written comments can be submitted for the record. The suggested format for individuals providing public comments is as follows: Name of Speaker, Name of Organization/Community, City/State, Description of Concern and its Relationship to a Specific Policy Issue(s), and Recommendations or Desired Outcome. Written comments received by July 16, 2010 will be included in the materials distributed to the members of the NEJAC. Written comments received after that date will be provided to the NEJAC as logistics allow. To register for the meeting and sign-up to provide public comments, all information should be sent to the address, e-mail, or fax number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

B. Information about Services for Individuals with Disabilities: For information about access or services for individuals with disabilities, please contact Ms. Estela Rosas, EPA Contractor, APEX Direct, Inc., at 877–773–0779 or *meetings@AlwaysPursuingExcellence.com.* To request special accommodations for a disability, please contact Ms. Rosas, at least 10 days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the address, e-mail, or FAX number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: June 30, 2010.

Victoria Robinson,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. 2010–16526 Filed 7–6–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009-0879; FRL–8834–3]

Exposure Modeling Public Meeting; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: An Exposure Modeling Public Meeting (EMPM) will be held for 1 day on July 27, 2010. This notice announces the location and time for the meeting and sets forth the tentative agenda topics.

DATES: The meeting will be held on July 27, 2010, from 9 a.m. to 4 p.m. To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Office of Pesticide Programs (OPP), One Potomac Yard (South Building), Fourth Floor, South Conference Room (S-4370/80), 2777 S. Crystal Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Chuck Peck, Environmental Fate and Effects Division (7507P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8064; fax number: (703) 305–6309; e-mail address: *peck.charles@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 required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). 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 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 ID number EPA–HQ–OPP–2009–0879. 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's telephone number is (703) 305–5805.

II. Background

On a biannual interval, an Exposure Modeling Public Meeting is held for presentation and discussion of current issues in modeling pesticide fate, transport, and exposure of risk assessment in a regulatory context. Meeting dates and abstract requests are announced through the "empmlist" forum on the LYRIS list server at *https://lists.epa.gov/read/all_forums/*.

III. How Can I Request to Participate in this Meeting?

You may submit a request to participate in this meeting to the person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered confidential business information. Requests to participate in the meeting, identified by docket ID number EPA–HQ–OPP–2009–0879, must be received on or before July 22, 2010.

IV. Topics for the Meeting

Topics for the meeting will include presentations related to ground water modeling and pesticide modeling refinements in agricultural and urban environs. Specifically, presentations will include the following:

- Prospective groundwater monitoring studies and their utility for leaching model development.
- Design and testing of a process-based groundwater vulnerability assessment (P-GWAVA) system.
- Screening approaches for predicting pesticide concentrations in groundwater.
- Using modern watershed and cropping data for estimating percentage crop treatment.
- Comparison of models for estimating the removal of pesticides by vegetative buffer strips.
- Advances in modeling urban/residential pesticide runoff.
- Spray drift exposure refinements for salmonid off-channel habitat.
- Mechanistic ground spray boom drift model development.
- Spatially-distributed watershed models for chemical exposure assessments.

List of Subjects

Environmental protection, Modeling, Monitoring, Pesticides.

Dated: June 28, 2010.

Donald J. Brady,

Director, Environmental Fate and Effects Division, Office of Pesticide Programs.

[FR Doc. 2010–16323 Filed 7–6–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9172–4]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("CAA"), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, to address a lawsuit filed by Sierra Club in the United States District Court for the Western District of Wisconsin: *Sierra Club* v. *Jackson,* No. 10–cv–0127 (W.D. Wis.). Plaintiff filed a deadline suit to compel the Administrator to respond to an administrative petition seeking EPA's objection to a CAA Title V operating permit issued by the Wisconsin Department of Natural Resources to the Edgewater Generating Station, in Sheboygan County, Wisconsin. Under the terms of the proposed consent decree, EPA has agreed to respond to the petition by August 10, 2010, or within 20 days after the entry date of this Consent Decree, whichever is later.

DATES: Written comments on the proposed consent decree must be received by *August 6, 2010.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2010–0567, online at *http://www.regulations.gov* (EPA's preferred method); by e-mail to *oei.docket@epa.gov;* mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Mark Kataoka, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564–5584; fax number (202) 564–5603; e-mail address: *kataoka.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

This proposed consent decree would resolve a lawsuit alleging that the Administrator failed to perform a nondiscretionary duty to grant or deny, within 60 days of submission, an administrative petition to object to a CAA Title V permit issued by the Wisconsin Department of Natural Resources to the Edgewater Generating Station, in Sheboygan County, Wisconsin. Under the terms of the proposed consent decree, EPA has agreed to respond to the petition by August 10, 2010, or within 20 days after the entry date of the Consent Decree, whichever is later. In addition, the proposed consent decree states that, within 15 business days following signature, EPA shall deliver notice of such action to the Office of the Federal Register for prompt publication and, if EPA's response contains an objection in whole or in part, transmit the signed response to the Wisconsin Department of Natural Resources. The proposed consent decree sets the attorneys' fees at $3,223.38, and states that, after EPA fulfills its obligations under the decree, the case shall be dismissed with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2010–0567) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *http://www.regulations.gov.* You may use the *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search".

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *http://www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Use of the *http://www.regulations.gov* Web site to submit comments to EPA

electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through *http://www.regulations.gov,* your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: June 30, 2010.

Patricia Embrey,

Acting Associate General Counsel.

[FR Doc. 2010–16523 Filed 7–6–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

July 1, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (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 [September 7, 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 the Internet at Nicholas_A._Fraser@omb.eop.gov and to the Federal Communications Commission via email to PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information, contact Judith B. Herman, OMD, 202–418–0214 or email judith–b.herman@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0992.

Title: Section 54.507(d)(1)–(4), Request for Extension of the Implementation Deadline for Non–Recurring Services.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit, not–for–profit institutions, and state, local or tribal government.

Number of Respondents and Responses: 1,130 respondents, 1,130 responses.

Estimated Time Per Response: 45 minutes.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i) and (j), 201–205, 214, 254, and 403.

Total Annual Burden: 848 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the Commission. If the Commission requests applicants to submit information they believe is confidential, they may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: Pursuant to the E–rate program (formerly known as the schools and libraries universal support program), eligible schools, libraries, and their consortia may apply for discounts for telecommunications services, Internet access, and internal connections. In general, the applicant must use the funded services within the funding year, which runs from July 1 through June 30, except that the rules of the FCC, hereinafter the "Commission", give applicants three additional months, until September 30 following the close of the funding year, to install one–time services known as non–recurring services. The Universal Service Administrative Company (USAC) may extend the September 30 deadline if the applicant falls within at least one of four designated circumstances. The applicant must, however, submit any required documentation to support an extension on or before the September 30 deadline.

These extensions ensure that schools and libraries are not penalized when they are not responsible for missing the installation deadline. Additionally, implementation of this policy provides clarify to the USAC and applicants by establishing a certain deadline for installation. This rule also gives schools and libraries in the program the opportunity to schedule implementation of non–recurring services over the summer months.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–16450 Filed 7–6– 8:45 am]

BILLING CODE 6712–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments

must be received not later than July 21, 2010.

A. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. Yvonne LeMaitre, co–trustee of the Bolton Family Trust, Woodland, California; to retain voting shares of Merchants Holding Company, and thereby indirectly retain voting shares of Merchants National Bank of Sacramento, both of Sacramento, California.

Board of Governors of the Federal Reserve System, July 1, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–16437 Filed 7–6–10; 8:45 am]

BILLING CODE 6210–01–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 July 30, 2010.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) P.O. Box 55882, Boston, Massachusetts 02106–2204:

1. First City Fund Corporation and First Community Bancorp, Inc., both of New Haven, Connecticut; to become bank holding companies by acquiring 100 percent of the voting shares of Start Community Bank, New Haven, Connecticut (formerly known as First Community Bank of New Haven, New Haven, Connecticut).

B. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. First American Financial Management Company, Salisbury, North Carolina; to become a bank holding company by acquiring 51 percent of the voting shares of Community Bank of Rowan, Salisbury, North Carolina.

2. First National Financial Group, Inc., Shelby, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Shelby, Shelby, North Carolina.

Board of Governors of the Federal Reserve System, July 1, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–16436 Filed 7–6–10; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 091 0125]

Pilot Corporation, Propeller Corp., and Flying J Inc.; Analysis of Proposed Agreement Containing Consent Orders to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

DATES: Comments must be received on or before July 30, 2010.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Pilot-Flying J, File No. 091 0125" to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . .," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/pilot-flyingj*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (*https://public.commentworks.com/ftc/pilot-flyingj*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the "Pilot-Flying J, File No. 091 0125" reference both in the text and on the envelope, and should be mailed or delivered to the following

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act ("FTC Act") and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Mary N. Lehner (202-326-3744), Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 30, 2010), on the World Wide Web, at (*http://www.ftc.gov/os/actions.shtm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from Pilot Corporation and Propeller Corp. (collectively, "Pilot"), and Flying J Inc. (Pilot and Flying J Inc., collectively, "Respondents"). Pursuant to agreements dated December 18, 2009, Pilot intends to acquire the interests and assets of Flying J Inc.'s travel center and related businesses for approximately $1.8 billion (the "acquisition"). The Commission's Complaint alleges that the acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by removing actual, direct, and substantial competition between Pilot and Flying J and increasing the likelihood that Pilot will exercise market power unilaterally. The proposed Consent Agreement would resolve the competitive concerns from the acquisition by requiring the divestiture of 26 travel centers to Love's Travel Stops and Country Stores. The divestiture will make Love's a stronger competitor and replace competition weakened by the acquisition.

The proposed Consent Agreement has been placed on the public record for thirty (30) days to solicit comments from interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will review the proposed Consent Agreement again and the comments received, and decide whether it should withdraw from the Consent Agreement or make it final.

The sole purpose of this analysis is to facilitate public comment on the Consent Agreement. The analysis does not constitute an official interpretation of the Consent Agreement or the proposed Decision and Order ("Order"), nor does the analysis modify their terms in any way.

I. Respondents and Other Relevant Entities

A. Pilot and Propeller

Pilot Travel Centers LLC is the largest travel center operator in the United States. Pilot Travel Centers LLC is a privately held, for-profit limited liability company and is controlled equally by Pilot Corporation and Propeller Corp.

Respondent Pilot Corporation holds 52.5 percent of the non-corporate interests of Pilot Travel Centers LLC and a right to 50 percent representation on Pilot Travel Centers LLC's Board of Managers. Pilot Corporation is a privately held, for-profit corporation.

Respondent Propeller Corp. holds 47.5 percent of the non-corporate interests of Pilot Travel Centers LLC and a right to 50 percent representation on Pilot Travel Centers LLC's Board of Managers. Propeller Corp. is a for-profit corporation, privately held in its entirety by five stockholders managed by CVC European Equity V Limited and three stockholders managed by CVC European Equity Tandem Fund Limited.

B. Flying J

Respondent Flying J Inc., a privately held, for-profit corporation, is a fully integrated oil company with operations throughout the United States and Canada. Flying J Inc. owns and operates, among other things, travel center, trucking, fuel card, and related businesses. Flying J Inc., its wholly-owned subsidiary, and wholly-owned subsidiaries of ConocoPhillips jointly control the CFJ Entities.

The CFJ Entities own Flying J-branded travel centers operated by Flying J Inc. in 36 U.S. states. It is jointly controlled by Flying J Inc., its wholly-owned subsidiary, and wholly-owned subsidiaries of ConocoPhillips. The CFJ Entities consist of: (1) CFJ Properties, a general partnership that is 50% owned by wholly-owned subsidiaries of ConocoPhillips and 50% owned by a wholly-owned subsidiary of Flying J Inc.; (2) CFJ I Management Inc., CFJ II Management Inc., and CFJ III Management Inc. ("CFJ Management Companies"), each of which is 50% owned by a wholly-owned subsidiary of ConocoPhillips and 50% owned by Flying J Inc.; and (3) CFJ Plaza Company I LLC, CFJ Plaza Company II LLC, and CFJ Plaza Company III LLC, each of which is 49.5% owned by a wholly-owned subsidiary of ConocoPhillips, 49.5% owned by Flying J Inc., and 1% owned by its corresponding CFJ Management Company.

II. The Proposed Complaint

Pilot's acquisition of Flying J presents substantial antitrust concerns in the market for over-the-road sale of diesel to long-haul fleets by national travel center operators in the contiguous United States. Travel centers provide locations for long-haul trucks to fuel and serve as the long-haul driver's home away from home, offering amenities including parking for tractor-trailers, truck service centers, truck washes, certified

automated truck scales, fast food restaurants, shower facilities, internet access, and financial services for drivers. Four travel center operators – Pilot, Flying J, TravelCenters of America ("TA"), and Love's (collectively, "national travel center operators") – have the scale and scope to compete for any substantial portion of long-haul over-the-road diesel business although not all the major travel center operators are able to compete for all customers. Pilot and Flying J are the first and second choices for a number of long-haul fleets.

The acquisition may substantially lessen competition in the relevant market by, among other things: (a) eliminating actual, direct, and substantial competition between Pilot and Flying J; and (b) increasing the likelihood that Pilot will exercise market power unilaterally.

De novo entry or fringe expansion into the relevant market is unlikely to deter or counteract the likely anticompetitive effects. Entry is difficult and time-consuming and potential entrants would face substantial barriers.

III. The Proposed Consent Agreement

The proposed Consent Agreement is intended to remedy the acquisition's alleged anticompetitive effects by, among other things, requiring the divestiture of travel center assets to Love's. Love's is a growing national travel center operator that is currently concentrated in the South. It is the smallest of the four national travel center operators and some long-haul fleets do not encounter Love's on the routes they travel, especially in the Midwest and the Eastern portion of the United States.

Respondents have reached an agreement to sell to Love's 26 specific travel center sites, the majority of which are located in the Midwest or the Eastern portion of the United States. These sites, along with Love's aggressive and independent expansion plan, will enhance Love's market position as a national travel center operator, allowing it to compete for more long-haul over-the-road diesel business. Love's possesses the existing infrastructure, resources, and capability to acquire the divested sites and operate them within Love's existing network. The divestiture will allow Love's to replace competition lost because of the acquisition of Flying J by Pilot. In particular, Love's will now be able to compete for those customers who viewed Pilot and Flying J as their first and second choices and who did not encounter Love's on their routes prior to the divestiture.

The Order contains provisions designed to ensure the successful implementation and remedial intent of the proposed Consent Agreement. Some of these provisions are highlighted below.

A. Access to and Use of the TCH Fuel Card System

The Order requires Respondents to provide access to and use of the TCH LLC ("TCH") Fuel Card System upon request from Love's. Paragraph II.C. of the Order provides that at Love's option, and upon reasonable notice, Respondents shall provide non-discriminatory access to and use of the TCH Fuel Card System for a period of up to three years pursuant to a TCH Merchant Agreement. If Love's elects to use the TCH Fuel Card System, Respondents shall institute a firewall protocol whereby: (a) Respondents' employees affiliated with the TCH Fuel Card System are prohibited from providing TCH Customer Confidential Business Information to either the TCH Executive Board or to a Respondent; and (b) Pilot shall appoint an internal compliance officer who will be responsible for assuring that the firewall protocols are met.

B. Continued Operation of Restaurants

The Order also provides for the continuity of operation at Wendy's restaurants affiliated with the sites acquired by Love's. Paragraph II.E. of the Order provides that, for a period of one year, Pilot shall manage and operate the Wendy's Restaurants affiliated with those sites.

To assure the efficient transfer and continuity of operation of the divested travel centers, the Order requires Respondents to provide assistance for, and information regarding, employees of those travel centers. Paragraphs II.F. and II.G. of the Order require Respondents to provide, for a period no longer than six months, assistance for, and employment and salary information regarding, knowledgeable employees of Respondents in the transfer of the travel centers from Respondents to Love's. Paragraphs II.H. and II.I. of the Order provide that, for a period of one year, Respondents shall not interfere with the hiring or employing of employees by Love's relating to the divested sites, and shall remove any impediments within the control of Respondents that may deter these employees from accepting employment with Love's. Paragraph II.J. of the Order prohibits Respondents from directly or indirectly soliciting, inducing, or attempting to solicit or induce any employees of the divested travel centers who have accepted offers of employment with Love's to terminate that employment.

C. Transfer of Confidential Businesses Information and Maintenance of Economic Viability

To further assure the efficient transfer and economic viability of the acquired travel centers, Paragraphs II.K. and II.L. of the Order require Respondents to provide all Confidential Business Information relating to the Travel Centers Businesses and to maintain the full economic viability and marketability of such assets until Respondents complete the divestiture required by the Order.

D. Compliance and Notification Requirements

Paragraph III. of the Order allows the Commission to appoint an Interim Monitor to assure that Respondents expeditiously comply with their obligations and perform all of their responsibilities as required by the Order.

To assure that Respondents fully comply with the obligations of the Order, Paragraph IV. of the Order allows the Commission to appoint a Divestiture Trustee to assign, grant, license, divest, transfer, deliver, or otherwise convey the travel centers.

Paragraph V. of the Order provides that each Remedial Agreement related to the divested sites shall be incorporated by reference into the Order and that Respondents shall not modify or amend the terms of any Remedial Agreement without prior approval of the Commission.

Paragraphs VI.A. and VI.B. of the Order require official notification of the date on which the acquisition occurs and subsequent periodic reports until the Commission is satisfied that the divestiture has been completed in a timely manner and in good faith. Paragraph VI.C. of the Order requires annual written reports of compliance, upon the Commission's request, until the Order terminates in ten years.

Paragraph VII. of the Order requires Respondents to give the Commission prior notice of certain events that might affect compliance obligations arising from the Order.

E. Additional Provisions

Paragraph VIII. of the Order provides that the Commission shall, with proper notice, have access to documents and personnel at the offices of Respondents for the purpose of determining or securing compliance with the Order.

Paragraph IX. of the Order provides that the Order shall terminate after ten years.

IV. Order to Maintain Assets

The Commission also has issued an Order to Maintain Assets in this proceeding. The purpose of the Order to Maintain Assets is: (a) to maintain the full economic viability, marketability and competitiveness of the travel centers through their full transfer and delivery to Love's; (b) to minimize any risk of loss of competitive potential for the travel centers; (c) to prevent the destruction, removal, wasting, deterioration, or impairment of any of the travel centers, except for ordinary wear and tear; and (d) to prevent disclosure of any Confidential Business Information related to the travel centers to any person except Love's or persons specifically authorized by Love's to receive such information. The Commission may appoint an Interim Monitor to assure that Respondents expeditiously comply with all of their obligations and perform all of their responsibilities as required by the Order to Maintain Assets.

By direction of the Commission, Commissioner Brill not participating.

Donald S. Clark

Secretary.

[FR Doc. 2010–16433 Filed 7–6–10; 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Subsidized and Transitional Employment Demonstration and Evaluation Project (STEDEP).

OMB No.: New Collection.

Billing Accounting Code (BAC): 418409 (CAN G996121).

Description: The Administration for Children and Families (ACF) is proposing an information collection activity as part of the Subsidized and Transitional Employment Demonstration and Evaluation Project. The proposed information collection consists of semi-structured interviews with key respondents involved with subsidized and transitional employment programs. Through this information collection and other study activities, ACF seeks to identify the types of strategies that should be tested within the context of current TANF policies and requirements as well as recent efforts under the American Recovery and Reinvestment Act (ARRA).

Respondents: Experts and stakeholders such as researchers, policy experts, coordinators (*e.g.* state-level coordinators), subsidized and transitional employment program directors and staffs.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Discussion Guide for Use with Researchers, Policy Experts, and State-level Coordinators	50	1	1	50
Discussion Guide for use with Program Directors	25	1	2.5	63
Discussion Guide for Use with Program Staff	50	1	2	100

Estimated Total Annual Burden Hours: 213.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. E-mail address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Steven Hanmer,

OPRE Reports Clearance Officer.

[FR Doc. 2010–16332 Filed 7–6–10; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail paperwork@hrsa.gov or call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners—45 CFR Part 60 Regulations and Forms (OMB No. 0915–0126)—Extension.

The National Practitioner Data Bank (NPDB) was established through Title IV of Public Law (Pub. L.) 99–660, the Health Care Quality Improvement Act of 1986, as amended. Final regulations governing the NPDB are codified at 45 CFR part 60. Responsibility for NPDB implementation and operation resides in the Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services (HHS). The NPDB began operation on September 1, 1990.

The intent of Title IV of Public Law 99–660 is to improve the quality of

health care by encouraging hospitals, State licensing boards, professional societies, and other entities providing health care services, to identify and discipline those who engage in unprofessional behavior; and to restrict the ability of incompetent physicians, dentists, and other health care practitioners to move from State to State without disclosure of the practitioner's previous damaging or incompetent performance.

The NPDB acts primarily as a flagging system; its principal purpose is to facilitate comprehensive review of practitioners' professional credentials and background. Information on medical malpractice payments, adverse licensure actions, adverse clinical privileging actions, adverse professional society actions, and Medicare/Medicaid exclusions is collected from, and disseminated to, eligible entities (entities that are entitled to query and/or report to the NPDB under the provisions of 45 CFR part 60). It is intended that NPDB information should be considered with other relevant information in evaluating a practitioner's credentials.

The reporting forms and the request for information forms (query forms) are accessed, completed, and submitted to the NPDB electronically through the NPDB Web site at *http://www.npdb-hipdb.hrsa.gov/*. All reporting and querying is performed through this secure Web site. Due to overlap in requirements for the Healthcare Integrity and Protection Data Bank (HIPDB), some of the NPDB's burden has been subsumed under the HIPDB.

Estimates of Annualized Burden Are as Follows:

Regulation citation	Number of respondents	Responses per respondent	Total responses	Hours per response (min).	Total burden hours	Wage rate	Total cost
60.6(a) Errors & Omissions	315	5	1,260	15	315	$25	$7,875.00
60.6(b) Revisions to Action	109	1	109	30	54.5	25	1,362.50
60.7(b) Medical Malpractice Payment Report	519	29	15,051	45	11,288.25	25	282,206.25
60.8(b) Adverse Action Reports—State Boards	0	0	0	0	0	0	0
60.11(a)(3) Adverse Action	480	2	960	45	720	25	18,000
60.11(c) Requests for Hearings by Entities	0	0	0	480	0	200	0
60.12(a)(1) & (2) Queries by Hospital	5,996	213	1,277,148	5	106,429	25	2,660,725
60.13(a)(1)(i) Disclosure to Hospitals	0	0	0	0	0	0	0
60.13(a)(1)(ii) Disclosure to Practitioners (Self Query)	0	0	0	0	0	0	0
60.13(a)(1)(iii) Disclosure to Licensure Boards	87	645	56,115	5	4,676.25	25	116,906.25
60.13(a)(1)(iv) Queries by Non-Hospital Health Care Entities	7,305	322	2,352,210	5	196,017.5	25	4,900,437.50
60.13(a)(i)(v) Queries by Plaintiffs' Attorneys	5	1	5	30	2.5	200	500.00
60.13(a)(1)(vi) Queries by Non-Hospital Health Care Entities—Peer Review	0	0	0	0	0	0	0
60.13(a)(i)(vii) Requests by Researchers for Aggregate Data	20	1	20	30	10	38	380.00
60.16(b) Practitioner Places a Report in Disputed Status	404	1	404	15	101	45	4,545.00
60.16(b) Practitioner Statement	1,415	1	1,415	45	1,061.25	100	106,125.00

Regulation citation	Number of respondents	Responses per respondent	Total responses	Hours per response (min).	Total burden hours	Wage rate	Total cost
60.16(b) Practitioner Requests for Secretarial Review	27	1	27	480	216	200	43,200.00
60.3 Entity Registration—Initial	1,447	1	1,447	60	1,447	25	36,175
60.3 Entity Registration—Update	13,115	1	13,115	5	1,092.92	25	27,323
60.13(a) Authorized Agent Designation—Initial	717	1	717	15	179.25	25	4,481.25
60.13(a) Authorized Agent—Update	139	1	139	5	11.58	25	289.50
60.14(c) Account Discrepancy Report	5	1	5	15	1.25	25	31.25
60.14(c) Electronic Funds Transfer Authorization	284	1	284	15	71	25	1,775.00
60.3 Entity Reactivation	0	0	0	0	0	0	0
Total	32,389		3,720,431		323,694.25		8,212,337.5

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the "attention of the desk officer for HRSA."

Dated: June 29, 2010.

Sahira Rafiullah,

Director, Division of Policy Information and Coordination.

[FR Doc. 2010–16399 Filed 7–6–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Survey of Health Care Professionals' Awareness and Perceptions of the National Cancer Institute's Intramural Clinical Trials (NCI)

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 22, 2010 (75 FR 20999) and allowed 60-days for public comment. There were no public comments received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Survey of Health Care Professionals' Awareness and Perceptions of the National Cancer Institute's Intramural Clinical Trials (NCI). *Type of Information Collection Request:* New. *Need and Use of Information Collection:* To assess respondents' awareness and knowledge of NCI and measure awareness of NCI clinical trials at the NIH Clinical Center in Bethesda, MD. The survey will be disseminated electronically to members of the American Medical Association (AMA) with a certain primary specialties. *Frequency of Response:* Yearly. *Affected Public:* Individual adults. *Type of Respondents:* Health care providers (AMA members who have allowed the use of their e-mail address). The annual reporting burden is estimated at 28 hours (*see* Table below).

A.12–1—ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondents	Number of respondents	Frequency of response	Average time per response (minutes/hour)	Annual burden hours
Health care professionals who complete the survey	330	1	5/60 (0.083)	27.5
Totals	330	330		27.5

There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Attention: NIH Desk Officer, Office of Management and Budget, at *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Susan McMullen, RN, Director, Office of Patient Outreach and Recruitment, Center for Cancer Research, NCI, Bloch Building 82, Room 101, MSC 8200, 9030 Old Georgetown Road, Bethesda, Maryland 20892 or by e-mailing your request, including your address to: *mcmulles@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 29, 2010.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2010–16359 Filed 7–6–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories currently certified to meet the standards of Subpart C of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908), on September 30, 1997 (62 FR 51118), and on April 13, 2004 (69 FR 19644).

A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 2–1042, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Mandatory Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards that laboratories must meet in order to conduct drug and specimen validity tests on urine specimens for Federal agencies. To become certified, an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A laboratory must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Mandatory Guidelines dated April 13, 2004 (69 FR 19644), the following laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016. (Formerly: Bayshore Clinical Laboratory)

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, 345 Hill Ave., Nashville, TN 37210, 615–255–2400. (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc.)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823. (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130. (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783. (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917.

Doctors Laboratory, Inc., 2906 Julia Drive, Valdosta, GA 31602, 229–671–2281.

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310.

DynaLIFE Dx,* 10150–102 St., Suite 200, Edmonton, Alberta, Canada T5J 5E2, 780–451–3702/800–661–9876. (Formerly: Dynacare Kasper Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609.

Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630.

Laboratory Corporation of America Holdings,7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986. (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984. (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339. (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845. (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.,)

Maxxam Analytics,* 6740 Campobello Road, Mississauga, ON, Canada L5N 2L8, 905–817–5700. (Formerly: Maxxam Analytics Inc., NOVAMANN (Ontario), Inc.)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774. (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942. (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7.

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555.

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216. (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 800–877–2520. (Formerly: SmithKline Beecham Clinical Laboratories)

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 574–234–4176 x1276.

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027.

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 573–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 13, 2004 (69 FR 19644). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Dated: June 25, 2010.

Dennis O. Romero,

Deputy Executive Officer and Deputy Director, Office of Program Services.

[FR Doc. 2010–16427 Filed 7–6–10; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES≤

Food and Drug Administration

[Docket No. FDA–2010–P–0171]

Determination That ACCUTANE (Isotretinoin) Capsules, 10 Milligrams, 20 Milligrams, and 40 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its determination that ACCUTANE (isotretinoin) Capsules, 10 milligrams (mg), 20 mg, and 40 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Olivia Pritzlaff, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6308, Silver Spring, MD 20993–0002, 301–796–3506.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate

versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is known generally as the "Orange Book." Under FDA regulations, drugs are removed from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

ACCUTANE (isotretinoin) Capsules, 10 mg, 20 mg, and 40 mg, are the subject of NDA 18–662, held by Hoffman-La Roche, Inc. (Roche), and initially approved on May 7, 1982. ACCUTANE is indicated for the treatment of severe recalcitrant nodular acne. In a letter dated June 24, 2009, Roche notified FDA that ACCUTANE (isotretinoin) Capsules, 10 mg, 20 mg, and 40 mg, were being discontinued, and FDA moved the drug product to the "Discontinued Drug Product List" section of the Orange Book. There are three approved ANDAs for isotretinoin capsules; these are listed in the Orange Book and, following the discontinuation of ACCUTANE, one of them was designated as the listed drug to which new ANDAs should refer.

Sun Pharmaceutical Industries, Inc., submitted a citizen petition dated March 22, 2010 (Docket No. FDA–2010–P–0171), under 21 CFR 10.30, requesting that the agency determine whether ACCUTANE (isotretinoin) Capsules, 10 mg, 20 mg, and 40 mg, were withdrawn from sale for reasons of safety or effectiveness.

FDA has reviewed its records and, under § 314.161, has determined that ACCUTANE (isotretinoin) Capsules, 10 mg, 20 mg, and 40 mg, were not withdrawn from sale for reasons of safety or effectiveness. The petitioner identified no data or other information suggesting that ACCUTANE (isotretinoin) Capsules, 10 mg, 20 mg, and 40 mg, were withdrawn for reasons of safety or effectiveness. FDA has independently evaluated relevant literature and data for possible postmarketing adverse events and has found no information that would indicate that this product was withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list ACCUTANE (isotretinoin) Capsules, 10 mg, 20 mg, and 40 mg, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

FDA will not begin procedures to withdraw approval of approved ANDAs that refer to ACCUTANE. Additional ANDAs for isotretinoin capsules may also be approved by the agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for isotretinoin capsules should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

Dated: June 30, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–16439 Filed 7–6–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES≤

Food and Drug Administration

[Docket Nos. FDA–2010–P–0027, FDA–2010–P–0059, and FDA–2010–P–0051]

Determination That ACTONEL (Risendronate Sodium) Tablets, 75 Milligrams, and ACTONEL WITH CALCIUM (Risendronate Sodium and Calcium Carbonate (Copackaged)) Tablets, 35 Milligrams/500 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the determination that ACTONEL (risendronate sodium) Tablets, 75 milligrams (mg), and ACTONEL WITH CALCIUM (risendronate sodium and calcium carbonate (copackaged)) Tablets, 35 mg/500 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for these products, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Jane Baluss, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6362, Silver Spring, MD 20993–0002, 301–796–3469.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is known generally as the "Orange Book." Under FDA regulations, drugs are removed from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an

ANDA that does not refer to a listed drug.

Lachman Consultant Services submitted a petition dated January 12, 2010 (FDA–2010–P–0027), requesting a determination that ACTONEL (risendronate sodium) Tablets, 75 milligrams (mg), was not withdrawn from sale for reasons of safety or effectiveness. ACTONEL (risendronate sodium) Tablets, 75 mg, is the subject of NDA 20–835, held by Warner Chilcott and initially approved on April 16, 2004. ACTONEL (risendronate sodium) Tablets, 75 mg, is indicated for the treatment of postmenopausal osteoporosis in men, and Paget's disease in men and women.

In a separate citizen petition dated January 20, 2010 (FDA–2010–P–0051), Lachman Consultant Services requested a determination that ACTONEL WITH CALCIUM (risendronate sodium and calcium carbonate (copackaged)) Tablets, 35/500 mg, was not withdrawn from sale for reasons of safety or effectiveness. In another separate petition dated January 21, 2010, EAS Consulting Group, LLC, requested the same determination on behalf of Aurobindo Pharmaceuticals. ACTONEL WITH CALCIUM (risendronate sodium and calcium carbonate (copackaged)) Tablets, 35/500 mg, is the subject of NDA 21–823, held by Procter & Gamble and initially approved on August 12, 2005. ACTONEL WITH CALCIUM (risendronate sodium and calcium carbonate (copackaged)) Tablets, 35/500 mg, is indicated for the treatment of postmenopausal osteoporosis.

FDA has reviewed its records and, under § 314.161, has determined that neither ACTONEL (risendronate sodium) Tablets, 75 mg, nor ACTONEL WITH CALCIUM (risendronate sodium and calcium carbonate (copackaged)) Tablets, 35/500 mg, was withdrawn from sale for reasons of safety or effectiveness. None of the petitions identified any data or other information suggesting that either of the products named in the petitions was withdrawn for reasons of safety or effectiveness. FDA has independently evaluated relevant literature and data for possible postmarketing adverse events and has found no information that would indicate that either product was withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list ACTONEL (risendronate sodium) Tablets, 75 mg, and ACTONEL WITH CALCIUM (risendronate sodium and calcium carbonate (copackaged)) Tablets, 35/500 mg, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

ANDAs that refer to ACTONEL (risendronate sodium) Tablets, 75 mg, or ACTONEL WITH CALCIUM (risendronate sodium and calcium carbonate (copackaged)) Tablets, 35/500 mg, may be approved by the agency if all other legal and regulatory requirements for the approval of ANDAs are met. If FDA determines that labeling for either or both of these drug products should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

Dated: June 30, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–16438 Filed 7–6–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES≤

Food and Drug Administration

[Docket No. FDA–2010–N–0298]

Disclosure of Nutrient Content Information for Standard Menu Items Offered for Sale at Chain Restaurants or Similar Retail Food Establishments and for Articles of Food Sold From Vending Machines

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of docket; request for comments, data, and information.

SUMMARY: The Food and Drug Administration (FDA) is announcing the opening of a docket to solicit comments, data, and other information helpful to the implementation of section 4205 of the Patient Protection and Affordable Care Act of 2010, which was enacted on March 23, 2010. That section, principally amending sections 403 and 403A of the Federal Food, Drug, and Cosmetic Act (the act), requires chain restaurants and similar retail food establishments with 20 or more locations doing business under the same name and offering for sale substantially the same menu items to disclose nutrient content information for standard menu items appearing on restaurant menus and menu boards, and requires vending machine operators that own or operate 20 or more vending machines to disclose nutrient content information for certain articles of food sold from vending machines. Section 4205 also amended the act to allow restaurants or similar retail food establishments and operators of vending machines not subject to the requirements of section 4205 to elect to be subject to the requirements through biannual registration. FDA is establishing this docket to provide an opportunity for interested parties to submit data and other information relevant to the implementation of section 4205.

DATES: Submit either electronic or written comments by September 7, 2010.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Geraldine A. June, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy, College Park, MD 20740, 301–436–2371.

SUPPLEMENTARY INFORMATION:

I. Background

The availability of nutritional information through menu labeling would provide Americans the opportunity to exercise personal responsibility and make informed choices about their diets. Studies show that providing nutrition information at restaurants can help people make healthier choices (e.g., Refs. 1 and 2). Responding to this demand for information, several states and localities have initiated legislative or regulatory efforts on restaurant menu labeling, creating a patchwork of ideas and logistical challenges for many restaurant chains (Ref. 3). While various approaches to menu labeling in chain restaurants have been tried, several stakeholders ultimately sought a national approach that would ensure nationwide uniformity, better protections, and flexibility in how additional nutrition information is provided.

On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act (Affordable Care Act) (Public Law 111–148). Section 4205 of the Affordable Care Act (hereinafter "section 4205") creates a new subparagraph (H) within section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (the act), to be codified at 21 U.S.C. 343(q)(5)(H), which requires chain restaurants and similar retail food establishments with 20 or more locations doing business under the same name and offering for sale substantially

the same menu items (hereinafter "chain retail food establishments") to disclose specific nutrition information on certain food items offered for sale. The new provision also requires vending machine operators that own or operate 20 or more vending machines (hereinafter "chain vending machine operators") to disclose nutrient content information for certain food articles sold from vending machines.

A. Chain Restaurants or Similar Retail Establishments

Specifically, section 4205 provides that chain retail food establishments must:

- Display on menus and menu boards, including drive-through menu boards, the number of calories next to the listing for each "standard menu item, as usually prepared and offered for sale."
- Include on the menu or menu board, "posted prominently," "a succinct statement concerning suggested daily caloric intake." This statement, which is to be specified by the Secretary of the Department of Health and Human Services (the Secretary) by regulation, must be "designed to enable the public to understand, in the context of a total daily diet, the significance" of the required information.
- Provide in a written form, available to the customer upon request, the nutrition information required under section 403(q)(1)(C) and (D) of the act (i.e., per-serving information with respect to the amount of calories, total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, fiber, and total protein).
- Make a "prominent, clear, and conspicuous statement" on the menu or menu board about the availability of the written nutrition information under section 403(q)(1)(C) and (D).
- In the case of self-service food and food on display (e.g., food sold at a salad bar, buffet line, cafeteria line, or similar self-service facility), include a sign adjacent to each food item that lists the calories per displayed food item or per serving.
- Base its nutrient content disclosures on sources described in 21 CFR 101.10 or related FDA guidance.

Under section 4205, the Secretary must establish standards, by regulation, for determining and disclosing the nutrient content for standard menu items that come in different flavors, varieties, or combinations, but that are listed as a single menu item (e.g., soft drinks, ice cream, pizza, doughnuts, children's combination meals), through means including ranges, averages, or other methods.

Certain food items sold in chain retail food establishments are not subject to the nutrition content disclosure requirements. These items include:

- Items not listed on a menu or menu board (such as condiments or items placed on the table or counter for general use).
- Daily specials, temporary menu items appearing on the menu for fewer than 60 days per calendar year, or custom orders.
- Food that is part of a customary market test and appearing on the menu for fewer than 90 days, under terms and conditions established by the Secretary.

B. Vending Machines

Section 4205 provides that chain vending machine operators must provide a sign "in close proximity to" each article of food or to the selection button that includes "a clear and conspicuous statement disclosing the number of calories contained in the article," unless the vending machine permits a prospective purchaser to examine the Nutrition Facts panel before buying the food article, or otherwise provides "visible nutrition information at the point of purchase."

C. Proposed Rule

Section 4205 requires FDA to issue proposed regulations to carry out the provisions of section 4205 no later than March 23, 2011. In issuing these regulations, FDA must: (1) Consider "standardization of recipes and methods of preparation, reasonable variation in serving size and formulation of menu items, space on menus and menu boards, inadvertent human error, training of food service workers, variations in ingredients, and other factors, as the Secretary determines" and (2) "specify the format and manner of the nutrient content disclosure requirements" under section 4205.

D. Voluntary Provision of Nutrition Information

Under the Affordable Care Act, persons or firms not subject to the disclosure of nutrition information required by section 4205, such as retail food establishments with fewer than 20 locations or vending machine operators with fewer than 20 vending machines, may elect to be subject to the requirements by registering biannually with FDA. FDA must publish a notice in the **Federal Register** within 120 days of the date of enactment of the Affordable Care Act (i.e., by July 21, 2010),"specifying the terms and conditions for implementation" of the voluntary registration provision.

II. Request for Data and Other Information

FDA is establishing a docket to provide an opportunity for interested parties to submit data and other information and share views that will inform us in the implementation of the new legislative requirements for mandatory or voluntary menu, menu board, and vending machine labeling. In particular, we welcome input on any of the matters listed below:

A. Chain Retail Food Establishments

- The types of restaurants or similar retail food establishments and the nature of their food service activities.
- Current practices within the restaurant or similar retail food establishment industry with respect to standard and non-standard menu items and the use of menus or menu boards.
- Current practices with respect to the format and manner of nutrient content disclosures concerning food items that appear on retail food service menus or menu boards.
- Considerations in the disclosure of calorie content information for food sold at a salad bar, buffet line, cafeteria line, or similar self-service facility, and for self-service beverages or food that is on display.
- Issues to be considered in developing a succinct statement about a suggested daily caloric intake that is required to appear on menus and menu boards.
- Methods related to presentation of nutrient content (ranges, averages, or other methods) for standard menu items that come in different flavors, varieties, or combinations but which are listed as a single menu item, such as soft drinks, ice cream, pizza, etc., or combination meals such as children's combination meals.
- Factors to consider with respect to determining what foods or categories of foods might be exempt from the menu labeling requirements because, e.g., they are condiments and other items placed on tables or counters for general use; daily specials, temporary menu items, or custom orders; or other food that is part of a customary market test.
- Information about the size of chain retail food establishments (e.g., based on annual revenue or on number of locations).
- Information about the number of chain retail food establishments that are or could be affected by section 4205.
- Information about the number of retail food establishments that may

choose voluntarily to be subject to section 4205.

• Factors to consider with respect to availability and use of space on menus and menu boards.

B. Determination of Calorie Content of Foods Offered by Chain Retail Food Establishments

• Information about standardization of recipes and methods of preparation.

• Information about variation in serving size and formulation of menu items.

• The role of inadvertent human error.

• Information about training of food service workers.

• Information about variations in ingredients.

• Any other relevant factors.

C. Vending Machine Operations

• Current practices within the vending machine industry with respect to the availability to prospective purchasers of Nutrition Facts panel information or otherwise providing visible nutrition information at the point of purchase.

• Possible mechanisms for displaying products' Nutrition Facts panels or otherwise providing visible nutrition information at the point of purchase.

• Factors to consider with respect to availability and use of space on vending machines.

• Considerations in requiring caloric content disclosure about food items sold from vending machines.

• Information about the size of chain vending machine operators (e.g., based on annual revenue or on number of locations).

• Information about the number of chain vending machine operators that are or could be affected by section 4205.

• Information about vending machine operators not covered by section 4205 of the Affordable Care Act that might elect to be subject to the requirements of section 4205.

D. Implementation and Enforcement

• Information about implementation, including information about options for inspection and enforcement.

• Information about inspection and enforcement mechanisms in state and local nutrition labeling programs.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. References

1. Howlett, E.A., S. Burton, K. Bates, and K. Huggins, "Coming to a Restaurant Near You? Potential Consumer Responses to Nutrition Information Disclosure on Menus," Available at *http://www.journals.uchicago.edu/doi/pdf/10.1086/598799 Journal of Consumer Research*36(3): 494–503, 2009.

2. Tandon, P.S., J.Wright, C. Zhou, C.B. Rogers, D.A. Christakis, "Nutrition Menu Labeling May Lead to Lower-Calorie Restaurant Meal Choices for Children," *Pediatrics* 125(2): 244–248, 2010.

3. Center for Science in the Public Interest, "Comparison of Menu Labeling Policies," Available at *http://cspinet.org/new/pdf/comparison_of_ml_policies_6-9.pdf.*

Dated: June 29, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–16303 Filed 7–6–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned committee:

Times and Dates:

8:30 a.m.–5 p.m., September 1, 2010.

8:30 a.m.–3 p.m., September 2, 2010.

Place: CDC, 1600 Clifton Road, NE., Tom Harkin Global Communications Center, Building 19, Room 232, Auditorium B, Atlanta, Georgia 30333.

Online Registration Required: In order to expedite the security clearance process at the CDC Roybal Campus located on Clifton Road, *all* CLIAC attendees are required to register for the meeting online at least 14 days in advance at *http://wwwn.cdc.gov/cliac/default.aspx* by clicking the "Register for a Meeting" link and completing all forms according to the instructions given. Please complete all the required fields before submitting your registration and submit no later than August 17, 2010.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This Committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact on medical and laboratory practice of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters to be Discussed: The agenda will include agency updates from the CDC, the Centers for Medicare & Medicaid Services, and the Food and Drug Administration. Reports and Committee discussion will address issues pertaining to cytology testing and workload recording; the electronic exchange of laboratory information; and consideration of proposals from the CLIAC proficiency testing workgroup. Agenda items are subject to change as priorities dictate.

Providing Oral or Written Comments: It is the policy of CLIAC to accept written public comments and provide a brief period for oral public comments whenever possible.

Oral Comments: In general, each individual or group requesting to make an oral presentation will be limited to a total time of five minutes (unless otherwise indicated). Speakers must also submit their comments in writing for inclusion in the meeting's Summary Report. To assure adequate time is scheduled for public comments, individuals or groups planning to make an oral presentation should, when possible, notify the contact person below at least one week prior to the meeting date.

Written Comments: For individuals or groups unable to attend the meeting, CLIAC accepts written comments until the date of the meeting (unless otherwise stated). However, the comments should be received at least one week prior to the meeting date so that the comments may be made available to the Committee for their consideration and public distribution. Written comments, one hard copy with original signature, should be provided to the contact person below. Written comments will be included in the meeting's Summary Report.

Contact Person for Additional Information: Nancy Anderson, Chief, Laboratory Practice Standards Branch, Division of Laboratory Science and Standards (proposed), Laboratory Science, Policy and Practice Program Office (LSPPPO) (proposed), Office of Surveillance, Epidemiology and Laboratory Services (proposed), Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop F–11, Atlanta, Georgia 30333; telephone (404) 498–2741; fax (404) 498–2219; or via e-mail at *Nancy.Anderson@cdc.hhs.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 28, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–16387 Filed 7–6–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee on Procedures Review, Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting for the aforementioned subcommittee:

Time and Date: 9:30 a.m.–5 p.m., July 26, 2010.

Place: Cincinnati Airport Marriott, 2395 Progress Drive, Hebron, Kentucky 41018, Telephone (859) 334–4611, Fax (859) 334–4619.

Status: Open to the public, but without a public comment period. To access by conference call dial the following information: (866) 659–0537, Participant Pass Code 9933701.

Background: The ABRWH was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the compensation program. Key functions of the ABRWH include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the ABRWH to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2011.

Purpose: The ABRWH is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is a reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee on Procedures Review was established to aid the ABRWH in carrying out its duty to advise the Secretary, HHS, on dose reconstructions. The Subcommittee on Procedures Review is responsible for overseeing, tracking, and participating in the reviews of all procedures used in the dose reconstruction process by the NIOSH Division of Compensation Analysis and Support (DCAS) and its dose reconstruction contractor.

Matters To Be Discussed: The agenda for the Subcommittee meeting includes: Discussion of a draft prototype document for informing the public on completed Subcommittee procedure reviews; discussion of the following ORAU & OCAS procedures: PER–012 ("Evaluation of Highly Insoluble Plutonium Compounds"), PER–009 ("Target Organs for Lymphoma"), OCAS TIB–0013 ("Special External Dose Reconstruction Considerations for Mallinckrodt Workers"), OTIB–014 ("Rocky Flats Internal Dosimetry Co-Worker Extension"), OTIB–019 ("Analysis of Coworker Bioassay Data for Internal Dose Assignment"), OTIB–0029 ("Internal Dosimetry Coworker Data for Y–12"), OTIB–0049 ("Estimating Doses for Plutonium Strongly Retained in the Lung"), OTIB–0047 (External Radiation Monitoring at the Y–12 Facility During the 1948–1949 Period"), OTIB–0049 ("Estimating Doses for Plutonium Strongly Retained in the Lung"), OTIB–0051 ("Effect of Threshold Energy and Angular Response of NTA Film on Missed Neutron Dose at the Oak Ridge Y–12 Facility"), OTIB–0054 ("Fission and Activation Product Assignment for Internal Dose-Related Gross Beta and Gross Gamma Analyses"), OTIB–0057 ("External Radiation Dose Estimates For Individuals Near the 1958 Criticality Accident at the Oak Ridge Y–12 Plant"), OTIB–0070 ("Dose Reconstruction During Residual Radioactivity Periods at Atomic Weapons Employer Facilities"), and TBD 6000 ("Site Profile for Atomic Weapons Employers that Worked Uranium and Thorium Metals"); and a continuation of the comment-resolution process for other dose reconstruction procedures under review by the Subcommittee.

The agenda is subject to change as priorities dictate.

This meeting is open to the public, but without a public comment period. In the event an individual wishes to provide comments, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below in advance of the meeting.

Contact Person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road, Mailstop E–20, Atlanta, GA 30333, Telephone (513) 533–6800, Toll Free 1(800) CDC–INFO, e-mail *dcas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 28, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–16389 Filed 7–6–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Dose Reconstruction Reviews (SDRR), Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention, announces the following meeting for the aforementioned subcommittee:

Time and Date: 8:30 a.m.–5 p.m., July 23, 2010.

Place: Cincinnati Airport Marriott, 2395 Progress Drive, Hebron, Kentucky 41018. Telephone (859) 334–4611, Fax (859) 334–4619.

Status: Open to the public, but without a public comment period. To access by conference call dial the following information 1 (866) 659–0537, Participant Pass Code 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2011.

Purpose: The Advisory Board is charged with (a) Providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose

reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee for Dose Reconstruction Reviews was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters To Be Discussed: The agenda for the Subcommittee meeting includes: selection of individual radiation dose reconstruction cases to be considered for review by the Advisory Board; discussion of dose reconstruction cases under review (sets 7–9); OCAS dose reconstruction quality management and assurance activities.

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Contact Person for More Information: Theodore Katz, Executive Secretary, NIOSH, CDC, 1600 Clifton Road, Mailstop E–20, Atlanta, GA 30333, Telephone (513) 533–6800, Toll Free 1 (800) CDC–INFO, E-mail *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Gary J. Johnson,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–16513 Filed 7–6–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel: Regulation of Placental Signaling & Function by Maternal Nutrient Availability.

Date: July 27, 2010.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, (301) 435–6902, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: *June 30, 2010.*

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–16485 Filed 7–6–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel, Diabetes Risk Across Women's Lifespan: A Study of Long-Term Health Implications of Glucose Intolerance in Pregnancy.

Date: July 26, 2010.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 30, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–16483 Filed 7–6–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel, Genetic Causes And The Role Of The Cilium In Human Structural Birth Defects.

Date: July 19, 2010.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Neelakanta Ravindranath, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 5B01G, Bethesda, MD 20892–7510, (301) 435–6889, *ravindrn@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 30, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–16482 Filed 7–6–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel, Risk Genes and Environmental Interactions in NTDs.

Date: July 14, 2010.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Neelakanta Ravindranath, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 5B01G, Bethesda, MD 20892–7510. (301) 435–6889. *ravindrn@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 30, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–16481 Filed 7–6–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel, Child Health Research Career Development Program.

Date: July 21, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Neelakanta Ravindranath, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 5B01G, Bethesda, MD 20892–7510. (301) 435–6889. *ravindrn@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 30, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–16477 Filed 7–6–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel, Initiation of Human Labor: Prevention of Prematurity.

Date: July 21, 2010.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852. (Telephone Conference Call)

Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, (301) 435–6902, *peter.zelazowski@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 30, 2010

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–16473 Filed 7–6–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES≤

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Anti-Infective Drugs 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: Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 7, 2010, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC North/Gaithersburg, The Ballrooms, 620 Perry Pkwy., Gaithersburg, MD. The hotel phone number is 301–977–8900.

Contact Person: Minh Doan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., WO31–2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, e-mail: *minh.doan@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512530. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On September 7, 2010, the committee will discuss new drug application (NDA) 20–0327, for ceftaroline fosamil for injection, submitted by Cerexa, Inc., and the requested indications of: (1) Treatment of adults with community acquired bacterial pneumonia (CABP); and (2) complicated skin and skin structure infections (cSSSI). The morning session will be devoted to discussing the CABP indication, and the afternoon session to discussing the cSSSI indication.

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 August 23, 2010. Oral presentations from the public will be scheduled between approximately 11 a.m. to 11:30 a.m. and 3:30 p.m. to 4 p.m. 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 August 13, 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 August 16, 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 Minh Doan 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: July 1, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–16591 Filed 7–6–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES≤

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Anesthetic and Life Support Drugs 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: Anesthetic and Life Support Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on August 19, 2010, from 8 a.m. to 4:30 p.m.

Location: Bethesda Marriott, The Ballrooms, 5151 Pooks Hill Rd., Bethesda, MD. The hotel telephone number is 301–897–9400.

Contact Person: Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, e-mail: *kalyani.bhatt@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512529. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On August 19, 2010, the committee will discuss the available safety and efficacy data for new drug application (NDA) 22–516, CYMBALTA (duloxetine HCL) Capsules, by Eli Lilly

and Co., as it relates to the proposed indication of treatment of chronic pain.

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 August 5, 2010. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. 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 July 28, 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 July 29, 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 Kalyani Bhatt 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: July 1, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–16590 Filed 7–6–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Patient Protection and Affordable Care Act (PPACA), Emerging Infections Program (EIP), Enhancing Epidemiology and Laboratory Capacity, Funding Opportunity Announcement (FOA) CI10–003, Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 8 a.m.–5 p.m., August 23, 2010 (Closed).

Place: CDC, Executive Park, Building 12, Room 4052, Atlanta, Georgia.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to "Patient Protection and Affordable Care Act (PPACA), Emerging Infections Program (EIP), Enhancing Epidemiology and Laboratory Capacity, Funding Opportunity Announcement FOA CI10–003."

Contact Person for More Information: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road, NE., Mailstop E60, Atlanta, GA 30333, Telephone: (404) 498–2293.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: June 28, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–16384 Filed 7–6–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–58]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Fair Housing Initiatives Program (FHIP) Grant Application and Testing Training

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: July 14, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail: *OIRA_Submission@omb.eop.gov;* fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail: *Leroy.McKinneyJr@hud.gov;* telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information

technology; *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Fair Housing Initiatives Program (FHIP) Grant Application and Testing Training

Description of Information Collection: The information is to assess the qualifications of applicants for funding under the Fair Housing Initiatives Program (FHIP) to train Qualified Fair Housing Enforcement Organization and Fair Housing Enforcement Organizations on testing procedures and updates in testing and testing methodologies as further determined under the appropriate notice of funding availability.

OMB Control Number: 2529–New.

Agency Form Numbers: SF–425, SF–424, SF–LLL, HUD–2880, HUD–2990,

HUD–2991 SF–424CB, SF–424–CBW, and HUD–9601. HUD forms can be obtained at: *http://portal.hud.gov/portal/page/portal/HUD/program_offices/administration/hudclips/forms.*

Members of Affected Public: Non-profit organization, State, Local Government or Tribal Government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of responses: The estimated number of respondents is 50; the frequency of response is 0.08 per year; 1,198.25 hours per response, for burden hours of 4,793.

Total Estimated Burden Hours: 4,793.

Status of the proposed information collection: New collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 30, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–16520 Filed 7–6–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–61]

Public Housing Annual Contributions Contract

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The public housing program funds low-rent projects owned and operated by public housing agencies (PHAs), subject to terms and conditions contained in an Annual Contributions Contract (ACC) with certain requirements applicable to all project and other requirements applicable to only certain conditions or types of projects. Information collection from PHAs assures compliance with Federal program requirements.

DATES: *Comments Due Date: August 6, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–New) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney, Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney, Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Public Housing Annual Contributions Contract.

OMB Approval Number: 2577–New.

Form Numbers: Certain information collections do not have companion forms; forms referenced herein include HUD 53012 A and B (Terms and Conditions); HUD 51999 (General Depository Agreements); 52190–A and B (Declaration of Trust); and 52840–A (Capital Fund ACC amendment). HUD forms can be obtained at: *http://portal.hud.gov/portal/page/portal/HUD/program_offices/administration/hudclips/forms.*

Description of the Need for the Information and Its Proposed Use:

The public housing program funds low-rent projects owned and operated by public housing agencies (PHAs), subject to terms and conditions contained in an Annual Contributions Contract (ACC) with certain requirements applicable to all project and other requirements applicable to only certain conditions or types of projects. Information collection from PHAs assures compliance with Federal program requirements.

Frequency of Submission: State, Local or Tribal Government.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	625	1		1.192		745

Total Estimated Burden Hours: 745.
Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 30, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–16524 Filed 7–6–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–59]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Application for Technical Assistance for Community Planning and Development (CPD) Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: July 14, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail: *OIRA_Submission@omb.eop.gov;* fax: (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney, Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail: *Leroy.MckinneyJr@hud.gov;* telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Technical Assistance for Community Planning and Development (CPD) Programs.

Description of Information Collection: Application for technical assistance funds with which CPD grantees will engage providers to supply expertise to shape their resources into effective, coordinated, neighborhood and community development strategies to revitalize and physically, socially and economically strengthen their communities by reducing burden because we are going from narrative to forms.

OMB Control Number: 2506–0166.

Agency Form Numbers: SF–424, HUD–424–CB, HUD–424–CBW, SF–424–Supplement; SF–LLL, HUD–2880, SF–425; HUD–40040, and HUD–40044. HUD forms can be obtained at: *http://portal.hud.gov/portal/page/portal/HUD/program_offices/administration/hudclips/forms.*

Members of Affected Public: Business or other for-profit, Not-for-profit institutions, State, Local Government or Tribal Government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of responses: The estimated number of respondents is 100; the frequency of response is 1,232 per year; 6,446 hours per response, for burden hours of 7,942.

Total Estimated Burden Hours: 7,942.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 30, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–16522 Filed 7–6–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–60]

Housing Choice Voucher (HCV) Family Self-Sufficiency (FSS) Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The FSS program, which was established in the National Affordable Housing Act of 1990, promotes the development of local strategies that coordinate the use of public housing assistance and assistance under the Section 8 rental certificate and voucher programs (now known as the Housing Choice Voucher Program) with public and private resources to enable eligible families to achieve economic independence and self-sufficiency. Housing agencies consult with local officials to develop an Action Plan; enter into a Contract of Participation with each eligible family that opts to participate in the program; compute an escrow credit for the family, report annually to HUD on implementation of the FSS program, and complete a funding application for the salary of an FSS program coordinator.

DATES: *Comments Due Date:* August 6, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0178) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone

(202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice Also Lists the Following Information

Title of Proposal: Housing Choice Voucher (HCV) Family Self-Sufficiency (FSS) Program.

OMB Approval Number: 2577–0178.

Form Numbers: HUD–52650, HUD–52651, HUD–52652, HUD–50058, HUD–96011, HUD–2880, HUD–2994–A, HUD–2991. HUD forms can be obtained at: *http://portal.hud.gov/portal/page/portal/HUD/program_offices/administration/hudclips/forms.*

Description of the Need for the Information and Its Proposed Use: The FSS program, which was established in the National Affordable Housing Act of 1990, promotes the development of local strategies that coordinate the use of public housing assistance and assistance under the Section 8 rental certificate and voucher programs (now known as the Housing Choice Voucher Program) with public and private resources to enable eligible families to achieve economic independence and self-sufficiency. Housing agencies consult with local officials to develop an Action Plan; enter into a Contract of Participation with each eligible family that opts to participate in the program; compute an escrow credit for the family, report annually to HUD on implementation of the FSS program, and complete a funding application for the salary of an FSS program coordinator.

Frequency of Submission: State, Local or Tribal Government.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	750	61		0.758		34,700

Total Estimated Burden Hours: 34,700.

Status: Extension of currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: *June 30, 2010.*

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–16503 Filed 7–6–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5376–N–62]

Public Housing Assessment System (PHAS): Management Operations Certification

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

PHAs (or Resident Management Corporations) submit management information for evaluation of all major areas of a participant's management operations. The information is used to assess the management performance of PHAs.

DATES: *Comments Due Date: August 6, 2010.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2535–0106) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *fax:* 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Leroy McKinney Jr., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Leroy McKinney Jr. at *Leroy.McKinneyJr@hud.gov* or telephone (202) 402–5564. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. McKinney.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Public Housing Assessment System (PHAS): Management Operations Certification.

OMB Approval Number: 2535–0106.

Form Numbers: HUD–50072. HUD forms can be obtained at: *http://portal.hud.gov/portal/page/portal/HUD/program_offices/administration/hudclips/forms.*

Description of the Need for the Information and its Proposed Use: PHAs (or Resident Management Corporations) submit management information for evaluation of all major areas of a participant's management operations. The information is used to assess the management performance of PHAs.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	3,174	1		1.148		3,644

Total Estimated Burden Hours: 3,644.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 1, 2010.

Leroy McKinney, Jr.,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2010–16505 Filed 7–6–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–R–2010–N117; 30136–1265–0000–S3]

Crane Meadows National Wildlife Refuge, Morrison County, MN

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: Draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan (CCP) and draft environmental assessment (EA) for Crane Meadows National Wildlife Refuge (NWR) for public review and comment. In this draft CCP/EA we describe how we propose to manage the refuge for the next 15 years.

DATES: To ensure consideration, we must receive your written comments by August 6, 2010. An open house style meeting will be held during the comment period to receive comments and provide information on the draft plan. Special mailings, newspaper articles, internet postings, and other media announcements will inform people of the meeting and opportunities for written comments.

ADDRESSES: Comments or requests for more information can be sent by any of the following methods. You may also drop off comments in person at Crane Meadows NWR.

1. *Agency Web site:* View or download a copy of the document and comment at *http://www.fws.gov/midwest/planning/CraneMeadows/index.html.*

2. *E-mail: r3planning@fws.gov.* Include "Crane Meadows Draft CCP/EA" in the subject line of the message.

3. *Fax:* 763–389–3493.

4. *Mail:* Attention: Refuge Manager, Sherburne-Crane Meadows National Wildlife Refuge Complex, 17076 293 Avenue, Zimmerman, Minnesota 55398.

FOR FURTHER INFORMATION CONTACT: Anne Sittauer, 763–389–3323.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Crane Meadows NWR, which we began by publishing a notice of intent on (73 FR 76677–76678, December 17, 2008). For more information about the planning process, see that notice.

Crane Meadows NWR was established in 1992 for '* * * the conservation of the wetlands of the Nation * * *' under the Emergency Wetland Resources Act of 1986. The Service owns and manages approximately 1,800 acres of 13,540 acres proposed for acquisition. The unique wetland complex contains rare and declining habitat types, important archaeological resources, a diversity of local and migratory species, and an abundance of recreational opportunities.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires us to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

CCP Alternatives and Our Preferred Alternative

Priority Issues

During the public scoping process, we, other stakeholders and partners, and the public identified several priority issues related to habitat, land acquisition, water resources, wildlife, visitor services, archaeological resources, and support for the Refuge. To address these issues, we developed and evaluated the following alternatives during the planning process.

Alternative A: Current Management Direction (No Action)

The current management direction of Crane Meadows NWR would be maintained under this alternative. Required by NEPA, this is referred to as the "No Action" alternative. Land acquisition is minimal, conservation work on private lands is extensive, and both occur opportunistically. As land is acquired quality habitats are maintained in their current state, degraded habitats are improved or restored, and all habitat types are considered to have relatively equal priority. There is an active prescribed fire program, little involvement with local water resources, minimal active wildlife management, and monitoring efforts follow existing, broader state and federal efforts. Visitor use is concentrated on the Headquarters Unit, and consists of wildlife observation, photography, hiking, cross-country skiing, and snowshoeing as seasons and trail conditions allow. No hunting or fishing is permitted.

Alternative B: Habitat Restoration to Pre-Settlement Benchmark Conditions and Increased Provision of Visitors Services (Preferred Alternative)

Alternative B portrays a long-term vision for habitat restoration to near-historic benchmark conditions and increases recreation opportunities for visitors. Historic ecological data is used to set habitat restoration priorities favoring savanna and wetland habitats over existing prairies and woodlands. This alternative includes active participation in monitoring and improving local water resources, a well-developed prescribed fire plan, increased land acquisition efforts in high priority areas, additional inventories and monitoring of plant and animal species, recreational opportunities in a greater number of

locations, and new visitor uses including hunting.

Alternative C: High Involvement in Watershed Improvement

The third alternative, Alternative C, retains many of the concepts and objectives from alternative B, but increases the emphasis given to water resources both on-Refuge and in the watershed upstream of the wetland complex. Alternative C restores additional wetland and upland acres up-watershed of the Refuge, expands water resource monitoring and improvement activities throughout the east half of the Platte-Spunk watershed, targets a limited quantity of additional lands with critical water resource value adjacent to the existing Refuge boundary for acquisition, increases and directs private lands work to priority aquatic and riparian areas upstream of the Refuge, emphasizes fishing as a primary recreation opportunity, directs additional education and interpretation efforts to water resource topics, and highlights partnerships, outreach opportunities, and volunteerism that occur within, or directly affect the Refuge's watershed.

Public Meeting

We will give the public an opportunity to provide input at a public meeting. You can obtain the schedule from the address or Web site listed in this notice (*see* **ADDRESSES**). You may also submit comments anytime during the comment period.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at anytime. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 18, 2010.

Lynn M. Lewis,

Acting Regional Director, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 2010–16426 Filed 7–6–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–R–2010–N118; 30136–1265–0000–S3]

Tamarac National Wildlife Refuge and Wetland Management District, Minnesota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability: draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan (CCP) and draft environmental assessment (EA) for Tamarac National Wildlife Refuge (NWR) and Tamarac Wetland Management District (WMD) for public review and comment. In this draft CCP/EA we describe how we propose to manage the refuge and district for the next 15 years.

DATES: To ensure consideration, we must receive your written comments by August 6, 2010. An open house style meeting will be held during the comment period to receive comments and provide information on the draft plan. Special mailings, newspaper articles, internet postings, and other media announcements will inform people of the meetings and opportunities for written comments.

ADDRESSES: Comments or requests for more information can be sent by any of the following methods. You may also drop off comments in person at Tamarac NWR.

1. *Agency Web site:* View or download a copy of the document and comment at *http://www.fws.gov/midwest/planning/Tamarac/index.html.*
2. *E-mail: r3planning@fws.gov.* Include "Tamarac Draft CCP/EA" in the subject line of the message.
3. *Fax:* 218–847–2641.
4. *Mail:* Attention: Refuge Manager, Tamarac National Wildlife Refuge, 35704 County Road 26, Rochert, Minnesota 56578.

FOR FURTHER INFORMATION CONTACT: Barbara Boyle, 218–847–2641.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Tamarac NWR and WMD, which we began by publishing a notice of intent on (72 FR 27587–27588, May 16, 2007). For more about the initial process and the history of this refuge and district, see that notice.

The 42,738-acre Tamarac National Wildlife Refuge was established in 1938. The Refuge includes 2,180 Federally-designated wilderness acres. The Tamarac Wetland Management District consists of 8,577 acres of wetland easements distributed throughout five counties.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires us to develop a comprehensive conservation plan for each national wildlife refuge. The purpose in developing a CCP is to provide refuge managers with a 15-year strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and Service policies. In addition to outlining broad management direction on conserving wildlife and their habitats, plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation.

CCP Alternatives and Our Preferred Alternative

Priority Issues

During the public scoping process, we, other stakeholders and partners, and the public identified several priority issues, which include habitat management, invasive species, and demand for additional recreation opportunities and visitor services. To address these issues, we developed and evaluated the following alternatives during the planning process.

Tamarac National Wildlife Refuge

Alternative 1: Management of Habitat in Context of Providing Migratory Bird Benefits and Complemented with Priority Public Use (Preferred Alternative)

The preferred alternative for Tamarac NWR over the next 15 years directs management of habitats to focus on maintaining and using ecological processes that shaped these communities prior to European settlement and will allow for some emphasis of priority bird habitat. Wildlife-dependant recreation opportunities, biological surveys and monitoring activities, and native

habitats would all increase under the preferred alternative.

Alternative 2: Pre-Settlement Ecological Processes

Refuge management actions will approximate ecological processes that promoted the native communities present prior to European settlement, emphasizing the use of natural hydrological and fire regimes. Environmental interpretation and education programs will emphasize the role of ecological processes in creating natural pre-European settlement habitats and cultural history.

Alternative 3: Focused Management for Priority Migratory Birds

The focus of this alternative will be management for U.S. Fish and Wildlife Service (Region 3) priority wetland and grassland birds. Environmental interpretation and education programs on and off the Refuge will focus on the importance of managing for Service priority wetland and forest birds and their habitats.

Alternative 4: Current Management Direction of Conservation, Restoration, and Preservation (No Action)

Current management is focused on providing a variety of upland and wetland habitats to benefit an array of migratory and resident species. Forest lands are harvested to maintain early and mid-successional stages. Wetlands are actively managed to benefit migratory birds, especially waterfowl. Visitor services include a variety of environmental education programs, an auto-tour route, annual open houses, foot trails, a visitor contact station, and observation platforms.

Tamarac Wetland Management District

Alternative 1: Restoration and Management of Habitat by Facilitating Natural Ecological Processes but Also Providing for Migratory Bird Benefits (Preferred Alternative)

This alternative will result in a more active and growing WMD. Wildlife resources of concern will be identified and targeted for protection and enhancement. Management of upland habitats will focus on maintaining and using ecological processes that shaped these communities prior to European settlement including fire and grazing. Growth of the WMD will include fee and easement acquisitions as funding is available. Priority will be given to core areas, corridors and critical sites.

Alternative 2: Pre-Settlement Ecological Processes

Under Alternative 2, WMD actions will approximate ecological processes that promoted the native communities present prior to European settlement, emphasizing the use of natural hydrological and fire regimes. Vegetative communities and wildlife diversity will then be expected to resemble pre-settlement conditions. Actions on private lands, such as the use of prescribed fire and grazing, will be used if possible. The WMD will not grow as much as under Alternative 1 but landowner interaction will be similar.

Alternative 3: Current Management Direction (No Action)

Current management is focused on providing habitats to benefit migratory birds, especially nesting waterfowl. Landowners are primarily responsible for maintaining habitat and controlling invasive plant species. No growth in easement land holdings has occurred since the mid-1990s. Emphasis will be on maintaining relationships with existing landowners and enforcement issues. New acquisitions and partnerships will continue on an opportunistic basis.

Public Meeting

We will give the public an opportunity to provide input at a public meeting. You can obtain the schedule from the address or web site listed in this notice (*see* **ADDRESSES**). You may also submit comments anytime during the comment period.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 18, 2010.

Lynn M. Lewis,

Acting Regional Director, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 2010–16425 Filed 7–6–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

United States Geological Survey

Notice of Availability of the Final Environmental Assessment for the Upper Midwest Environmental Sciences Center ARRA Funded Construction Projects

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of Availability (NOA).

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976, as amended, the United States Geological Survey (USGS) has prepared a Final Environmental Assessment (EA) for the projects described in this NOA. By this notice, the USGS is announcing its availability. In addition, a Draft Environmental Assessment was published on December 23, 2009, for a 7-day public comment period and no comments were received.

DATES: The USGS will not issue a final decision on the proposed projects, until after 30 days from the date this notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Hayman, Facility Mechanical Engineer at Upper Midwest Environmental Sciences Center, 2630 Fanta Reed Road, La Crosse, WI 54603; (608) 781–6253 (telephone); (608) 783–6066 (fax); or *bhayman@usgs.gov* (e-mail). Copies of the Environmental Assessment for the proposed projects are available for public inspection during regular business hours at the USGS Upper Midwest Environmental Sciences Center (*see* address above).

Before including your address and any other personal identifying information in your comment, please be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

SUPPLEMENTARY INFORMATION:

Background Information

The objective of the Upper Midwest Environmental Sciences Center is to provide comprehensive research facilities to study the acute and chronic effects of chemicals on fish and non-target life, physical, and biological controls, specific diseases, predation, and integrated controls.

Project Descriptions

Six separate projects are proposed as follows:

1. Fire Suppression—Segments A through D.
2. Water Storage Tank.
3. WWTF (Wastewater Treatment Facility) Remediation.
4. Segment D Addition.
5. Water Supply.
6. Storm Water Management.

Fire Suppression

The proposed action is to install automatic fire suppression systems consisting of internal sprinkler systems designed to fit each building's unique layout, function and purpose. The systems will be supplied with water from the City of La Crosse water system. The purpose of this project is to enhance fire protection capabilities for the existing buildings and the proposed Segment D addition.

Water Storage Tank

The proposed action is to construct a new welded steel water storage tank west of the existing water storage tank and to refurbish the existing water storage tank. The new tank will be connected to the existing on-site water distribution system. The purpose of this project is to ensure the water supply required for the research at UMESC is maintained.

Wastewater Treatment Facility (WWTF) Remediation

The proposed WWTF remediation project includes the following items:

- Replace synthetic liner in secondary pond.
- Install UV (ultraviolet) equipment for disinfection of final effluent.
- Repair fence and gates.
- Repair eroded bank outside of fence.
- Restore roadways within fence.

The purpose of this project is to ensure the pond and features associated with the pond are repaired and modified to ensure their future integrity.

Segment D Addition

The proposed action involves the construction of a new, approximately 22,000 sq. ft., two-level building addition onto the south side of existing Segment C. The upper level will include a large group conference center for public meetings and presentations associated with the work conducted by UMESC. The lower level will house individual office spaces and interior lab space for the GIS Department.

Surface water quality will improve due to disinfection of the wastewater treatment facility effluent. Storm water runoff generated by the proposed actions will be infiltrated so it will not reach surface waters. On-site groundwater use will be slightly reduced due to connection to the City of La Crosse water system for potable water.

The purpose of this project is to provide additional office and meeting room space that is required.

Water Supply

The proposed action is to connect to the City of La Crosse water system at the end of Fanta Reed Road approximately 300 feet south of Segment C to provide water for potable use.

The purpose of this project is to provide UMESC with potable drinking water for the personnel at UMESC.

Storm Water Management

The proposed action is to construct storm water best management practices to divert existing storm water runoff which will minimize the potential of surface runoff overloading the capacity of the site's WWTF.

The purpose of this project is to minimize the potential of the WWTF capacity being exceeded due to storm water influence, improving the water quality of the site surface runoff, and reducing the quantity of the runoff from the site.

Dated: April 23, 2010.

James F. Devine,

Senior Advisor for Science Application, Senior Advisor for Science Applications, United States Geological Survey.

[FR Doc. 2010–16432 Filed 7–6–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before June 5, 2010. Pursuant to section 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments are also being accepted on the following properties being considered for removal pursuant to 36 CFR 60.15. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 22, 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.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

ARIZONA

Pima County

Indian Ridge Historic District, NW., of Sabino Canyon and Tanque Verde, Tucson, 10000467

KENTUCKY

Jefferson County

Whiskey Row Historic District, 101—133 W Main St., Louisville, 10000487

MICHIGAN

Bay County

Odd Fellows Valley Lodge No. 189 Building, 1900 Broadway Ave., Bay City, 10000474

Delta County

Bay de Noc Lumber Co. Bark Burner, North shore Big Bay de Noc, Nahma, 10000468

Manistee County

Manistee Iron Works Machine Shop, 254 River St., Manistee, 10000477

Wayne County

Rosedale Gardens Historic District, Arden to Hubbard Sts. between Plymouth Rd. and W Chicago St., Livonia, 10000478

Wexford County

Cobbs and Mitchell Building, 100 E Chapin St., Cadillac, 10000479

MINNESOTA

Ramsey County

Shubert, Sam S., Theatre and Shubert Building, 10 E Exchange St. and 488 N Wabasha St., Saint Paul, 10000475

MISSOURI

Platte County

Missouri District Warehouse, 357 Main St., Weston, 10000476

St. Louis Independent city

Berry Morot Car Service Building, (Auto-Related Resources of St. Louis, Missouri

MPS) 2220 Washington Ave., St. Louis, 10000480

NEW YORK

Albany County

Hiram Griggs House, 111 Prospect Terrace, Altamont, 10000483

Fulton County

Oppenheim and St. Johnsville Union Society Church, 110 County HWY 108, Crum Creek, 10000485

Herkimer County

Overlook, 1 Overlook Dr., Little Falls, 10000484

Schenectady County

Rosendale Common School, 2572 Rosendale Rd., Niskayuna, 10000482

Suffolk County

Frank Melville Memorial Park, Old Field Rd between Lake St. and Main St., Setauket, 10000486

PENNSYLVANIA

Delaware County

Rose Valley Historic District, Roughly bounded by Ridley Creek, Woodward Rd., Providence and Brookhaven Rds. and Todmorden Ln. within Rose Valley Borough, Rose Valley Borough, 10000470

RHODE ISLAND

Providence County

Pocasset Worsted Company Mill, 75 Pocasset St., Johnston, 10000471

TENNESSEE

Carroll County

Long Rock Methodist Episcopal Church, South, 340 Long Rock Church Rd., Huntingdon, 10000466

Davidson County

Daniel, John Beauregard, House, 3206 Hillsboro Pike, Nashville, 10000481

Gibson County

Bonds House, 204 S 19th Ave., Humboldt, 10000473

Smith County

Fortified Town at the Mouth of Dixon Creek, (Mississippian Cultural Resources of the Central Basin (AD 900—1450) MPS) Rome Rd., 122, Dixon Springs, 10000465

Washington County

Memorial Stadium, Intersection of E Main St. and Lonnie Lowe Ln., Johnson City, 10000472

Weakley County

Varsity Theatre, 104 Oxford St., Martin, 10000464

TEXAS

Bexar County

Krause House, 8551 Pearsall Rd., San Antonio, 10000469

WISCONSIN

Sauk County

State Bank of Springfield Green, 134 W Jefferson St., Spring Green, 10000463

Request for REMOVAL has been made for the following resources:

PENNSYLVANIA

Chester County

Bridge in Tredyffrin Township Gulph Rd. over Trout Run Port Kennedy, 88000778

Mortonville Bridge Strasburg Rd., Coatesville, 85002392

[FR Doc. 2010–16391 Filed 7–6–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Solid Waste Disposal Act

Notice is hereby given that, on June 24, 2010, a proposed Consent Decree in *United States* v. *Jim's Water Services, Inc.,* Civil Action No. 2:10–CV–00128–ABJ, was lodged with the United States District Court for the District of Wyoming.

The proposed Consent Decree will settle the United States' claims on behalf of the United States Environmental Protection Agency ("EPA") for violations of Section 7003 of the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act), 42 U.S.C. 6973, in connection with Defendant's failure to comply with an Administrative Order issued by EPA requiring Defendant to take certain actions to abate an imminent and substantial endangerment, particularly to wildlife, at its commercial oilfield waste disposal facility, located in Campbell County, Wyoming. The Consent Decree resolves all claims in the Complaint in return for payment by the Defendant of $125,000. Because EPA has determined that the Defendant is now in compliance with the terms of the Administrative Order, the Decree does not require any injunctive relief.

Pursuant to 42 U.S.C. 6973(d), the public shall be afforded a reasonable opportunity to comment on the proposed settlement and/or to request that a public meeting be held in the affected area. Accordingly, 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, or a request for a public meeting, 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. *Jim's Water Services, Inc.,* Civil Action No. 2:10–CV–00128–ABJ, D.J. Ref. No. 90–7–1–07997.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Wyoming, 2120 Capitol Avenue, J.C. O'Mahoney Federal Building, Cheyenne, Wyoming, and at the offices of the United States Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202. 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, United States 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 $2.25 ($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.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–16395 Filed 7–6–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

Notice is hereby given that on June 16, 2010, a Consent Decree in *United States of America, et al.* v. *JBS Souderton, Inc.,* Civil Action No. 08–5999, was lodged with the United States District Court for the Eastern District of Pennsylvania. The proposed Consent Decree obligates JBS Souderton, Inc. ("JBS"), a large beef processing and rendering facility located outside of Philadelphia, to re-construct the system that collects wastewater and conveys that wastewater to its wastewater treatment plant. The Consent Decree further obligates JBS to modernize its operation and maintenance by

improving its employee training, its asset management, its recordkeeping, and its computer based monitoring systems. Finally, the Consent Decree requires JBS to pay a civil penalty of $2,000,000, $950,000 of which will be made to the federal government, $950,000 of which will be made to the Pennsylvania Department of Environmental Protection, and $100,000 of which will be made to the Pennsylvania Fish and Boat Commission. Both the Pennsylvania Department of Environmental Protection and the Pennsylvania Fish and Boat Commission are co-plaintiffs to the Consent Decree.

The Consent Decree resolves the claims asserted by the federal government in a Complaint filed in December 2008.[1] The Complaint alleged that, by discharging pollutants into the navigable waters of the United States, JBS violated Section 301 of the Clean Water Act, 33 U.S.C. 1311, and the terms of a National Pollutant Discharge Elimination System ("NPDES") permit issued by Pennsylvania under Section 402 of the Clean Water Act, 33 U.S.C. 1342, and Section 202 of the Pennsylvania Clean Streams Law, 35 P.S. § 691.202. In particular, the Complaint alleges that, on nine separate occasions, JBS spilled untreated waste into waters of the United States, causing two fish kills. The Complaint further alleges that, on 25 separate occasions, JBS discharged into waters of the United States wastewater that contained pollutants in excess of the effluent limits set by the NPDES permit. And, the Complaint alleges that, during a five-year period, JBS failed to operate and maintain its facility in a manner that would have ensured its compliance with its obligations under federal and state environmental statutes and regulations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to this proposed 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, *Attention:* Nancy Flickinger (EES), and should refer to *United States, et al.* v. *JBS Souderton, Inc.,* Civil Action No. 08–5999, DOJ # 90–5–1–1–09583.

[1] Both the Pennsylvania Department of Environmental Protection and the Pennsylvania Fish and Boat Commission have intervened in the case.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19016. The consent decree also may 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 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 $16.75 (25 cents per page reproduction cost for a full copy) payable to the U.S. Treasury.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–16463 Filed 7–6–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement: The Norval Morris Project Implementation Phase

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for Cooperative Agreement.

SUMMARY: The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups, or individuals to enter into a cooperative agreement for an 18-month period to begin in September 2010. Work under this agreement will continue NIC's Norval Morris Project by selecting two sites and testing implementation of the concepts and strategies that have been developed over the last four years. The Norval Morris Project is designed to develop models and execute strategies for expediting the application of research-based innovations by addressing specific topics of vital concern to the field of corrections.

The project funded under this cooperative agreement will continue and extend the work of the Norval Morris Project and other NIC projects by assisting in the planning and execution of an implementation effort with two selected agencies to address the dual issues of population management and workforce alignment.

DATES: Applications must be received by 4 p.m. (EDT) on Friday, July 30, 2010. Selection of the successful applicant and notification of review results to all applicants: September 30, 2010.

ADDRESSES: Mailed applications must be sent to Director, National Institute of Corrections, 320 First Street, NW., Room 5007, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street, NW., Washington, DC 20534. At the front desk, call (202) 307–3106, extension 0 for pickup. Faxed or e-mailed applications will not be accepted. Electronic applications can be submitted only via *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this announcement and the required application forms can be downloaded from the NIC Web site at *http://www.nicic.gov/cooperativeagreements.*

All technical or programmatic questions concerning this announcement should be directed to Pamela Davison. She can be reached by calling 1–800–995–6423 ext 0484 or by e-mail at *pdavison@bop.gov.*

SUPPLEMENTARY INFORMATION:

Project Goals: The recipient of the award under this cooperative agreement will (1) participate in the implementation planning process by attending 5 meetings, including two meetings at NIC in Washington, DC, two meetings at NIC in Aurora, CO, and the Keystone Group in late September 2010 at a location in Maryland; (2) participate in refining the NIC draft implementation model that includes the full life cycle from preassessment through sustainability and evaluation and incorporates past work of the Norval Morris and other NIC sponsored projects on organizational culture and performance, implementing evidence based practices, and evidence-based decision making; (3) assist NIC in selecting two sites for the intervention test, including assessing readiness for change; (4) assist each site, in concert with NIC, in developing and executing a plan to address issues of population management and workforce alignment; (5) participate in NIC's evaluation of the project to measure the effectiveness of the implementation phase of the Norval Morris Project.

Background: The Norval Morris project is dedicated to the memory of

Dr. Norval Morris, who was instrumental in founding NIC and remained a guiding influence as a charter member of the NIC Advisory Board until he passed away in 2004. It was established as an open-ended commitment by NIC to locate innovative, evidence-based approaches, evaluate their potential to inform correctional policy and practice, create opportunities to test these innovations in correctional settings, and develop and evaluate new strategies for the dissemination and application of this knowledge. The project has sought to continue the spirit of Morris' work and his belief that the corrections field could make more effective use of research in solving practical problems.

Through a number of prior cooperative agreements, NIC has been developing a model designed to provide correctional agencies with a step-by-step approach to promote systemic change in an agency by addressing concrete problems such as population management and workforce alignment. The Norval Morris Project was designed from its inception to bring together people both inside and outside the corrections field to develop interdisciplinary approaches and draw on professional networks that cut across academic, private sector, and public sector boundaries. Such an expansive vision required a steering group to "kick start" the search for innovations. Because this group's responsibility was essential for creating and maintaining the project's overarching vision, it was called the Keystone Group.

The first Keystone Group meeting took place in September 2008. It involved 19 thought leaders—half of them corrections practitioners—plus NIC senior staff and project staff. The retreat itself was designed to be emergent, without preset limits on the group's scope of work, design, or strategy. The group's function was to identify emerging topics and knowledge which could be imported into the corrections field, advise the project on how best to translate this knowledge to inform correctional practice, and assist the project in designing an implementation strategy.

During the Keystone Group's 2008 meeting, the following two provocative questions were developed: "How can we transform correctional leadership and the workforce in ways that empower staff to reduce recidivism and promote prevention?" and "How can we safely and systematically reduce the correctional population by half in eight years?" The next step of the process, which began immediately after the Keystone Group meeting, was to begin to assemble Topic Teams.

Structured similarly to the Keystone Group, Topic Teams functioned as standalone working groups and focused on the two topic areas the Keystone Group identified. An "invitation" to participate in the process was sent to a broad audience, seeking people interested in participating in a Topic Team. During most of 2009, working through conference calls and online meetings, the teams continued to develop, refine, and expand on the topics. In September 2009, the two topic teams met to finalize their work to pass back to the Keystone Group the material they had developed. In November 2009, a second meeting of the Keystone Group took place with 16 members attending. The group met to follow up on the Topic Team meetings held the previous month with the goal of providing direction on how the project should proceed on the twin issues of correctional population reduction and workforce alignment. Their mission was to discuss these areas and the action plans that were created by the Topic Teams. They concluded by determining the top strategies for Population Reduction and strategies for Workforce Transformation. Based on the discussions of the second meeting of the Keystone Group, NIC and project staff have continued the conversation with group members and others. A third meeting of the Keystone Group will take place in September 2010 to review the project's progress, refine its products, and advise NIC on the implementation phase.

Among the products being developed under an existing cooperative agreement are materials for use during the implementation phase to be funded through this solicitation. They will be designed to provide concrete and practical strategies to the field that, based on what we know, will have an impact. They will be designed to provide practical and specific strategies for planning, implementing, and sustaining changes and be presented in a structured format. The intent is to provide packages of materials with "off-the-shelf" modules that agencies can use to develop workable solutions. These products, together with others to be developed as part of the cooperative agreement funded through this solicitation, will be used to assist two agencies in planning, implementing, and sustaining strategies and policies to manage correctional populations and align the workforce with changing agency missions and needs. NIC will select the test sites with the assistance of the recipient and other project partners. The recipient will also participate in an evaluation to track the success of the overall project.

For more information on the Norval Morris Project, visit *http://www.nicic.gov/Norval.* For additional resources, go to: *http://www.nicic.gov.*

Required Expertise: Successful applicants should be able to demonstrate that they have the organizational capacity to carry out all the goals of the project, including experience in organizing and providing ongoing support for complex, multi-year projects, extensive experience in correctional policy and practice, and a record of success in working with correctional agencies on implementation, organizational development, or technical assistance projects. Preference will also be given to applicants with a record of working with interdisciplinary teams in a variety of fields beyond corrections.

Application Requirements: Applications should be concisely written, typed double spaced and reference the "NIC Opportunity Number" and Title provided in this announcement. Please limit the program narrative text to 25 double spaced pages, exclusive of resumes and summaries of experience (do not submit full curriculum vitae). The application package must include a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (*e.g.,* January 1 through December 31), a program narrative responding to the requirements in this announcement, a description of the qualifications of the applicant(s), an outline explaining projected costs, and the following forms: OMB Standard Form 424, Application for Federal Assistance; OMB Standard Form 424A, Budget Information—Non Construction Programs; OMB Standard Form 424B, Assurances—Non Construction Programs (these forms are available at *http://www.grants.gov*); and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (available at http://*www.nicic.org/Downloads/PDF/certif-frm.pdf*).

Applications may be submitted in hard copy, or electronically via http://*www.grants.gov.* If submitted in hard copy, there needs to be an unbound original and three copies of the full proposal (program and budget narratives, application forms and assurances). The original should have the applicant's signature in blue ink.

Authority: Public Law 93–415.

Funds Available: Up to $180,000 is available for this project, subject to available funding, but preference will be given to applicants who provide the most cost efficient solutions in accomplishing the scope of work. Determination will be made based on best value to the Government, not necessarily the lowest bid. Funds may only be used for the activities that are directly related to the project.

Eligibility of Applicants: An eligible applicant is any public or private agency, educational institution, organization, individual, or team with expertise in the described areas.

This project will be a collaborative venture with the NIC Research and Evaluation Division.

Review Considerations: Applications received under this announcement will be subject to the NIC Review Process. The criteria for the evaluation of each application will be as follows: 1. Programmatic (40%). Are all of the tasks adequately discussed? Is there a clear statement of how each of the tasks will be accomplished, including the staffing, resources, and strategies to be employed? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project? 2. Organizational (35%). Do the skills, knowledge, and expertise of the organization and the proposed project staff demonstrate a high level of competency to carry out the tasks? Does the applicant organization have the necessary experience and organizational capacity to carry out all five goals of the project? Are the proposed project management and staffing plans realistic and sufficient to complete the project within the 18-month timeframe? 3. Project Management/Administration (25%). Does the applicant identify reasonable objectives, milestones, and measures to track progress? If consultants and/or partnerships are proposed, is there a reasonable justification for their inclusion in the project and a clear structure to ensure effective coordination? Is the proposed budget realistic, does it provide sufficient cost detail/narrative, and does it represent good value relative to the anticipated results?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option 1).

Registration in the CCR can be done online at the CCR Web site: http://*www.ccr.gov.* A CCR Handbook and work sheet can also be reviewed at the Web site.

Number of Awards: One.

NIC Opportunity Number: 10PEI38. This number should appear as a reference line in the cover letter, where the opportunity number is requested on the Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.602.

Executive Order 12372: This program is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 2010–16428 Filed 7–6–10; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,000]

Sypris Technologies Marion, LLC, Marion, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 28, 2009, applicable to workers of Sypris Technologies Marion, LLC, Marion, Ohio. The notice was published in the **Federal Register** on November 5, 2009 (74 FR 57341).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production on drive train parts for the heavy truck industry.

The review shows that on June 4, 2007, a certification of eligibility to apply for adjustment assistance was issued for all workers of Sypris Technologies Marion, LLC, Marion, Ohio, separated from employment on or after April 24, 2006 through June 4, 2009. The notice was published in the **Federal Register** on March 7, 2008 (73 FR 12466).

In order to avoid an overlap in worker group coverage, the Department is amending the June 4, 2008 impact date established for TA–W–71,000, to read June 5, 2009.

The amended notice applicable to TA–W–71,000 is hereby issued as follows:

All workers of Sypris Technologies Marion, LLC, Marion, Ohio, who became totally or partially separated from employment on or after June 5, 2009, through August 28, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 23rd day of June 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–16416 Filed 7–6–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,286]

Unisys Corporation, Technology Business Segment, Unisys Information Technology Division, Formerly Known as BETT, Including Employees Working Off-Site in Colorado, Minnesota, Ohio, and Wisconsin, and On-Site Leased Workers From Hexaware Technologies, Inc., Plymouth, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 29, 2010, applicable to workers of Unisys Corporation, Technology Business Segment, Unisys Information Technology Division, formerly known as BETT, including on-sit leased workers from Hexaware Technologies, Inc., Plymouth, Michigan. The notice was published in the **Federal Register** on May 28, 2010 (75 FR 30071).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the supply of corporate information technology (IT) services.

New information shows that worker separations have occurred involving employees under the control of the Plymouth, Michigan location of Unisys Corporation, Technology Business Segment, Unisys Information Technology Division, formerly known as BETT, working off-site in Colorado,

Minnesota, Ohio, and Wisconsin. These employees provide various activities related to the supply of corporate information technology (IT) services.

Based on these findings, the Department is amending this certification to include employees of the Plymouth, Michigan facility of the subject firm working off-site in Colorado, Ohio, Minnesota, and Wisconsin.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the acquisition of corporate IT services from India.

The amended notice applicable to TA–W–72,286 is hereby issued as follows:

All workers of Unisys Corporation, Technology Business Segment, Unisys Corporation, Technology Business Segment, Unisys Information Technology Division, formerly known as BETT, including employees working off-site in Colorado, Ohio, Minnesota, and Wisconsin, and on-site leased workers from Hexaware Technologies, Inc., Plymouth, Michigan, who became totally or partially separated from employment on or after September 11, 2008 through April 29, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 24th day of June 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–16418 Filed 7–6–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,555]

Hewlett-Packard Company Division of Corporate Administration and Shared Services Including On-Site Leased Workers From Manpower and Including Workers Off-Site From Various States in the United States Reporting to Omaha, NE; Including Employees of Hewlett-Packard Company Division of Corporate Administration and Shared Services Including On-Site Leased Workers From Manpower and Including Workers From the Following Locations: TA–W–73,555A Syracuse, NY; TA–W–73,555B Marlboro, MA; TA–W–73,555C Atlanta, GA; and TA–W–73,555D Colorado Springs, CO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 20, 2010, applicable to workers of Hewlett-Packard Company, Division of Corporate Administration and Shared Services, including on-site leased workers from Manpower and including workers off-site from various states in the United States reporting to Omaha, Nebraska. The notice was published in the **Federal Register** on June 7, 2010 (75 FR 32223).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the supply of order management and post-sales customer support services.

New information shows that worker separations also occurred during the relevant time period at the Syracuse, New York, Marlboro, Massachusetts, Atlanta, Georgia and Colorado Springs, Colorado locations of Hewlett-Packard Company, Division of Corporate Administration and Shared Services. The relevant data supplied by Hewlett-Packard to the Department during its' investigation included the above four locations.

Based on these findings, the Department is amending this certification to include employees of the Syracuse, New York, Marlboro, Massachusetts, Atlanta, Georgia and Colorado Springs, Colorado locations of the subject firm.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in the supply of order management and post-sales customer support services to Guadalajara, Mexico.

The amended notice applicable to TA–W–73,555 is hereby issued as follows:

All workers of Hewlett-Packard Company, Division of Corporate Administration and Shared Services, including on-site leased workers from Manpower and including workers off-site from various states throughout the United States reporting to Omaha, Nebraska (TA–W–73,555) and including workers of Hewlett-Packard Company, Division of Corporate Administration and Shared Services, including on-site leased workers from Manpower and including workers of the following locations: Syracuse, New York (TA–W–73,555A), Marlboro, Massachusetts (TA–W–73,555B), Atlanta, Georgia (TA–W–73,555C) and Colorado Springs, Colorado (TA–W–73,555D), who became totally or partially separated from employment on or after February 17, 2009 through May 20, 2012, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 24th day of June 2010.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–16422 Filed 7–6–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–72,748]

New United Motor Manufacturing, Inc., Formerly a Joint Venture of General Motors Corporation and Toyota Motor Corporation, Including On-Site Leased Workers From Corestaff, ABM Janitorial, Toyota Engineering and Manufacturing North America, and NPA Coatings, Inc., and On-Site Workers From Premier Manufacturing, Fremont, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to apply for Worker Adjustment Assistance on November 19, 2009, applicable to workers of New United Motor Manufacturing, Inc., formerly a joint

venture of General Motors Corporation and Toyota Motor Corporation, including on-site leased workers from Corestaff, ABM Janitorial, and Toyota Engineering and Manufacturing North America, Fremont, California. The notice was published in the **Federal Register** on May 21, 2010 (75 FR 28,656–28,657).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers assemble the Toyota Corolla and the Toyota Tacoma and used to assemble the Pontiac Vibe.

The company reports that workers leased from NPA Coatings, Inc., and workers from Premier Manufacturing were employed on-site at the Fremont, California location of New United Motor Manufacturing, Inc., formerly a joint venture of General Motors Corporation and Toyota Motor Corporation. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from NPA Coatings, Inc. and workers from Premier Manufacturing working on-site at the Fremont, California location of New United Motor Manufacturing, Inc., formerly a joint venture of General Motors Corporation and Toyota Motor Corporation.

The amended notice applicable to TA–W–72,748 is hereby issued as follows:

All workers of New United Motor Manufacturing, Inc., formerly a joint venture of General Motors Corporation and Toyota Motor Corporation, including on-site leased workers from Corestaff, ABM Janitorial, Toyota Engineering and Manufacturing North America, and NPA Coatings, Inc.; and also on-site workers from Premier Manufacturing, Fremont, California, who became totally or partially separated from employment on or after October 29, 2008, through November 19, 2011, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 24th day of June 2010.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–16419 Filed 7–6–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–71,116]

Russell Brands, LLC, Fabrics Division, a Subsidiary of Fruit of the Loom, Including Employees Working Off-Site In New York, Alexander City, AL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 10, 2009, applicable to workers of Russell Brands, LLC, Fabrics Division, a subsidiary of Fruit of the Loom, Alexander City, Alabama. The notice was published in the **Federal Register** on January 25, 2010 (75 FR 3930).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of yarn dyed woven fabric.

New information shows that worker separations have occurred involving employees under the control of the subject firm working off-site in New York. The employees support the Alexander City, Alabama production facility of the subject firm.

Based on these findings, the Department is amending this certification to include employees of the subject firm's Alexander City, Alabama facility working off-site in New York.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of yarn dyed woven fabric.

The amended notice applicable to TA–W–71,116 is hereby issued as follows:

All workers of Russell Brands, LLC, Fabric Division, a subsidiary of Fruit of the Loom, including employees working off-site in New York, Alexander City, Alabama, who became totally or partially separated from employment on or after May 18, 2008 through December 10, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this day of June, 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–16417 Filed 7–6–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *June 21, 2010 through June 25, 2010.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such

workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Under Section 222(a)(2)(B), all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
72,851	General Motors Corporation, Milford Proving Grounds, Leased Workers Adroit Software & Consulting, etc..	Milford, MI	October 20, 2008.
73,098	EPS D/B/A Valspar Coatings, Architectural Division, Valspar Corporation.	High Point, NC	November 24, 2008.
73,169	MIC Group, LLC, J. B. Poindexter and Company, Inc	Brenham, TX	November 28, 2008.
73,242	M.A. Moslow & Brothers, Inc	Buffalo, NY	January 11, 2009.
73,299	UK West Inc.	Martinsville, VA	January 8, 2009.
73,344	Universal Stainless and Alloy Products Inc	Bridgeville, PA	January 18, 2009.
73,428	Murata Power Solutions, Leased Workers of Alpha Personnel	Mansfield, MA	January 29, 2009.
73,505	Power Partners, Inc., Leased Workers from Think Energy Group	Athens, GA	February 11, 2009.
73,765	Wooden Creations, Inc	Martinsville, VA	December 30, 2008.
73,777	Accurate Machine & Tool LLC, Sunbelt Diversified, LLC, Leased Workers Aerotek and Skill Force LLC.	Raleigh, NC	March 23, 2009.
73,781	Itasca-Bemidji, Inc., Fargo Assembly Company	Bemidji, MN	March 22, 2009.
73,836	Domtar Paper Company, Columbus Mill, Leased Workers from Waters Truck & Tractor and Wise Staffing.	Columbus, MS	March 30, 2009.
73,980	New Era Cap Company, Inc., Jackson Division, Long's Human Resources Services.	Jackson, AL	April 19, 2009.
73,981	New Era Cap Company, Inc., Demopolis Division	Demopolis, AL	April 19, 2009.

TA–W No.	Subject firm	Location	Impact date
74,039	Berwick Offray, LLC, Leased Workers from Onesource Staffing	Berwick, PA	April 30, 2009.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
72,489	Northern Engraving Corporation, Luxco Division, Northern Engraving Holdings Company.	La Crosse, WI	October 1, 2008.
73,176	Valeo Electrical Systems, Inc., Wiper Systems Division	Troy, MI	December 8, 2008.
73,198	West, Thomson Reuters Business, Leased Workers of Adecco	Eagan, MN	December 30, 2008.
73,231	Quaker Chemical Corporation, Leased Workers from Advantage Staffing.	Detroit, MI	December 16, 2008.
73,370	Thomson Reuters Legal, Legal Editorial Operations, Cleveland Office.	Independence, OH	January 26, 2009.
73,396	Ingersoll-Rand, Security Technologies Division	Bristol, CT	January 26, 2009.
73,447	Swiss Re America Holding Corporation, Cash Operations Unit of the Finance Department.	Overland Park, KS	February 3, 2009.
73,583	JP Morgan Chase And Company, Central Technology and Operations Division.	Columbus, OH	February 12, 2009.
73,585	Shop Vac Cantor Corporation, Canton Division, Shop Vac Corp.	Canton, PA	February 26, 2009.
73,681	Premier Trim, LLC and Spectrum Trim, LLC, DBA Spectrum Grant De Mexico, Manufacturing Div., Express Employment, etc.	Brownsville, TX	March 10, 2009.
73,810	Gaming Partners International USA, Inc., Gaming Partners International Corporation.	Las Vegas, NV	March 25, 2009.
73,845	Ryder Integrated Logistics	Findlay, OH	March 5, 2009.
73,845A	Ryder Integrated Logistics	Bowling Green, OH	March 5, 2009.
73,922	Land and Mapping Services, LLC	Clearfield, PA	April 6, 2009.
73,954	Honeywell Process Solutions, Honeywell Automation & Controls Solution, Honeywell International, Manpower.	Phoenix, AZ	April 15, 2009.
74,022	WestPoint Home, Inc., West Point Office	West Point, GA	May 21, 2010.
74,023	WestPoint Home, Inc., Clemson Centre	Clemson, SC	May 21, 2010.
74,041	Eldec Corporation, Subsidiary of Crane Company, Volt Management Corp., Protinge.	Lynnwood, WA	May 4, 2009.
74,050	Giddings and Lewis Machine Tools, LLC, Leased Wkrs Spies Painting & Decorating, Manowske Welding Corp, etc.	Fond du Lac, WI	April 28, 2009.
74,053	Faurecia Exhaust Systems, NAO Division	Lordstown, OH	May 7, 2009.
74,073	Seagate Technology, LLC, Fremont Media Research Center, Leased Workers Spherion, etc.	Fremont, CA	May 10, 2009.
74,078	Scapa North America, Leased Workers from JNT Services	Carlstadt, NJ	May 12, 2009.
74,123	Advanstar Communications, Inc., Media Operations Division	Duluth, MN	May 17, 2009.
74,131	West, Thomson Reuters Company, Legal Editorial Operations	Rochester, NY	May 20, 2009.
74,148	PBR Knoxville, LLC, AF Division, Leased Workers of TSI, Kennametal, Hagemeyer, Duobis Chemicals.	Knoxville, TN	May 21, 2009.
74,154	Staedtler, Inc	Chatsworth, CA	May 27, 2009.
74,195	Caps Visual Communications, LLC, Black Dot Group, Formerly Caps Group Acquisition, LLC.	Chicago, IL	July 31, 2010.
74,218	WestPoint Home, Inc., New York Corporate Sales Office	New York, NY	July 1, 2010.
74,252	Honeywell International, Inc., Aerospace Div., Purchasing Dept., Leased Workers Manpower International.	Phoenix, AZ	June 10, 2009.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
73,071	Arvin Meritor, Incorporated, Leased Workers from QPS Companies.	Belvidere, IL	December 9, 2008.
73,850	Ryder Integrated Logistics, Leased Workers From CPC Logistics	Carson, CA	March 22, 2009.
73,869	iLevel by Weyerhaeuser, iLevel Marketing and Sales, Weyerhaeuser Company.	Greenwood Village, CO	April 6, 2009.
74,176	General Motors Powertrain Engine-Livonia, Previously know as General Motors Corporation.	Livonia, MI	June 1, 2009.
74,211	Great Lakes Coating, Inc	Mt. Pleasant, MI	June 8, 2009.

The following certifications have been issued. The requirements of Section 222(c) (downstream producer for a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
73,381	Montana Rail Link, Inc	Missoula, MT	January 26, 2009.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
73,649	Specialized Transportation for Outpatient Services, Inc.	Titusville, FL.	
73,918	HSBC Card Services Inc., Credit Operations, CDV Group	Tigard, OR.	
73,978	Eastman Kodak Company, Home Based Field Service Engineers	Vancouver, WA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
72,364	Chemcut Holdings, LLC	State College, PA	
72,552	Courtesy Chevrolet	Bastrop, LA.	
72,633	H. B. Fuller Company	Blue Ash, OH.	
73,024	Kent Lincoln Mercury, Automotive Repair Division	Kent, OH.	
73,170	SuperMedia, LLC, Formerly Idearc Media, LLC, SuperMedia Information Services, LLC.	Troy, NY.	
73,311	Saturn of Elmhurst	Elmhurst, IL.	
73,485	Bank of America, Enterprise Domain Systems Support Division; Bank of America Corporation.	Simi Valley, CA.	
73,526	Advanced Recycling Equipment	St. Marys, PA.	
73,530	Google Inc., Engineering Operations, Leased Workers from Astreya Partners.	Mountain View, CA.	
73,695	Woodland Mills Corporation	Mill Spring, NC.	
73,772	J.C. Penney Company, Inc.	Waterford, MI.	March 3, 2010.
73,831	StarTek USA, Inc., AT&T Procurement Group	Greeley, CO.	
73,963	Dentek.Com, Inc., D/B/A Nsequence Center for Advanced Dentistry.	Reno, NV.	
74,002	New Era Cap Company, Inc., Mobile Division	Mobile, AL.	
74,084	Tenaris Global Services (USA) Corporation	Houston, TX.	
74,220	Transitional Living Services, Inc., Starting Over Services Crisis Center.	Racine, WI.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
73,393	Hewlett-Packard Company, Division of Corporate Administration and Shared Services.	Marlboro, MA.	
73,736	Toyota Engineering and Manufacturing North America Team	Fremont, CA.	
73,766	JT Sports, LLC	Neosho, MO.	
74,024	Hewlett-Packard Company, Division of Corporate Administration & Shared Services, Off-Site Workers.	Omaha, NE.	

I hereby certify that the aforementioned determinations were issued during the period of *June 21, 2010 through June 25, 2010.* Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or *tofoiarequest@dol.gov.* These determinations also are available on the Department's Web site at *http://*

www.doleta.gov/tradeact under the searchable listing of determinations.

Dated: June 30, 2010.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–16415 Filed 7–6–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 19, 2010.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 19, 2010.

Copies of these petitions may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail, to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or to *foiarequest@dol.gov.*

Signed at Washington, DC, this 24th of June 2010.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

APPENDIX

[TAA petitions instituted between 6/14/10 and 6/18/10]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
74240	Baker Hughes (Company)	Broussard, LA	06/14/10	06/08/10
74241	Allen Canning Company (Company)	Hessmer, LA	06/14/10	06/14/10
74242	Steris Corporation (Company)	Erie, PA	06/15/10	06/14/10
74243	Wardwell Braiding Machine Company (Workers)	Central Falls, RI	06/15/10	06/08/10
74244	Manulife Financial (State/One-Stop)	Boston, MA	06/15/10	06/15/10
74245	Omya, Inc. (State/One-Stop)	Cincinnati, OH	06/15/10	06/11/10
74246	Bank of America (Workers)	State College, PA	06/15/10	06/11/10
74247	Trinity Industries, Inc. (Workers)	Quincy, IL	06/16/10	06/15/10
74248	Hewlett-Packard Company (HP) (State/One-Stop)	Palo Alto, CA	06/16/10	06/04/10
74249	Hoffman-LaRoche, Inc. (State/One-Stop)	Nutley, NJ	06/16/10	06/15/10
74250	Charming Shoppes of Delaware, Inc. (Company)	Bensalem, PA	06/16/10	06/15/10
74251	Almatis, Inc. (State/One-Stop)	Bauxite, AR	06/16/10	06/15/10
74252	Honeywell International, Inc. (Workers)	Phoenix, AZ	06/17/10	06/10/10
74253	International Business Machines (IBM) (State/One-Stop)	Phoenix, AZ	06/17/10	06/03/10
74254	National Carton and Coating Company (State/One-Stop)	Xenia, OH	06/17/10	06/07/10
74255	Ford Motor Credit (Workers)	Greenville, SC	06/17/10	06/07/10
74256	Ferrous Metal Processing (State/One-Stop)	Brooklyn, OH	06/17/10	05/15/10
74257	Hewlett Packard Company (Company)	Palo Alto, CA	06/17/10	05/16/10
74258	RWD Technologies (State/One-Stop)	Troy, MI	06/17/10	05/26/10
74259	Dott Industries Deco' Plate (State/One-Stop)	Lapeer, MI	06/17/10	05/26/10
74260	xpedx (State/One-Stop)	Livonia, MI	06/17/10	05/26/10
74261	Kenco Logistic Services, LLC (Workers)	Evansville, IN	06/17/10	06/02/10
74262	Analogic Corporation (State/One-Stop)	Peabody, MA	06/17/10	06/14/10
74263	Sitton Motor Lines, Incorporated (Workers)	Joplin, MO	06/18/10	06/04/10
74264	Lazar Industries (Workers)	Siler City, NC	06/18/10	06/15/10
74265	Smith Micro Technologies (State/One-Stop)	St. Paul, MN	06/18/10	06/17/10
74266	Prudential Financial (Workers)	Moosic, PA	06/18/10	06/17/10
74267	Mason County Forest Products (Company)	Shelton, WA	06/18/10	06/14/10

[FR Doc. 2010–16414 Filed 7–6–10; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,536]

Allstate Insurance Company, Altoona Express Market Claim Office, Including On-Site Leased Workers From Kelly Services, Altoona, PA; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 7, 2010, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of Allstate Insurance Company, Altoona Express Market Claim Office, including on-site leased workers from Kelly Services, Altoona, Pennsylvania. The negative determination was issued on May 7, 2010, and the Notice of determination was published in the **Federal Register** on May 28, 2010 (75 FR 30073).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative determination applicable to the subject workers was based on the findings that the subject firm did not import services like or directly competitive with insurance claim services during the relevant period of the investigation or shift service abroad during the same period; and that the workers did not supply a service that was used by a firm that employed a worker group currently eligible to apply for TAA.

In the request for reconsideration, the petitioner stated that she had "verbal confirmation from the Altoona management team that the services being provided by the call center(s) operating in India are directly competitive to the services that were provided by" the subject facility.

After this office received the request for reconsideration, the investigator obtained from the petitioner the name of the subject firm manager who was alleged to be able to confirm the shift to India. However, the official confirmed that insurance claim services provided by the subject facility were distributed to other domestic offices of the subject firm and were not shifted abroad.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 22nd day of June 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–16421 Filed 7–6–10; 8:45 am]
BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,416]

Desoto Mills LLC, Fort Payne, AL; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 1, 2010, a company official requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The determination was signed on April 28, 2010, and the Notice of determination was published in the **Federal Register** on May 28, 2010 (75 FR 30072).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative determination applicable to workers and former workers at Desoto Mills, LLC, a Subsidiary of Fruit of the Loom, Fort Payne, Alabama, was based on the findings that there was neither an increase in imports nor a shift/acquisition by the workers' firm that contributed importantly to the worker group separations; the subject workers are not secondarily-affected workers; and the workers' firm was not identified in an affirmative finding of injury by the International Trade Commission.

In the request for reconsideration, the petitioner stated that the steady decline in sales and production at the subject firm "has caused the entire distribution and administrative support operation to be consolidated into existing Fruit of the Loom * * * locations outside the Desoto Mills Plant." The petitioner compares the situation at this location with similar shifts of production and subsequent downsizing of administrative and distribution staff that have resulted in TAA certifications (TA–W–63,167, TA–W–71,012, TA–W–72,253, and TA–W–73,414).

The initial investigation revealed that there was a shift of production of socks from the subject location in 2006 and 2007, and that, following the shift, distribution work at the Fort Payne, Alabama facility continued with the workers processing foreign-produced socks.

Additional information provided by the applicant revealed that, since March 2007, the subject facility has not supported a domestic, affiliated production facility and no significant degree of the supply of distribution services has been shifted to a foreign country.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination.

After careful review of the request for reconsideration, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 23rd day of June, 2010.

Del Min Amy Chen,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 2010–16420 Filed 7–6–10; 8:45 am]

BILLING CODE 4510–FN–P

OFFICE OF MANAGEMENT AND BUDGET

2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas

Correction

In notice document 2010–15605 beginning on page 37246 in the issue of Monday, June 28, 2010, make the following corrections:

1. On page 37250, in the second column, under *Section 7. Divisions of Metropolitan Statistical Areas and New England City and Town Areas*, in the last line of paragraph (a), "75" should read ".75".

2. On page 37251, in the first column, under *Section 10. Updating Schedule*, in the third line of paragraph (b), "Metropolitan" should read "Micropolitan".

3. On the same page, in the second column, in paragraph (f), in the first and second lines, "Metropolitan and Metropolitan Statistical Area" should read "Metropolitan and Micropolitan Statistical Area".

[FR Doc. C1 2010–15605 Filed 7–2–10; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Proposed Collection: Comment Request

ACTION: Notice.

SUMMARY: The National Endowment for the Arts, 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)(A)]. This program helps 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 National Endowment for the Arts, on behalf of the Federal Council on the Arts and the Humanities, is soliciting comments concerning the Application for Indemnification for Domestic Exhibitions. A copy of this collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 3, 2008. The National Endowment for the Arts 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting the electronic submissions of responses.

ADDRESSES: Alice Whelihan, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 726, Washington, DC 20506–0001, telephone (202) 682–5574 (this is not a toll-free number), fax (202) 682–5603.

Kathleen Edwards,

Director, Administrative Services.

[FR Doc. 2010–16397 Filed 7–6–10; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council On the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meeting.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 730, from 9:30 a.m. to 5 p.m., on Tuesday, July 27, 2010.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after September 1, 2010.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemption (4) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact Advisory Committee Management Officer, Michael P. McDonald, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202–606–8322.

Michael P. McDonald,

Advisory Committee Management Officer.

[FR Doc. 2010–16369 Filed 7–6–10; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: The National Endowment for the Humanities, ARTS.

ACTION: Notice of meeting.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby

given that the National Council on the Humanities will meet in Washington, DC on July 22–23, 2010.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on July 22–23, 2010, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the sessions on July 22, 2010 will be as follows:

Committee Meetings

(Open to the Public)

Policy Discussion

9–10:30 a.m.
Challenge Grants and Federal/State Partnership—Room 507
Digital Humanities—Room 402
Education Programs—Room 315
Public Programs—Room 421

(Closed to the Public)

Discussion of specific grant applications and programs before the Council

10:30 a.m. until Adjourned
Challenge Grants and Federal/State Partnership—Room 507
Digital Humanities—Room 402
Education Programs—Room 315
Public Programs—Room 421

2–3:30 p.m.
Jefferson Lecture/National Humanities Medals Committee—Room 527

The morning session of the meeting on July 23, 2010 will convene at 9 a.m., in the first floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

A. Minutes of the Previous Meeting
B. Reports
1. Introductory Remarks.
2. Staff Report.
3. Congressional Report.
4. Reports on Policy and General Matters.
a. Challenge Grants.
b. Federal/State Partnership.
c. Digital Humanities.
d. Education Programs.
e. Public Programs.
f. Jefferson Lecture/National Humanities Medals.

The remainder of the proposed meeting will be given to the consideration of specific applications and will be closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Michal P. McDonald, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Michael P. McDonald,
Advisory Committee, Management Officer.

[FR Doc. 2010–16368 Filed 7–6–10; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meetings

TIME AND DATES: All meetings are held at 2:30 p.m.
Wednesday, July 7;
Wednesday, July 14;
Wednesday, July 21;
Wednesday, July 28, 2010.

PLACE: Board Agenda Room, No. 11820, 1099 14th St., NW., Washington DC 20570.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pursuant to § 102.139(a) of the Board's Rules and Regulations, the Board or a panel thereof will consider "the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct, or disposition * * * of particular representation or unfair labor practice proceedings under section 8, 9, or 10 of the [National Labor Relations] Act, or any court proceedings collateral or ancillary thereto." See also 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Lester A. Heltzer, Executive Secretary, (202) 273–1067.

Dated: July 1, 2010.

Lester A. Heltzer,
Executive Secretary.

[FR Doc. 2010–16629 Filed 7–2–10; 4:15 pm]

BILLING CODE 7545–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2010–0104]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 24, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 95—Facility Security Clearance and Safeguarding of National Security Information and Restricted Data.

3. *Current OMB approval number:* 3150–0047.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required:* On occasion.

6. *Who will be required or asked to report:* NRC-regulated facilities and other organizations requiring access to NRC-classified information.

7. *An estimate of the number of annual responses:* 338 (328 total responses + 10 recordkeepers).

8. *The estimated number of annual respondents:* 16.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,087 hours (938 hours reporting + 149 hours recordkeeping).

10. *Abstract:* NRC-regulated facilities and other organizations are required to provide information and maintain records to ensure that an adequate level

of protection is provided to NRC-classified information and material.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 6, 2010. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0047), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine.J.Kymn@omb.eop.gov* or submitted by telephone at (202) 395–4638.

The NRC Clearance Officer is Tremaine Donnell, (301) 415–6258.

Dated at Rockville, Maryland, this 29th day of June 2010.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer Office of Information Services.

[FR Doc. 2010–16454 Filed 7–6–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2010–0237]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on April 2, 2010.

1. *Type of submission, new, revision, or extension:* Extension Renewal with Burden Adjustment.

2. *The title of the information collection:* NRC Forms 366, 366A, 366B, "Licensee Event Report".

3. *Current OMB approval number:* 3150–0104.

4. *The form number if applicable:* NRC Forms 366, 366A, and 366B.

5. *How often the collection is required:* On occasion, as defined reactor events are reportable as they occur.

6. *Who will be required or asked to report:* Holders of operating licenses for commercial nuclear power plants.

7. *An estimate of the number of annual responses:* An estimated 400 responses per year based on historical averages.

8. *The estimated number of annual respondents:* 104.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 32,000 (25,600 reporting + 6,400 recordkeeping). This is estimated to be 80 hours for each of 400 reports annually.

10. *Abstract:* With NRC Forms 366, 366A, and 366B, the NRC collects reports of the types of reactor events and problems that are believed to be significant and useful to the NRC in its efforts to identify and resolve possible threats to the public health and safety, or to the environment. The information reported on NRC Forms 366, 366A, and 366B is used by the NRC to confirm licensing bases, study potentially generic safety problems, assess trends and patterns of operating experience, monitor performance, identify precursors of more significant events, and provide operating experience feedback to the industry. These forms are designed to provide the information necessary for engineering studies of operational anomalies and trends and patterns analysis of abnormal occurrences. The same information is used for other analytic procedures that aid in identifying accident precursors.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 6, 2010. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0104), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine.J.Kymn@omb.eop.gov* or submitted by telephone at (202) 395–4638.

Dated at Rockville, Maryland, this 29th day of July 2010.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2010–16453 Filed 7–6–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0234]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 63, "Disposal of High-Level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain, Nevada."

2. *Current OMB approval number:* 3150–0199.

3. *How often the collection is required:* One time.

4. *Who is required or asked to report:* The State of Nevada, local governments, or affected Indian Tribes, or their representatives, requesting consultation

with the NRC staff regarding review of the potential high-level waste geologic repository site, or wishing to participate in a license application review for the potential geologic repository.

5. *The number of annual respondents:* 3.

6. *The number of hours needed annually to complete the requirement or request:* 363 (An average of 40 hours per response for consultation requests, 80 hours per response for license application review participation proposals, and one hour per response for statements of representative authority).

7. *Abstract:* 10 CFR Part 63 requires the State of Nevada, local governments, or affected Indian Tribes to submit certain information to the NRC if they request consultation with the NRC staff concerning the review of the potential repository site, or wish to participate in a license application review for the potential repository. Representatives of the State of Nevada, local governments, or affected Indian Tribes must submit a statement of their authority to act in such a representative capacity. The information submitted by the State, local governments, and affected Indian Tribes is used by the Director of the Office of Nuclear Material Safety and Safeguards as a basis for decisions about the commitment of NRC staff resources to the consultation and participation efforts.

Submit, by September 7, 2010, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. 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. Comments submitted should reference Docket No. NRC–2010–0234. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2010–0234. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 29th day of June 2010.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2010–16456 Filed 7–6–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0120]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 31, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* The Office of Federal and State Materials and Environmental Management Programs Requests to Agreement States for Information.

3. *Current OMB approval number:* 3150–0029.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* One time or as needed.

6. *Who will be required or asked to report:* Thirty-seven Agreement States who have signed Section 274(b) Agreements with NRC.

7. *An estimate of the number of annual responses:* 197.

8. *The estimated number of annual respondents:* 37.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,480.

10. *Abstract:* The Agreement States are asked on a one-time or as-needed basis to respond to a specific incident, to gather information on licensing and inspection practices or other technical and statistical information. Information is also exchanged for training purposes, such as student travel submissions. In 2007, the NRC policy changed to begin funding training for Agreement State materials licensing and inspection staff and associated travel to attend courses offered through the NRC training program. The results of such information requests, which are authorized under Section 274(b) of the Atomic Energy Act, are utilized in part by the NRC in preparing responses to Congressional inquiries. The Agreement State comments are also solicited in the areas of proposed procedure and policy development.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 6, 2010. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0029), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine.J.Kymn@omb.eop.gov* or

submitted by telephone at (202) 395–4638.

The NRC Clearance Officer is Tremaine Donnell, (301) 415–6258.

Dated at Rockville, Maryland, this 29th day of June 2010.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2010–16460 Filed 7–6–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0233]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 327, "Special Nuclear Material (SNM) and Source Material Physical Inventory Summary Report" and NUREG/BR–0096, "Instructions and Guidance for Completing Physical Inventory Summary Reports."

2. *Current OMB approval number:* 3150–0139.

3. *How often the collection is required:* Certain licensees possessing strategic SNM are required to report inventories every 6 months. Licensees possessing SNM of moderate strategic significance must report every 9 months. Licensees possessing SNM of low strategic significance must report annually, except three licensees must report their dynamic inventories every 2 months and a static inventory on an annual basis.

4. *Who is required or asked to report:* Fuel facility licensees possessing special nuclear material.

5. *The number of annual respondents:* 10.

6. *The number of hours needed annually to complete the requirement or request:* 124 hours (4 hours per response × 31 responses).

7. *Abstract:* NRC Form 327 is submitted by fuel facility licensees to account for special nuclear material. The data is used by NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) SNM theft or diversion. NUREG/BR–0096 provides specific guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

Submit, by September 7, 2010, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments submitted in writing or in electronic form will be made available for public inspection. 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. Comments submitted should reference Docket No. NRC–2010–0233. You may submit your comments by any of the following methods. Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2010–0233. Mail comments to NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–6258, or by e-mail to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 28th day of June 2010.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2010–16461 Filed 7–6–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0113]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on March 29, 2010.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 314, Certificate of Disposition of Materials.

3. *Current OMB approval number:* 3150–0028.

4. *The form number if applicable:* NRC Form 314.

5. *How often the collection is required:* This form is submitted once, when a licensee terminates its license.

6. *Who will be required or asked to report:* Persons holding a NRC license for the possession and use of radioactive byproduct, source, or special nuclear material that are ceasing licensed activities and terminating the license.

7. *An estimate of the number of annual responses:* 136.

8. *The estimated number of annual respondents:* 136.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 68.

10. *Abstract:* The NRC Form 314 furnishes information to the NRC

regarding transfer or other disposition of radioactive material by licensees who wish to terminate their licenses. The information is used by the NRC as part of the basis for its determination that the facility has been cleared of radioactive material before the facility is released for unrestricted use.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 6, 2010. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Christine J. Kymn, Desk Officer, Office of Information and Regulatory Affairs (3150–0028), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *Christine.J.Kymn@omb.eop.gov* or submitted by telephone at (202) 395–4638.

The NRC Clearance Officer is Tremaine Donnell, (301) 415–6258.

Dated at Rockville Maryland, this 29th day of June 2010.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2010–16458 Filed 7–6–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0002]

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of July 5, 12, 19, 26, August 2, 9, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of July 5, 2010

Thursday, July 8, 2010

1:25 p.m. Affirmation Session (Public Meeting) (Tentative).

a. Pa'ina, Hawaii, LLC (Materials License Application), Docket No. 30–36974–ML, Petition for Review of Licensing Board Initial Decision (Tentative).

b. Entergy Nuclear Operations, Inc. (Indian Point Nuclear Generating Units 2 and 3), Certified Question Arising From Motion for Leave to Admit New Contentions (Tentative).

c. Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc. (Vermont Yankee Nuclear Power Station), Petitions for review of LBP–08–25 (Nov. 24, 2008) & LBP–09–9 (July 8, 2009), Docket No. 50–271–LR (Tentative).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

1:30 p.m. Briefing on Proposed Rule on Part 35 Medical Events Definitions—Permanent Implant Brachytherapy (Public Meeting). (Contact: Andrew Carrera, 301–415–1078).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of July 12, 2010—Tentative

Tuesday, July 13, 2010

9:30 a.m. Briefing on the Radiation Source Protection and Security Task Force Report (Closed—Ex. 9).

Week of July 19, 2010—Tentative

There are no meetings scheduled for the week of July 19, 2010.

Week of July 26, 2010—Tentative

There are no meetings scheduled for the week of July 26, 2010.

Week of August 2, 2010—Tentative

There are no meetings scheduled for the week of August 2, 2010.

Week of August 9, 2010—Tentative

Thursday, August 12, 2010

9:30 a.m. Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: Cindy Flannery, 301 415–0223).

This meeting will be Webcast live at the Web address—*http://www.nrc.gov.*

* * * * *

*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: July 1, 2010.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2010–16623 Filed 7–2–10; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; NRC–2010–0243; License No. DPR–28]

Entergy Nuclear Operations, Inc.; Entergy Nuclear Vermont Yankee, LLC; Vermont Yankee Nuclear Power Station; Request for Licensing Action

Notice is hereby given that by petitions dated January 12, 2010, from Mr. Michael Mulligan, February 8, 2010, from Mr. Raymond Shadis, and February 20, 2010, from Mr. Thomas Saporito have requested that pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, "Requests for Action under this Subpart," the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the Vermont Yankee Nuclear Power Station.

Mr. Mulligan requested in his petition that (1) the radioactive leak into the environment of Vermont Yankee (VY) be immediately stopped and VY be

immediately shutdown and all leaking paths be isolated and (2) VY disclose its preliminary "root cause analysis" and the NRC release its preliminary investigative report on this analysis before plant startup.

Mr. Shadis requested in his petition that the NRC (1) require VY to go into cold shutdown and depressurize all systems in order to slow or stop the leak, (2) act promptly to stop or mitigate the leak(s) and not wait until all issues raised by the New England Coalition are resolved, (3) require VY to reestablish its licensing basis by physically tracing records and reporting physical details of all plant systems that would be within scope as "Buried Pipes and Tanks" in NUREG–1801, "Generic Aging Lessons Learned (GALL) Report," and under the requirements of 10 CFR 50.54, "Conditions of Licenses," (4) investigate and determine why Entergy has been allowed to operate VY since 2002 without a working knowledge of all plant systems and why the NRC's Reactor Oversight Process (ROP) and review process for license renewal amendment did not detect this dereliction, (5) take notice of Entergy Nuclear Vermont Yankee's many maintenance and management failures (from 2000–2010) and the ROP's failure to detect them early and undertake a full diagnostic evaluation team inspection or NRC Inspection Procedure 95003, "Supplemental Inspection for Repetitive Degraded Cornerstones, Multiple Degraded Cornerstones, Multiple Yellow Inputs or One Red Input," and (6) require Entergy VY to apply for an amendment to its license renewal that would address both aging analysis and aging management of all buried piping carrying or with the potential to carry radionuclides and/or the potential to interact with any safety or safety-related system.

Mr. Saporito requested in his petition that the NRC (1) order a "cold-shut-down" mode of operation for VY because of leaking radioactive tritium and (2) issue a confirmatory order modifying the NRC-issued license for VY so that the licensee must bring the nuclear reactor to a "cold-shut-down" mode of operation until the licensee can provide definitive reasonable assurance to the NRC, under affirmation, that the reactor will be operated in full compliance with the regulations in 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," and Appendix A, "General Design Criteria for Nuclear Power Plants," to 10 CFR Part 50, Criterion 60, "Control of Releases of Radioactive Materials to the Environment," and Criterion 64, "Monitoring Radioactivity Releases," and other NRC regulations and authority.

The requests are being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The requests have been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this consolidated petition within a reasonable time.

Each petitioner stated that the tritium leak is just one example of many maintenance and management failures at VY. All three raised a concern regarding what they perceive as the NRC's failure to examine the deficiencies at VY in an integrated manner. Although the individual petition was written to request enforcement action specifically because of the tritium leak, during each of the transcribed phone calls, each petitioner urged the NRC to take a broader view and assess operational and performance failures at VY collectively, instead of individually. This concern has met the criteria for review in accordance with Management Directive (MD) 8.11 "Review Process for 10 CFR 2.206 Petitions."

Subsequently, the PRB made a recommendation to accept the consolidated petition for review for the following specific issues and concerns identified in the petitions and/or supplemented during the teleconferences:

(1) Increasing concentrations of radiocontaminants in the soil and groundwater at VY, as well as an increasing area of contamination, are manifest on a daily basis. VY risks aggravating the contamination by continuing to run the reactor at full power while attempting over a period of a month to triangulate the location of a presumed leak by drilling a series of test wells in the affected area.

(2) During the license renewal application proceeding, the licensee has averred that it was unaware of the existence of some buried pipes, now uncovered, and it has yet to discover their path and purpose.

(3) Entergy has, in 8 years of ownership, failed to learn and understand VY's design, layout, and construction. This failure to comprehend and understand the layout, function, and potentially the interaction of the plant's own piping systems constitutes a loss of design basis.

(4) The NRC's ROP has apparently failed to capture, anticipate, and prevent ongoing maintenance, engineering, quality assurance, and operation issues that have manifested themselves in a series of high-profile incidents since Entergy took over VY. The agency has repeatedly failed to detect root cause trends until they have, as in this instance, become grossly self-revealing.

(5) The NRC should ensure that Entergy has adequate decommissioning funds. The tritium leak will increase decommissioning costs because of the need for site radiological examination and soil remediation.

Copies of the petitions are available to the public from the NRC's Agencywide Documents Access and Management System (ADAMS) in the public Electronic Reading Room on the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession Nos. ML100190688, ML100470430, and ML100621374, and are available for inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

Dated at Rockville, Maryland this 25th day of June 2010.

For the Nuclear Regulatory Commission.

Eric J. Leeds,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–16462 Filed 7–6–10; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Reconsideration of Initial Determinations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of a collection of information under its regulation on Rules for Administrative Review of Agency Decisions (OMB control number 1212–0063, expires September 30, 2010). This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by August 6, 2010.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax

to 202–395–6974. A copy of PBGC's request may be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel, 1200 K St., NW., Washington, DC 20005–4026, or by visiting that office or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The request is also available at *http://www.reginfo.gov.*

FOR FURTHER INFORMATION CONTACT: Donald F. McCabe, Attorney, or Catherine B. Klion, Manager, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Rules for Administrative Review of Agency Decisions (29 CFR part 4003) prescribes rules governing the issuance of initial determinations by PBGC and the procedures for requesting and obtaining administrative review of initial determinations through reconsideration or appeal. Subpart A of the regulation specifies which initial determinations are subject to reconsideration. Subpart C prescribes rules on who may request reconsideration, when to make such a request, where to submit it, form and content of reconsideration requests, and other matters relating to reconsiderations.

Any person aggrieved by an initial determination of PBGC under § 4003.1(b)(1) (determinations that a plan is covered by section 4021 of ERISA), § 4003.1(b)(2) (determinations concerning premiums, interest, and late payment penalties under section 4007 of ERISA), § 4003.1(b)(3) (determinations concerning voluntary terminations), or § 4003.1(b)(4) (determinations concerning allocation of assets under section 4044 of ERISA) may request reconsideration of the initial determination. Requests for reconsideration must be in writing, be clearly designated as requests for reconsideration, contain a statement of the grounds for reconsideration and the relief sought, and contain or reference all pertinent information.

OMB has approved the administrative appeals collection of information under control number 1212–0063 through September 30, 2010. PBGC is requesting that OMB extend its approval of this collection of information for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that an average of 796 filers per year will respond to this collection of information. PBGC further estimates that the annual burden of this collection of information per filer is 0.29 hours and $646, with a total annual burden of 234.5 hours and $514,150.

Issued in Washington, DC, this 30th day of June 2010.

John H. Hanley,

Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation.

[FR Doc. 2010–16430 Filed 7–6–10; 8:45 am]

BILLING CODE 7709–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12100 and #12101]

Massachusetts Disaster Number MA–00025

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA–1895–DR), dated 03/29/2010.

Incident: Severe Storms and Flooding.

Incident Period: 03/12/2010 through 04/26/2010.

DATES: *Effective Date:* 06/29/2010.

Physical Loan Application Deadline Date: 07/12/2010.

EIDL Loan Application Deadline Date: 12/29/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the Commonwealth of Massachusetts, dated 03/29/2010 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 07/12/2010.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–16444 Filed 7–6–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12132 and #12133]

Minnesota Disaster Number MN–00024

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Minnesota (FEMA–1900–DR), dated 04/19/2010.

Incident: Flooding.

Incident Period: 03/01/2010 through 04/26/2010.

DATES: *Effective Date:* 06/29/2010.

Physical Loan Application Deadline Date: 06/18/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 01/19/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Minnesota, dated 04/19/2010, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Nicollet.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–16445 Filed 7–6–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12216 and #12217]

Puerto Rico Disaster #PR–00008

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Puerto Rico dated 06/29/2010.

Incident: Severe Storms and Flooding.

Incident Period: 05/28/2010 through 05/30/2010.

DATES: *Effective Date:* 06/29/2010.

Physical Loan Application Deadline Date: 08/30/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 03/29/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Municipalities:

Barranquitas, Dorado, Naranjito, Vega Alta.

Contiguous Municipalities:

Puerto Rico: Aibonito, Bayamon, Cidra, Coamo, Comerio, Corozal, Morovis, Orocovis, Toa Alta, Toa Baja, Vega Baja.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.500
Homeowners Without Credit Available Elsewhere	2.750
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.625
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12216 6 and for economic injury is 12217 0.

The Commonwealth which received an EIDL Declaration number is Puerto Rico.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: June 29, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–16446 Filed 7–6–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12214 and #12215]

Puerto Rico Disaster #PR–00009

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Puerto Rico (FEMA–1919–DR), dated 06/24/2010.

Incident: Severe Storms and Flooding.

Incident Period: 05/26/2010 through 05/31/2010.

DATES: *Effective Date:* 06/24/2010.

Physical Loan Application Deadline Date: 08/23/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 03/24/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/24/2010, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Municipalities:

Arecibo, Barranquitas, Coamo, Corozal, Dorado, Naranjito, Orocovis, Utuado, Vega Alta, Vega Baja.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	3.625
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 122146 and for economic injury is 122156.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–16447 Filed 7–6–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62407; File No. SR–BATS–2010–18]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend BATS Rule 11.18, Entitled "Trading Halts Due to Extraordinary Market Volatility."

June 30, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2010, BATS Exchange, Inc. (the "Exchange" or "BATS") 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend BATS Rule 11.18, entitled "Trading Halts Due to Extraordinary Market Volatility."

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BATS Rule 11.18 to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETPs") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETFs"),[3] Exchange Traded Vehicles ("ETVs"),[4] and Exchange Traded Notes ("ETNs").[5]

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently proposed to amend its Rule 11.18(d) to pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Securities, as defined in Interpretation and Policy .05 of Rule 11.18. The amendment to BATS Rule 11.18 was approved by the Commission on June 10, 2010 on a pilot basis set to end on December 10, 2010.[6]

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to amend BATS Rule 11.18 as described above, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot. The Exchange agrees with the commenters that the pilot list of securities should be expanded.

In consultation with other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 securities. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on our analysis, the number of times that the Trading Pause would be triggered for Russell 1000 securities would be similar to the instances for the S&P 500 securities.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ETPs. The Exchange developed the proposed pilot list of ETPs first by identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. The Exchange next excluded the leveraged ETPs and sorted the list by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. The Exchange then selected those symbols, including inverse ETPs, that trade over $2,000,000 CADV year to date through May 5, 2010. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

The Exchange believes that the proposed list of ETPs is appropriate because it identifies those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the Exchange selected the proposed ETPs because it believes that the existing 10% price movement would be an appropriate price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ETP may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ETPs for now.

As proposed, the list includes broad-based ETPs, which the Exchange recognizes has raised some debate. In particular, concerns have been raised about whether halting an index-based ETP may impact an index-based option or future. However, the Exchange believes that including broad-based ETPs is appropriate so that ETP investors are protected should the component securities experience such volatility that trading in the broad-based ETP is impacted, as it was on May 6, 2010. Because this is a pilot rule, the markets can continue to assess whether it is appropriate to have a trading pause in broad-based ETPs when there is not a similar trading pause in related index-based options or futures.

As noted above, during the pilot, the Exchange will continue to re-assess whether specific ETPs should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

[3] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the Commission to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[4] An ETV tracks the underlying performance of an asset or index, allowing investors exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[5] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933.

[6] *See* BATS Rule 11.18; *see also* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–BATS–2010–14).

To effect this change, the Exchange proposes to amend Interpretation and Policy .05 to BATS Rule 11.18 to provide that the pilot applies to securities in the S&P 500, securities in the Russell 1000, as well as specified ETPs. The pilot list of ETPs is identified in Exhibit 3.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[8] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[9] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning which securities are covered by the pause during the pilot period.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–BATS–2010–18 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–BATS–2010–18. 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–BATS–2010–18, and should be submitted on or before July 19, 2010.[11]

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1(a)(1).

[10] The Commission notes that the Exchange has requested accelerated approval of the filing.

[11] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16401 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62410; File No. SR–NSX–2010–08]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Include Additional Securities in the Trading Halt Pilot Program Under Exchange Rule 11.20B

June 30, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2010, National Stock Exchange, Inc. 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 the Exchange. The Commission is publishing this notice to solicit comment on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

National Stock Exchange, Inc. ("NSX®" or the "Exchange") is proposing to amend NSX Rule 11.20B to add additional securities to the pilot rule.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NSX Rule 11.20B to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ET Products") to the pilot rule. For purposes of this filing, ET Products include Exchange Traded Funds ("ETF[3]"), Exchange Traded Vehicles ("ETV[4]"), and Exchange Traded Notes ("ETN[5]").

NSX Rule 11.20B was approved by the Securities and Exchange Commission (the "Commission") on June 10, 2010 on a pilot basis to end on December 10, 2010.[6] As the Exchange noted in its filing to adopt NSX Rule 11.20B, during the pilot period, the Exchange, in conjunction with other markets in the national market system, would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters relating to the original filing to adopt NSX Rule 11.20B, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenting parties noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot. The Exchange agrees with the commenting parties that the pilot list of securities should be expanded.

In consultation with other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ET Products to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange, in conjunction with other markets, proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 securities. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on our analysis, the number of times that the Trading Pause would be triggered for Russell 1000 securities would be similar to the instances for the S&P 500 securities.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ET Products. The proposed pilot list of ET Products was developed, first, by identifying all ET Products across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. Leveraged ET Products were excluded and the list was then sorted by notional consolidated average daily volume ("CADV") using year-to date CADV ending May 5, 2010, multiplied by closing price on May 5, 2010. Those symbols, including inverse ET Products, that trade over $2,000,000 of CADV year-to-date through May 5, 2010 were then selected. To ensure that all ET Products that track similar benchmarks but do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ET Products that have traded below this volume criterion, but that track the same benchmark as an ET Product that does meet the volume criterion.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the SEC to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[4] An ETV tracks the underlying performance of an asset or index, allowing investors exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[5] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

[6] *See* Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–NSX–2010–05).

The Exchange believes that the proposed list of ET Products is appropriate because it identifies those ET Products that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ET Product, regardless of the CADV of the ET Product, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the proposed ET Products were selected because of the belief that the existing 10% price movement would be an appropriate price movement before invoking a trading pause for ET Products with these characteristics. There is a belief that the 10% price movement is not an appropriate threshold for leveraged ET Products because by definition, leveraged ET Products are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ET Product may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ET Products for now.

As proposed, the list includes broad-based ET Products, which the Exchange recognizes has raised some debate. In particular, concerns have been raised about whether halting an index-based ET Product may impact an index-based option or future. However, the Exchange believes that including broad-based ET Products is appropriate so that ET Product investors are protected should the component securities experience such volatility that trading in the broad-based ET Product is impacted, as it was on May 6, 2010. Because this is a pilot rule, the markets can continue to assess whether it is appropriate to have a trading pause in broad-based ET Products when there is not a similar trading pause in related index-based options or futures.

As noted above, during the pilot, the Exchange will continue to re-assess whether specific ET Products should be added or removed from the pilot list. The Exchange believes that all ET Products should eventually be included in the pilot list as soon as it is practical to do so. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend Commentary .05 to Rule 11.20 to provide that the pilot applies to all securities in the S&P 500, securities in the Russell 1000, as well as specified ET Products. The pilot list of ET Products is identified in Exhibit 3.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,[7] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[8] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

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 Exchange 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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[9]

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1(a)(1).

[9] The Commission notes that the Exchange has requested accelerated approval of the filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–NSX–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–NSX–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 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–NSX–2010–08, and should be submitted on or before July 19, 2010.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16404 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[10] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62408; File No. SR–CHX–2010–14]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend the List of Securities Subject to an Individual Circuit Breaker

June 30, 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 June 30, 2010, the Chicago Stock Exchange, Inc. ("CHX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CHX. 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

CHX proposes to amend Article 20, Rule 2 to amend its rules regarding circuit breakers for the trading of individual securities. The text of this proposed rule change is available on the Exchange's Web site at (*http://www.chx.com*) and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

The CHX is proposing to amend Article 20, Rule 2 to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETF"), Exchange Traded Vehicles ("ETV"), and Exchange Traded Notes ("ETN").

Amendments to Article 20, Rule 2 to create circuit breakers in individual securities were approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010. As the Exchange noted in its filing to adopt these amendments, during the pilot period, the Exchange would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to adopt circuit breakers for individual securities, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot. The Exchange agrees with the commenters that the pilot list of securities should be expanded.

In consultation with other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 securities. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on our analysis, the number of times that the Trading Pause would be triggered for Russell 1000 securities would be similar to the instances for the S&P 500 securities.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ETPs. The pilot list was developed first by identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. Next, the leveraged ETPs were excluded and the list was sorted by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. Those symbols, including inverse ETPs, that trade over $2,000,000 CADV year to date through May 5, 2010, were selected. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

The Exchange believes that the proposed list of ETPs is appropriate because it identifies those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the Exchange selected the proposed ETPs because it believes that the existing 10% price movement would be an appropriate price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ETP may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ETPs for now.

As proposed, the list includes broad-based ETPs, which the Exchange recognizes has raised some debate. In particular, concerns have been raised about whether halting an index-based ETP may impact an index-based option or future. However, the Exchange believes that including broad-based ETPs is appropriate so that ETP investors are protected should the component securities experience such volatility that trading in the broad-based ETP is impacted, as it was on May 6, 2010. Because this is a pilot rule, the markets can continue to assess whether it is appropriate to have a trading pause in broad-based ETPs when there is not a similar trading pause in related index-based options or futures.

As noted above, during the pilot, the Exchange will continue to re-assess whether specific ETPs should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend Interpretations and Policies .06 to Rule 2 to provide that the pilot applies to all securities in the S&P 500, securities in the Russell 1000, as well as specified ETPs. The pilot list of ETPs are identified in Exhibit 3.

The Exchange believes that the foregoing proposal is substantially similar to the submissions of other U.S. equities exchanges concerning circuit breaker provisions for individual securities and which are under consideration by the Commission.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"), which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[3]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component

[3] The Commission notes that the Exchange has requested accelerated approval of the filing.

securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–2010–14 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–2010–14. 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–CHX–2010–14, and should be submitted on or before July 19, 2010.[4]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16402 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[4] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62411; File No. SR–NYSE–2010–49]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange LLC Amending Rule 80C To Add Additional Securities to the Pilot Rule

June 30, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 30, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 80C to add additional securities to the pilot rule. The text of the proposed rule change is available at the Exchange, the Commission's Web site at *http://www.sec.gov,* the Commission's Public Reference Room, and *http://www.nyse.com.*

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

The Exchange proposes to amend Rule 80C to add securities included in the Russell 1000® Index ("Russell 1000") to the pilot rule.

Rule 80C was approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010.[4] As the Exchange noted in its filing to adopt Rule 80C, during the pilot period, the Exchange would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to adopt Rule 80C, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that additional equity securities that experienced volatility on May 6, 2010 should be included in the pilot. The Exchange agrees with the commenters that the pilot list of securities should be expanded.

In consultation with other markets and staff of the Securities and Exchange Commission, the Exchange proposes to add the securities included in the Russell 1000 to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and

[4] *See* Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–NYSE–2010–39).

whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 securities. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on our analysis, the number of times that the Trading Pause would be triggered for Russell 1000 securities would be similar to the instances for the S&P 500 securities.

As noted above, during the pilot, the Exchange will continue to re-assess whether specific securities should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend supplementary material .10 to Rule 7.11 [sic] to provide that the pilot applies to all securities in the S&P 500, as well as securities in the Russell 1000.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[5] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[6] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning all aspects of the foregoing, including whether the proposed rule change is consistent with the Act.

For markets trading exchange-traded products,[8] the Commission has solicited comment on the implications of including a trading pause pilot for exchange-traded funds for broad-based indices that also underlie options and futures products.

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2010–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2010–49. 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–NYSE–2010–49, and should be submitted on or before July 19, 2010.[9]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16405 Filed 7–6–10; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1(a)(1).

[7] The Commission notes that the Exchange has requested accelerated approval of the filing.

[8] *See, e.g.,* SR–NYSEArca–2010–61.

[9] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62416; File No. SR–FINRA–2010–033]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to FINRA Rule 6121 (Trading Halts Due to Extraordinary Market Volatility)

June 30, 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 June 30, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to add securities to the pilot rule.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA proposes to amend FINRA Rule 6121.01 to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETF"),[3] Exchange Traded Vehicles ("ETV"),[4] and Exchange Traded Notes ("ETN").[5]

FINRA Rule 6121.01 was approved by the Commission on June 10, 2010 on a pilot basis set to end on December 10, 2010.[6] As FINRA noted in its filing to adopt FINRA Rule 6121.01, during the pilot period, FINRA would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters in response to the Original Notice, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot. FINRA agrees with the commenters that the pilot list of securities should be expanded.

In consultation with other self-regulatory organizations ("SROs"), FINRA proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. FINRA believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, FINRA and the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, FINRA proposes to add securities included in the Russell 1000 because FINRA believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities).

In addition, FINRA, in consultation with other SROs, proposes to add to the pilot a selected list of ETPs. FINRA believes that the proposed list of ETPs is appropriate because it identifies those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP also would be subject to a trading pause trigger.

As proposed, the list includes broad-based ETPs, which FINRA recognizes has raised some debate. In particular, concerns have been raised about whether halting an index-based ETP may impact an index-based option or future. However, FINRA believes that including broad-based ETPs is appropriate so that ETP investors are protected should the component securities experience such volatility that trading in the broad-based ETP is impacted, as it was on May 6, 2010. Because this is a pilot rule, FINRA and the other SROs can continue to assess whether it is appropriate to have a trading pause in broad-based ETPs when there is not a similar trading pause in related index-based options or futures. As noted above, during the pilot, FINRA will continue to re-assess whether specific ETPs should be added or removed from the pilot list.

To effect this change, FINRA proposes to amend Supplementary Material .01 to FINRA Rule 6121 to provide that the pilot applies to all securities in the S&P 500, the Russell 1000, as well as a pilot list of ETPs. The pilot list of ETPs is identified in Exhibit 3.

FINRA has requested that the Commission approve the proposed rule change on an accelerated basis so that these securities become subject to the pilot as soon as possible.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. FINRA believes that the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the SEC to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[4] An ETV tracks the underlying performance of an asset or index, allowing investors exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[5] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

[6] *See* Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (Order Approving File No. SR–FINRA–2010–025) ("Original Notice") [sic].

[7] 15 U.S.C. 78*o*–3(b)(6).

proposed rule change meets these requirements in that it promotes uniformity across markets concerning which securities are included in the trading pause pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning all aspects of the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–033 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 Number SR–FINRA–2010–033. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–FINRA–2010–033 and should be submitted on or before July 19, 2010.[9]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16411 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[8] The Commission notes that FINRA has requested accelerated approval of the filing.

[9] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62419; File No. SR–ISE–2010–66]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change To Amend ISE Rule 2102 To Add Additional Securities to the Pilot Rule

June 30, 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 June 30, 2010, International Securities Exchange, LLC (the "Exchange" or "ISE") 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 the Exchange. The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 2102 (Hours of Business) to add additional securities to the pilot rule. The text of the proposed rule change is below. [sic]

The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend ISE Rule 2102 to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETF"),[3] Exchange Traded Vehicles ("ETV"),[4] and Exchange Traded Notes ("ETN").[5]

Amendments to ISE Rule 2102 were approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010.[6] As the Exchange noted in its filing to amend ISE Rule 2102, during the pilot period, the Exchange would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to amend ISE Rule 2102, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot.

In response to these concerns, various exchanges and national securities associations have collectively determined to expand the list of pilot securities. As part of a coordinated filing with the other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause may be appropriate for the Russell 1000 securities.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ETPs. The proposed pilot list of ETPs was developed by first identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. Next, leveraged ETPs were excluded and sorted by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. Then, those symbols, including inverse ETPs, that trade over $2,000,000 CADV year to date through May 5, 2010, were selected. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

The proposed list of ETPs identify those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the proposed ETPs were selected because they were consistent with the existing 10% price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% price movement in a leveraged ETP may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ETPs for now.

As noted above, during the pilot, the Exchange will continue to re-assess, in consultation with other markets, whether specific ETPs should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend ISE Rule 2102(4) to provide that the pilot applies to all securities in the S&P 500, securities in the Russell 1000, as well as specified ETPs. The pilot list of ETPs is identified in Exhibit 3.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the

[3] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the SEC to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[4] An ETV tracks the underlying performance of an asset or index, allowing investors exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[5] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

[6] *See* Securities Exchange Act Release No. 62271 (June 10, 2010), 75 FR 34493 (June 17, 2010) (SR–ISE–2010–58).

Act,[7] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[8] of the Exchange Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning all aspects of the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2010–66 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 Number SR–ISE–2010–66. 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–ISE–2010–66 and should be submitted on or before July 19, 2010.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16413 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1(a)(1).

[9] The Commission notes that the Exchange has requested accelerated approval of the filing.

[10] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62412; File No. SR–NYSEAmex–2010–63]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Amex LLC Amending NYSE Amex Equities Rule 80C To Add Additional Securities to the Pilot Rule

June 30, 2010.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 30, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Amex Equities Rule 80C to add additional securities to the pilot rule. The text of the proposed rule change is available at the Exchange, the Commission's Web site at *http://www.sec.gov,* the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Amex Equities Rule 80C to add securities included in the Russell 1000® Index to the pilot rule.

Rule 80C was approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010.[4] As the Exchange noted in its filing to adopt Rule 80C, during the pilot period, the Exchange would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to adopt Rule 80C, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that additional equity securities that experienced volatility on May 6, 2010 should be included in the pilot. The Exchange agrees with the commenters that the pilot list of securities should be expanded.

In consultation with other markets and staff of the Securities and Exchange Commission, the Exchange proposes to add the securities included in the Russell 1000 to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 securities. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on our analysis, the number of times that the Trading Pause would be triggered for Russell 1000 securities would be similar to the instances for the S&P 500 securities.

As noted above, during the pilot, the Exchange will continue to re-assess whether specific securities should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend supplementary material .10 to Rule 7.11 [sic] to provide that the pilot applies to all securities in the S&P 500, as well as securities in the Russell 1000. Because specified Exchange Traded Products ("ETP"), including the Invesco PowerShares QQQ Exchange Trading Fund (symbol: QQQQ), will be part of the Trading Pause rule for markets that trade ETPs, and because the Exchange anticipates that it will be trading QQQQ on an unlisted trading privilege basis,[5] the Exchange also proposes to add this security to the supplementary material.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[6] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [7] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–NYSEAmex–2010–46).

[5] *See* Securities Exchange Release Act No. 61890 (April 12, 2010), 75 FR 20401 (April 19, 2010) (SR–NYSEAmex–2010–31).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78k–1(a)(1).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning all aspects of the foregoing, including whether the proposed rule change is consistent with the Act.

For markets trading exchange-traded products,[9] the Commission has solicited comment on the implications of including a trading pause pilot for exchange-traded funds for broad-based indices that also underlie options and futures products.

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–2010–63 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–2010–63. 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–NYSEAmex–2010–63, and should be submitted on or before July 19, 2010.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16406 Filed 7–6–10; 8:45 am]

BILLING CODE 8011–01–P

[8] The Commission notes that the Exchange has requested accelerated approval of the filing.

[9] *See, e.g.,* SR–NYSEArca–2010–61.

[10] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62417; File No. SR–EDGA–2010–05]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend EDGA Rule 11.14, Entitled "Trading Halts Due to Extraordinary Volatility"

June 30, 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 June 30, 2010, EDGA Exchange, Inc. (the "Exchange" or "EDGA") 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend EDGA Rule 11.14, entitled "Trading Halts Due to Extraordinary Volatility" to add additional securities to the pilot rule. The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend EDGA Rule 11.14 to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETF"),[3] Exchange Traded Vehicles ("ETV"),[4] and Exchange Traded Notes ("ETN").[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the SEC to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[4] An ETV tracks the underlying performance of an asset or index, allowing investors exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[5] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

EDGA Rule 11.14 was approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010.[6] As the Exchange noted in its filing to adopt EDGA Rule 11.14, during the pilot period, the Exchange would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to adopt EDGA Rule 11.14, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot.

In response to these concerns, various exchanges and national securities associations have collectively determined to expand the list of pilot securities. As part of a coordinated filing with the other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause may be appropriate for the Russell 1000 securities.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ETPs. The proposed pilot list of ETPs was developed by first identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. Next, leveraged ETPs were excluded and sorted by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. Then, those symbols, including inverse ETPs, that trade over $2,000,000 CADV year to date through May 5, 2010, were selected. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

The proposed list of ETPs identify those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the proposed ETPs were selected because they were consistent with the existing 10% price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ETP may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ETPs for now.

As noted above, during the pilot, the Exchange will continue to re-assess, in consultation with other markets, whether specific ETPs should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend supplementary material .05 to Rule 11.14 to provide that the pilot applies to all securities in the S&P 500, securities in the Russell 1000, as well as specified ETPs.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[8] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[9] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning all aspects of the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority

[6] *See* Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–EDGA–2010–01).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1(a)(1).

[10] The Commission notes that the Exchange has requested accelerated approval of the filing.

of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–EDGA–2010–05 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 Number SR–EDGA–2010–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference 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–EDGA–2010–05 and should be submitted on or before July 19, 2010.[11]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16410 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[11] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62413; File No. SR–NYSEArca–2010–61]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Arca, Inc. Amending NYSE Arca Equities Rule 7.11 To Add Additional Securities to the Pilot Rule

June 30, 2010.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 30, 2010, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 7.11 to add additional securities to the pilot rule. The text of the proposed rule change is available at the Exchange, the Commission's Web site at *http://www.sec.gov,* the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 7.11 to add

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETF"),[4] Exchange Traded Vehicles ("ETV"),[5] and Exchange Traded Notes ("ETN").[6]

NYSE Arca Equities Rule 7.11 was approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010.[7] As the Exchange noted in its filing to adopt NYSE Arca Equities Rule 7.11, during the pilot period, the Exchange would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to adopt NYSE Arca Equities Rule 7.11, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot. The Exchange agrees with the commenters that the pilot list of securities should be expanded.

In consultation with other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 securities. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on our analysis, the number of times that the Trading Pause would be triggered for Russell 1000 securities would be similar to the instances for the S&P 500 securities.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ETPs. The Exchange developed the proposed pilot list of ETPs first by identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. The Exchange next excluded the leveraged ETPs and sorted the list by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. The Exchange then selected those symbols, including inverse ETPs, that trade over $2,000,000 CADV year to date through May 5, 2010. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

The Exchange believes that the proposed list of ETPs is appropriate because it identifies those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the Exchange selected the proposed ETPs because it believes that the existing 10% price movement would be an appropriate price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ETP may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ETPs for now.

As proposed, the list includes broad-based ETPs, which the Exchange recognizes has raised some debate. In particular, concerns have been raised about whether halting an index-based ETP may impact an index-based option or future. However, the Exchange believes that including broad-based ETPs is appropriate so that ETP investors are protected should the component securities experience such volatility that trading in the broad-based ETP is impacted, as it was on May 6, 2010. Because this is a pilot rule, the markets can continue to assess whether it is appropriate to have a trading pause in broad-based ETPs when there is not a similar trading pause in related index-based options or futures.

As noted above, during the pilot, the Exchange will continue to re-assess whether specific ETPs should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend supplementary material .10 to Rule 7.11 to provide that the pilot applies to all securities in the S&P 500, securities in the Russell 1000, as well as specified ETPs. The pilot list of ETPs is identified in Exhibit 3. The Exchange further proposes to amend the rule to conform to the style of NYSE Arca Equities rules to provide that the "supplementary material" is referenced as "Commentary" and the commentary rule numbering is ".01", rather than ".10."

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[8] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the

[4] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the SEC to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[5] An ETV tracks the underlying performance of an asset or index, allowing investors exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[6] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

[7] *See* Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–NYSEArca–2010–41).

[8] 15 U.S.C. 78f(b)(5).

mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[9] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–NYSEArca–2010–61 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–NYSEArca–2010–61. 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–NYSEArca–2010–61, and should be submitted on or before July 19, 2010.[11]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16407 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78k–1(a)(1).

[10] The Commission notes that the Exchange has requested accelerated approval of the filing.

[11] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62409; File No. SR–CBOE–2010–065]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to Individual Stock Trading Pauses Due to Extraordinary Market Volatility

June 30, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 30, 2010, the Chicago Board Options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Rule 6.3C, *Individual Stock Trading Pauses Due to Extraordinary Market Volatility,* to add additional stocks to the pilot rule applicable to certain stocks traded on the CBOE Stock Exchange ("CBSX"), the CBOE's stock trading facility. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

The Exchange proposes to amend Rule 6.3C to add stocks included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETF"),[3] Exchange Traded Vehicles ("ETV"),[4] and Exchange Traded Notes ("ETN").[5]

Rule 6.3C was approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010.[6] The rule was developed in consultation with U.S. listing markets to provide for uniform market-wide trading pause standards for certain individual stocks that experience rapid price movement. During the pilot period, the markets will continue to assess whether additional stocks need to be added and whether the parameters of the rule will need to be modified to accommodate trading characteristics of different stocks.

Currently, the pilot list of stocks is all stocks included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to adopt Rule 6.3C, concerns were raised that including only stocks in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that stocks that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot.

In consultation with other markets, the Exchange proposes to add the stocks included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these stocks would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional stocks to the pilot and whether the parameters of the rule should be adjusted for different stocks.

In particular, the Exchange proposes to add stocks included in the Russell 1000 because the Exchange believes that, based on consultation with other markets, the stocks included in that index have similar trading characteristics to stocks included in the S&P 500 (many of which are the same stocks) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 stocks. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on consultation with other markets, we understand that the number of times that the Trading Pause would be triggered for Russell 1000 stocks would be similar to the instances for the S&P 500 stocks.

In addition, the Exchange, in consultation with the other markets, proposes to add to the pilot a selected list of ETPs. The proposed pilot list of ETPs was developed first by identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. Next leveraged ETPs were excluded from the list and the list was sorted by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. Then those symbols, including inverse ETPs, were selected that trade over $2,000,000 CADV year to date through May 5, 2010. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component stock is the subject of a trading pause, certain non-leveraged ETPs are proposed to be included that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

Based on consultation with the other markets, the Exchange believes that the proposed list of ETPs is appropriate because it identifies those ETPs that have component stocks that largely track the stocks included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 stock experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 stocks, the proposed ETPs have been selected because the Exchange, in consultation with the other markets, believes that the existing 10% price movement would be an appropriate price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ETP may not signify extraordinary volatility. Because a revised price

[3] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the SEC to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[4] An ETV tracks the underlying performance of an asset or index, allowing investors exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[5] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

[6] *See* Securities Exchange Act Release No. 62252 (June 10, 2010), (SR–CBOE–2010–047).

movement thresholds is not being proposed at this time, leveraged ETPs are therefore not proposed to be included for now.

As proposed, the list includes broad-based ETPs, which the Exchange recognizes has raised some debate. In particular, concerns have been raised about whether halting an index-based ETP may impact an index-based option or future. However, based on consultation with the other markets, the Exchange believes that including broad-based ETPs is appropriate so that ETP investors are protected should the component stocks experience such volatility that trading in the broad-based ETP is impacted, as it was on May 6, 2010. Because this is a pilot rule, the markets can continue to assess whether it is appropriate to have a trading pause in broad-based ETPs when there is not a similar trading pause in related index-based options or futures.

As noted above, during the pilot, the markets will continue to re-assess the list to determine whether specific ETPs should be added or removed from the pilot list. The markets will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend Interpretation and Policy .03 to Rule 6.3C to provide that the pilot applies to all stocks in the S&P 500, stocks in the Russell 1000, as well as specified ETPs. The pilot list of ETPs is identified in Exhibit 3.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,[7] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[8] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a stock when there are significant price movements.

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 not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–2010–065 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–2010–065. 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

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78k–1(a)(1).

[9] The Commission notes that the Exchange has requested accelerated approval of the filing.

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–CBOE–2010–065, and should be submitted on or before July 19, 2010.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16403 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[10] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62414; File No. SR–NASDAQ–2010–079]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by The NASDAQ Stock Market LLC to Amend NASDAQ Rule 4120(a)(11) To Add Securities Included in the Russell 1000® Index ("Russell 1000") and Specified Exchange Traded Products ("ETP") to the Pilot Rule

June 30, 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 June 30, 2010, The NASDAQ Stock Market LLC (the "Exchange" or "Nasdaq") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend NASDAQ Rule 4120(a)(11) to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule.

The text of the proposed rule change is below. Proposed new language is underlined and proposed deletions are in brackets.[3]

* * * * *

4120. Trading Halts

(a) Authority To Initiate Trading Halts or Pauses

In circumstances in which Nasdaq deems it necessary to protect investors and the public interest, Nasdaq, pursuant to the procedures set forth in paragraph (c):

(1)–(10) No Change.

(11) shall, between 9:45 a.m. and 3:35 p.m., immediately pause trading for 5 minutes in any Nasdaq-listed security when the price of such security moves 10 percent or more within a 5-minute period. At the end of the trading pause, Nasdaq will re-open the security using the Halt Cross process set forth in Nasdaq Rule 4753. In the event of a significant imbalance at the end of a trading pause, Nasdaq may delay the re-opening of a security.

Nasdaq will issue a notification if it cannot resume trading for a reason other than a significant imbalance.

Price moves under this paragraph will be calculated by changes in each consolidated last-sale price disseminated by a network processor over a five minute rolling period measured continuously. Only regular way in-sequence transactions qualify for use in calculations of price moves. Nasdaq can exclude a transaction price from use if it concludes that the transaction price resulted from an erroneous trade.

If a trading pause is triggered under this paragraph, Nasdaq shall immediately notify the single plan processor responsible for consolidation of information for the security pursuant to Rule 603 of Regulation NMS under the Securities Exchange Act of 1934. If a primary listing market issues an individual stock trading pause, Nasdaq will pause trading in that security until trading has resumed on the primary listing market or notice has been received from the primary listing market that trading may resume. If the primary listing market does not reopen within 10 minutes of notification of a trading pause, Nasdaq may resume trading the security.

The provisions of this paragraph shall only apply to securities in the Standard & Poor's 500 Index*, the Russell 1000 Index, as well as a pilot list of Exchange Traded Products.*

The provisions of this paragraph shall be in effect during a pilot set to end on December 10, 2010.

(b)–(c) No Change.

* * * * *

(b) Not applicable.

(c) Not applicable.

[3] Changes are marked to the rule text that appears in the electronic manual of NASDAQ found at *http://nasdaqomx.cchwallstreet.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NASDAQ Rule 4120(a)(11) to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETF"), Exchange Traded Vehicles ("ETV"), and Exchange Traded Notes ("ETN").

NASDAQ Rule 4120(a)(11) was approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010.[4] Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original NASDAQ filing to adopt NASDAQ Rule 4120(a)(11), concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenter's noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in

[4] *See* Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–NASDAQ–2010–061).

the pilot. The Exchange agrees with the commenter's that the pilot list of securities should be expanded.

In consultation with other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 securities. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on our analysis, the number of times that the Trading Pause would be triggered for Russell 1000 securities would be similar to the instances for the S&P 500 securities.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ETPs. The Exchange developed the proposed pilot list of ETPs first by identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. The Exchange next excluded the leveraged ETPs and sorted the list by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. The Exchange then selected those symbols, including inverse ETPs, that trade over $2,000,000 CADV year to date through May 5, 2010. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

The Exchange believes that the proposed list of ETPs is appropriate because it identifies those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the Exchange selected the proposed ETPs because it believes that the existing 10% price movement would be an appropriate price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ETP may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ETPs for now.

As proposed, the list includes broad-based ETPs, which the Exchange recognizes has raised some debate. In particular, concerns have been raised about whether halting an index-based ETP may impact an index-based option or future. However, the Exchange believes that including broad-based ETPs is appropriate so that ETP investors are protected should the component securities experience such volatility that trading in the broad-based ETP is impacted, as it was on May 6, 2010. Because this is a pilot rule, the markets can continue to assess whether it is appropriate to have a trading pause in broad-based ETPs when there is not a similar trading pause in related index-based options or futures.

During the pilot, the Exchange will continue to re-assess whether specific ETPs should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend Rule 4120(a)(11) to provide that the pilot applies to all securities in the S&P 500 and/or the Russell 1000. The Exchange notes that because there is overlap between the two indices, the "and/or" construction is intended to capture all such securities, regardless of which index the security may be included. The Exchange further proposes to add that the pilot applies to specified ETPs, which are identified in Exhibit 3.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the "Act"),[5] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[6] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes transparency and uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[7]

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1(a)(1).

[7] The Commission notes that the Exchange has requested accelerated approval of the filing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–2010–079 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–2010–079. 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–2010–079, and should be submitted on or before July 19, 2010.[8]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16408 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[8] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62398; File No. SR–OC–2010–02]

Self-Regulatory Organization; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by OneChicago Amending Position Limits

June 28, 2010.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–7 under the Act[2] notice is hereby given that on June 18, 2010, OneChicago, LLC ("OneChicago" or "OCX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. OneChicago also has filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC") under Section 5c(c) of the Commodity Exchange Act[3] on June 4, 2010.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago is proposing to amend the position limits for eighteen security futures products, as set forth in Exhibit 4 to the Submission, because the speculative position limits for these products were greater than 25% of the outstanding number of shares available for delivery. The requirement is found in Appendix B to Part 38 in the guidance to Core Principle 5 of section 5(d) of the Commodity Exchange Act (CEA). Accordingly, OneChicago has filed the reduction notice consistent with Core Principle 5.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OneChicago has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 7 U.S.C. 7a–2(c).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to conform the speculative position limits for certain security futures products to the requirements of the CEA. This change will achieve that result.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act[4] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to protect investors and the public interest, and to remove impediments to and perfect the mechanism for a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the proposed rule change will have an impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the OneChicago proposed rule change have not been solicited and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(7) of the Act.[5] Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[6]

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–OC–2010–02 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–OC–2010–02. 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 OneChicago. 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–OC–2010–02 and should be submitted on or before August 6, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16429 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(7).

[6] 15 U.S.C. 78s(b)(1).

[7] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62418; File No. SR–EDGX–2010–05]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing of Proposed Rule Change To Amend EDGX Rule 11.14, Entitled "Trading Halts Due to Extraordinary Volatility."

June 30, 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 June 30, 2010, EDGX Exchange, Inc. (the "Exchange" or "EDGX") 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend EDGX Rule 11.14, entitled "Trading Halts Due to Extraordinary Volatility" to add additional securities to the pilot rule. The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend EDGX Rule 11.14 to add securities included in the Russell 1000® Index

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

("Russell 1000") and specified Exchange Traded Products ("ETP") to the pilot rule. For purposes of this filing, ETPs include Exchange Traded Funds ("ETF"),[3] Exchange Traded Vehicles ("ETV"),[4] and Exchange Traded Notes ("ETN").[5]

EDGX Rule 11.14 was approved by the Commission on June 10, 2010 on a pilot basis to end on December 10, 2010.[6] As the Exchange noted in its filing to adopt EDGX Rule 11.14, during the pilot period, the Exchange would continue to assess whether additional securities need to be added and whether the parameters of the rule would need to be modified to accommodate trading characteristics of different securities.

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to adopt EDGX Rule 11.14, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenters noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot.

In response to these concerns, various exchanges and national securities associations have collectively determined to expand the list of pilot securities. As part of a coordinated filing with the other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause may be appropriate for the Russell 1000 securities.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ETPs. The proposed pilot list of ETPs was developed by first identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. Next, leveraged ETPs were excluded and sorted by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. Then, those symbols, including inverse ETPs, that trade over $2,000,000 CADV year to date through May 5, 2010, were selected. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

The proposed list of ETPs identify those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the proposed ETPs were selected because they were consistent with the existing 10% price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ETP may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ETPs for now.

As noted above, during the pilot, the Exchange will continue to re-assess, in consultation with other markets, whether specific ETPs should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend supplementary material .05 to Rule 11.14 to provide that the pilot applies to all securities in the S&P 500, securities in the Russell 1000, as well as specified ETPs.

2. Statutory Basis

Approval of the rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] In particular, the proposed change is consistent with Section 6(b)(5) of the Act,[8] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[9] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

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 written comments on the proposed rule change.

[3] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the SEC to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[4] An ETV tracks the underlying performance of an asset or index, allowing investors exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[5] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

[6] *See* Securities Exchange Act Release No. 62252 (June 10, 2010) (SR–EDGX–2010–01).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1(a)(1).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning all aspects of the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–EDGX–2010–05 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 Number SR–EDGX–2010–05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference 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–EDGX–2010–05 and should be submitted on or before July 19, 2010.[11]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16412 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[10] The Commission notes that the Exchange has requested accelerated approval of the filing.

[11] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62415; File No. SR–BX–2010–044]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by NASDAQ OMX BX, Inc. To Amend IM–4120–3

June 30, 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 June 30, 2010, NASDAQ OMX BX, Inc. (the "Exchange" or "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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing this proposed rule change to amend BX IM–4120–3 to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETP") to the definition of Circuit Breaker Securities.

The text of the proposed rule change is below. Proposed new language is underlined and proposed deletions are in brackets.

* * * * *

4120. Trading Halts

(a)–(c) No change.

IM–4120–1. No change.

IM–4120–2. No change.

IM–4120–3. Circuit Breaker Securities Pilot

The provisions of paragraph (a)(11) of this Rule shall be in effect during a pilot

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

set to end on December 10, 2010. During the pilot, the term "Circuit Breaker Securities" shall mean the securities included in the Standard & Poor's 500 Index*, the Russell 1000 Index, as well as a pilot list of Exchange Traded Products.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BX IM–4120–3 to add securities included in the Russell 1000® Index ("Russell 1000") and specified Exchange Traded Products ("ETPs") to the definition of Circuit Breaker Securities. For purposes of this filing, ETPs include Exchange Traded Funds ("ETFs"),[3] Exchange Traded Vehicles ("ETVs"),[4] and Exchange Traded Notes ("ETNs").[5]

The primary listing markets for U.S. stocks recently amended their rules so that they may, from time to time, issue a trading pause for an individual security if the price of such security moves 10% or more from a sale in a preceding five-minute period. In this regard, the Exchange recently proposed to amend its Rule 4120 to pause trading in an individual stock when the primary listing market for such stock issues a trading pause in any Circuit Breaker Securities, as defined in IM–4120–3 of Rule 4120. The amendment to BX Rule 4120 was approved by the Commission on June 10, 2010 on a pilot basis set to end on December 10, 2010.[6]

Currently, the pilot list of securities is all securities included in the S&P 500® Index ("S&P 500"). As noted in comment letters to the original filing to amend BX Rule 4120 as described above, concerns were raised that including only securities in the S&P 500 in the pilot rule was too narrow. In particular, commenter's noted that securities that experienced volatility on May 6, 2010, including ETFs, should be included in the pilot. The Exchange agrees with the commenter's that the pilot list of securities should be expanded.

In consultation with other markets, the Exchange proposes to add the securities included in the Russell 1000 and specified ETPs to the pilot beginning in July 2010, subject to Commission approval. The Exchange believes that adding these securities would begin to address concerns that the scope of the pilot may be too narrow, while at the same time recognizing that during the pilot period, the markets will continue to review whether and when to add additional securities to the pilot and whether the parameters of the rule should be adjusted for different securities.

In particular, the Exchange proposes to add securities included in the Russell 1000 because the Exchange believes that the securities included in that index have similar trading characteristics to securities included in the S&P 500 (many of which are the same securities) and therefore the existing 10% price movement applicable before invoking a trading pause would be appropriate for the Russell 1000 securities. Because the Exchange does not propose to modify the 10% price movement at this time, the Exchange believes that expanding to the Russell 1000 is an appropriate next step. Based on our analysis, the number of times that the Trading Pause would be triggered for Russell 1000 securities would be similar to the instances for the S&P 500 securities.

In addition, the Exchange, in consultation with other markets, proposes to add to the pilot a selected list of ETPs. The Exchange developed the proposed pilot list of ETPs first by identifying all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures. The Exchange next excluded the leveraged ETPs and sorted the list by notional consolidated average daily volume ("CADV") using year-to-date CADV ending May 5, 2010, multiplied by the closing price on May 5, 2010. The Exchange then selected those symbols, including inverse ETPs, that trade over $2,000,000 CADV year to date through May 5, 2010. To ensure that ETPs that track similar benchmarks but that do not meet this volume criterion do not become subject to pricing volatility when a component security is the subject of a trading pause, the Exchange proposes to include certain non-leveraged ETPs that have traded below this volume criterion, but that track the same benchmark as an ETP that does meet the volume criterion.

The Exchange believes that the proposed list of ETPs is appropriate because it identifies those ETPs that have component securities that largely track the securities included in the S&P 500 and Russell 1000. Accordingly, if an S&P 500 or Russell 1000 security experiences a trading pause, any resulting price volatility in a related ETP, regardless of the CADV of the ETP, would also be subject to a trading pause trigger. As with the proposal to add the Russell 1000 securities, the Exchange selected the proposed ETPs because it believes that the existing 10% price movement would be an appropriate price movement before invoking a trading pause for ETPs with these characteristics. The Exchange does not believe that the 10% price movement is an appropriate threshold for leveraged ETPs because by definition, leveraged ETPs are based on multiples of price movements in the underlying index. Accordingly, a 10% percent price movement in a leveraged ETP may not signify extraordinary volatility. Because the Exchange is not proposing to adopt revised price movement thresholds at this time, the Exchange is therefore not proposing to include leveraged ETPs for now.

As proposed, the list includes broad-based ETPs, which the Exchange recognizes has raised some debate. In particular, concerns have been raised about whether halting an index-based ETP may impact an index-based option or future. However, the Exchange believes that including broad-based ETPs is appropriate so that ETP investors are protected should the component securities experience such volatility that trading in the broad-based

[3] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the Commission to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[4] An ETV tracks the underlying performance of an asset or index, allowing investor's exposure to underlying assets such as futures contracts, commodities, and currency without actually trading futures or taking physical delivery of the underlying asset. An ETV is traded intraday like an ETF. An ETV is an open-ended trust or partnership unit that is registered under the Securities Act of 1933.

[5] An ETN is a senior unsecured debt obligation designed to track the total return of an underlying index, benchmark or strategy, minus investor fees. ETNs are registered under the Securities Act of 1933 and are redeemable to the issuer.

[6] *See* BX Rule 4120(a)(11); *see also* Securities Exchange Act Release No. 62252 (June 10, 2010), 75 FR 34186 (June 16, 2010) (SR–BX–2010–037).

ETP is impacted, as it was on May 6, 2010. Because this is a pilot rule, the markets can continue to assess whether it is appropriate to have a trading pause in broad-based ETPs when there is not a similar trading pause in related index-based options or futures.

During the pilot, the Exchange will continue to re-assess whether specific ETPs should be added or removed from the pilot list. The Exchange will also assess whether the parameters for invoking a trading pause continue to be the appropriate standard and whether the parameters should be modified.

To effect this change, the Exchange proposes to amend IM–4120–3 to BX Rule 4120 to provide that the pilot applies to securities in the S&P 500, securities in the Russell 1000, as well as specified ETPs. The pilot list of ETPs are identified in Exhibit 3.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Sections 6(b)(5) of the Act,[8] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change is also designed to support the principles of Section 11A(a)(1)[9] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the proposed rule meets these requirements in that it promotes uniformity across markets concerning decisions to pause trading in a security when there are significant price movements.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78k–1(a)(1).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

The Commission notes that ETF trades constituted a substantial majority of the trades that were cancelled on May 6, and the proposed amendments would bring certain ETFs within the scope of the trading pause pilot for the first time. The Commission solicits comment regarding the inclusion of ETFs within the trading pause pilot. The Commission requests comment in particular on the implications of including in the trading pause pilot ETFs on broad-based indices that also underlie options and futures products. What are the potential benefits and risks of including those ETFs in the pilot under circumstances where other products based on the same index may not be subject to any trading pause, or may be subject to a different type of trading pause? Are existing mechanisms available in the markets for those other products sufficient to address any cross-market linkage concerns? What are the potential effects on price discovery and trading behavior in the different markets?

Similarly, the Commission solicits comments on the potential benefits and risks of excluding such ETFs from the pilot, particularly under circumstances where the securities underlying the ETF are included in the pilot. If there are trading pauses for the component securities of an index but not for an ETF based on that index, what consequences might that have for the ETF or for other products based on that index? If there are trading pauses in an ETF but not in the stocks that underlie that ETF, what consequences might that have for the underlying stocks or other products? What are the potential effects on price discovery for the ETF, the underlying stocks and other products?

Are there other market-based characteristics or metrics that should be considered for purposes of determining which ETFs should be included in the trading pause pilot, or for re-calibrating particular features of the trading pause?

In addition, the Commission solicits comments regarding the operation of the trading pause pilot to date with respect to stocks in the S&P 500.

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–2010–044 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–2010–044. 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

[10] The Commission notes that the Exchange has requested accelerated approval of the filing.

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–2010–044, and should be submitted on or before July 19, 2010.[11]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–16409 Filed 7–6–10; 8:45 am]

BILLING CODE 8010–01–P

[11] The Commission believes that a 10-day comment period is reasonable, given the urgency of the matter. It will provide adequate time for comment.

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 7008]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 0930 on Wednesday July 22, 2010, in Room 51309 of the United States Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, DC 20593–0001. The primary purpose of the meeting is to prepare for the fifty-sixth Session of the International Maritime Organization (IMO) Subcommittee on Safety of Navigation to be held at the IMO Headquarters, London, United Kingdom, from July 26 to July 30, 2010.

The primary matters to be considered include:

—Adoption of the agenda
—Decisions of other IMO bodies
—Routing of ships, ship reporting and related matters
—Guidelines for consideration of requests for safety zones larger than 500 meters around artificial islands, installations and structures in the EEZ
—Amendments to the Performance standards for Voyage Data Recorders (VDR) and Simplified VDR (S–VDR)
—Development of procedures for updating shipborne navigation and communications equipment
—International Telecommunication Union (ITU) matters, including Radiocommunication ITU–R Study Group 8
—Development of an e-navigation strategy implementation plan
—Guidelines on the layout and ergonomic design of safety centers on passenger ships
—Review of vague expressions in the International Convention for the Safety of Life at Sea (SOLAS) regulation V/22
—New symbols for AIS aids to navigation
—Amendments to the Worldwide Radionavigation System
—Review of the principles for establishing the safe manning level of ships including mandatory requirements for determining safe manning
—Amendments to the 1966 Loadline Convention (LL) and the 1988 LL Protocol related to seasonal zone
—Casualty analysis
—Consideration of International Association of Classification Societies (IACS) unified interpretations

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Mr. Edward J. LaRue Jr., by e-mail at *Edward.J.LaRue@uscg.mil,* by phone at (202) 372–1564, by fax at (202) 372–1930, or in writing at Commandant (CG–5533), U.S. Coast Guard, 2100 2nd Street, SW., Stop 7581, Washington, DC 20593–7581, 7 days prior to the meeting. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Headquarters building. The Headquarters building is accessible by taxi and privately owned conveyance (public transportation is not generally available). However, parking in the vicinity of the building is extremely limited. Additional information regarding this and other IMO SHC public meetings may be found at: *http://www.uscg.mil/imo.*

Dated: June 30, 2010.

Jon Trent Warner,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2010–16516 Filed 7–6–10; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 7006]

U.S. National Commission for UNESCO; Notice of Closed Meeting

The U.S. National Commission for UNESCO will hold a conference call on Thursday, August 19, 2010, beginning at 3 p.m. Eastern Time. The teleconference meeting will be closed to the public to allow the Commission to discuss applications for the U.S. National Commission for UNESCO Laura W. Bush Traveling Fellowship, a fellowship funded through privately donated funds. This call will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(6) because it is likely to involve discussion of information of a personal nature regarding the relative merits of individual applicants where disclosure would constitute a clearly unwarranted invasion of personal privacy.

For more information contact Elizabeth Kanick, Executive Director of the U.S. National Commission for UNESCO, Washington, DC 20037. Telephone: (202) 663–0026; Fax: (202) 663–0035; E-mail: *DCUNESCO@state.gov*.

Dated: June 25, 2010.

Elizabeth Kanick,

Executive Director, U.S. National Commission for UNESCO, Department of State.

[FR Doc. 2010–16521 Filed 7–6–10; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF STATE

[Public Notice: 7076]

Notice of Receipt of Request To Amend the Presidential Permit for an International Bridge on the U.S.-Mexico Border at Eagle Pass, Texas and Piedras Negras, Coahuila, Mexico

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State hereby gives notice that, on June 1, 2010, it received from Eagle Pass, Texas, a request to amend the Presidential permit that the Department issued in 1996 for the Eagle Pass II International Bridge on the U.S.-Mexico border at Eagle Pass, Texas and Piedras Negras, Coahuila, Mexico. The permittee proposes to revise article 10 of the permit so it may begin to collect rent from the Federal government for the continued use of the bridge's inspection facilities.

Article 10 states that "[t]he permittee shall provide to the United States Customs Service and to other Federal Inspection Agencies, as appropriate, at no cost to the Federal government, temporary inspectional facilities, at a mutually agreed upon site, that are adequate and acceptable to the Federal Inspection Agencies. In providing the inspectional facilities, including selection of the site, the permittee shall fully comply with all National Environmental Policy Act and National Historic Preservation Act mitigation provisions and stipulations."

The city's letter, explaining the rationale for this proposed change, is included in the Supplementary Information section below.

The Department's jurisdiction over this application is based upon Executive Order 11423 of August 16, 1968, as amended, and Article 1 of the 1996 permit, which states that the permit "may be amended by the Secretary of State or the Secretary's delegate at will or upon proper application therefor * * *." As provided in E.O. 11423, the Department is circulating this application to relevant Federal and State agencies for review and comment. Under E.O. 11423, the Department has the responsibility to determine, taking into account input from these agencies and other stakeholders, whether the proposed amendment of this Presidential permit would be in the U.S. national interest.

DATES: Interested members of the public are invited to submit written comments regarding this application on or before July 28, 2010 to Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA–BorderAffairs@state.gov,* or by mail at WHA/MEX—Room 3909, Department of State, Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: Stewart Tuttle, U.S.-Mexico Border Affairs Coordinator, via e-mail at *WHA–BorderAffairs@state.gov;* by phone at 202–647–6356; or by mail at WHA/MEX—Room 3909, Department of State, Washington, DC 20520. General information about Presidential Permits is available on the Internet at *http://www.state.gov/p/wha/rt/permit/.*

SUPPLEMENTARY INFORMATION: The following is the text of the application that Daniel Valenzuela, City Manager, Eagle Pass, Texas, submitted to the Department on June 1, 2010.

Begin text.

This communication is in reference to removing the restrictions of receiving rental payments for the temporary inspection facilities in Article 10 of the Presidential Permit (No. 96–01) issued by the Department of State on April 12, 1996, for a second international bridge in Eagle Pass, Texas. Currently, Article 10 of the permit requires the City of Eagle Pass (permittee) to provide the temporary inspection facilities at "no cost" to the Federal Government.

As the permittee, and on behalf of the taxpayers of Eagle Pass, we are formally requesting that the Article 10 (Presidential Permit No. 96–01) restriction be removed so that an agreeable rental rate can be established for the temporary inspection facilities. The Finding of No Significant Impact (FONSI) issued by the Department of State on April 12, 1996, and in support of the permit issued on the same date, anticipated the need for the temporary facilities lasting between five and ten years. The current "no cost" lease has now been in effect for ten years and there is presently no timeline for the construction of the permanent inspection facilities. In addition, we believe that a change to the Presidential Permit will be a positive step toward helping develop a long-term solution to the past disagreements between GSA and the City of Eagle Pass. This solution will initiate progress towards construction of permanent facilities that will increase the capacity of the port, strengthen border security and improve working conditions for CBP officers.

Based on the anticipated ongoing need for use of the temporary facilities, and in fairness to the taxpayers of Eagle Pass, we believe that the City should now be permitted to negotiate with the Federal Government an agreeable rental rate for the continued use of these facilities. Most municipalities and private-sector owners of inspection facilities along the Texas-Mexico border are permitted the collection rents for improvements provided for use by the Federal Government. Furthermore, we understand that no other Presidential Permit contains a similar restriction.

We understand that the U.S. Department of State is willing, acting under Article 1 of the permit, in coordination with CBP and other Federal agencies, and after providing an opportunity for public comment, to consider modifying Article 10. The City of Eagle Pass respectfully asks to be consistently informed and updated on this process with written correspondence.

It is the City's sincerest hope that an amendment to the Presidential Permit may be handled in an expeditious manner; we thank you for your consideration in this most important issue for our community.

End text.

Dated: June 29, 2010.

Alex Lee,

Director, Office of Mexican Affairs, Department of State.

[FR Doc. 2010–16518 Filed 7–6–10; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2010–0473]

Airport Privatization Pilot Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Receipt and Acceptance for Review: Preliminary Application for Gwinnett County Airport Briscoe Field (LZU), Lawrenceville, Georgia.

SUMMARY: The Federal Aviation Administration (FAA) has completed its review of the Gwinnett County Airport Briscoe Field (LZU) preliminary application for participation in the airport privatization pilot program received under 49 U.S.C. Section 47134. The preliminary application is accepted for review, with a filing date of April 26, 2010. Gwinnett County, the airport sponsor, may select a private operator, negotiate an agreement and submit a final application to the FAA for exemption under the pilot program. If the FAA approves the final application for Gwinnett County Airport Briscoe Field, the Airport will qualify as the Pilot Program's general aviation airport required by Title 49 U.S.C. Section 47134.

49 U.S.C. Section 47134 establishes an airport privatization pilot program and authorizes the Department of Transportation to grant exemptions from certain Federal statutory and regulatory requirements for up to five airport privatization projects. The application procedures require the FAA to publish a notice in the **Federal Register** after review of a preliminary application. The FAA must publish a notice of receipt of the final application in the **Federal Register** for public review and comment for a sixty-day period. The LZU preliminary application is available for public review at *http://www.regulations.gov.* The docket number is FAA Docket Number 2010–0473.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis (202–267–8741) Airport Compliance Division, ACO–100, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Introduction and Background

Title 49 of the U.S. Code 47134 authorizes the Secretary of Transportation, and through delegation, the FAA Administrator, to exempt a sponsor of a public use airport that has

received Federal assistance, from certain Federal requirements in connection with the privatization of the airport by sale or lease to a private party. Specifically, the Administrator may exempt the sponsor from all or part of the requirements to use airport revenues for airport-related purposes, to pay back a portion of Federal grants upon the sale or lease of an airport, and to return airport property deeded by the Federal Government upon transfer of the airport. The Administrator is also authorized to exempt the private purchaser or lessee from the requirement to use all airport revenues for airport-related purposes, to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

On September 16, 1997, the Federal Aviation Administration issued a notice of procedures to be used in applications for exemption under the Airport Privatization Pilot Program (62 FR 48693). A request for participation in the Pilot Program must be initiated by the filing of either a preliminary or final application for exemption with the FAA.

Gwinnett County submitted a preliminary application to the Airport Privatization Pilot Program for Gwinnett County Airport Briscoe Field on April 26, 2010; the preliminary application is accepted for review, with a filing date of April 26, 2010. The County may select a private operator, negotiate an agreement and submit a final application to the FAA for exemption.

If FAA accepts the final application for review, the application will be made available for public review and comment for a sixty-day period.

Issued in Washington, DC, on June 28, 2010.

Randall S. Fiertz,

Director, Office of Airport Compliance and Field Operations.

[FR Doc. 2010–16386 Filed 7–6–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2009–1144]

Airport Privatization Pilot Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Receipt and Acceptance for Review: Preliminary Application for Luis Muñoz Marín International Airport (SJU), San Juan, Puerto Rico.

SUMMARY: The Federal Aviation Administration (FAA) has completed its review of the Luis Muñoz Marín International Airport International Airport (SJU) preliminary application for participation in the airport privatization pilot program received under 49 U.S.C. 47134. The preliminary application is accepted for review, with a filing date of December 1, 2009. The Puerto Rico Ports Authority, the airport sponsor, may select a private operator, negotiate an agreement and submit a final application to the FAA for exemption under the pilot program. 49 U.S.C. 47134 establishes an airport privatization pilot program and authorizes the Department of Transportation to grant exemptions from certain Federal statutory and regulatory requirements for up to five airport privatization projects. The application procedures require the FAA to publish a notice in the **Federal Register** after review of a preliminary application. The FAA must publish a notice of receipt of the final application in the **Federal Register** for public review and comment for a sixty-day period. The SJU preliminary application is available for public review at *http://www.regulations.gov*. The docket number is FAA Docket Number 2009–1144.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis (202–267–8741) Airport Compliance Division, ACO–100, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Introduction and Background

Title 49 of the U.S. Code 47134 authorizes the Secretary of Transportation, and through delegation, the FAA Administrator, to exempt a sponsor of a public use airport that has received Federal assistance, from certain Federal requirements in connection with the privatization of the airport by sale or lease to a private party. Specifically, the Administrator may exempt the sponsor from all or part of the requirements to use airport revenues for airport-related purposes, to pay back a portion of Federal grants upon the sale or lease of an airport, and to return airport property deeded by the Federal Government upon transfer of the airport. The Administrator is also authorized to exempt the private purchaser or lessee from the requirement to use all airport revenues for airport-related purposes, to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

On September 16, 1997, the Federal Aviation Administration issued a notice of procedures to be used in applications for exemption under Airport Privatization Pilot Program (62 FR 48693). A request for participation in the Pilot Program must be initiated by the filing of either a preliminary or final application for exemption with the FAA.

The Puerto Rico Ports Authority submitted a preliminary application to the Airport Privatization Pilot Program for Luis Muñoz Marín International Airport on December 1, 2009; the preliminary application is accepted for review, with a filing date of December 1, 2009. The Authority may select a private operator, negotiate an agreement and submit a final application to the FAA for exemption.

If FAA accepts the final application for review, the application will be made available for public review and comment for a sixty-day period.

Issued in Washington, DC, on June 28, 2010.

Randall S. Fiertz,

Director, Office of Airport Compliance and Field Operations.

[FR Doc. 2010–16390 Filed 7–6–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Government/Industry Air Traffic Management Advisory Committee (ATMAC)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Government/Industry Air Traffic Management Advisory Committee (ATMAC).

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Government/Industry Air Traffic Management Advisory Committee (ATMAC).

DATES: The meeting will be held August 4, 2010, from 9 a.m. to 11 a.m.

ADDRESSES: The meeting will be held at RTCA Headquarters, Colson Board Room, 1828 L Street, NW., Suite 805, Washington, DC 20036.

METRO: Red Line—Farragut North Station (Use L Street Exit) Blue/Orange Line—Farragut West Station (Use 18th Street Exit).

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the Air Traffic Management Advisory Committee meeting. The agenda will include:

- Opening Plenary (Welcome and Introductions).
- Trajectory Operations (TOps) Work Group Presentation of Guidance to SC–214 regarding ADS–C and 4DTRAD for ATMAC Discussion and Approval.
- Review of final recommendations of the ADS–B Work Group regarding ADS–B Services to legacy-equipped aircraft prior to mandated compliance date.
- Discussion of Next Gen Operations & Implementation Committee.
- Closing Plenary (Other Business, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 29, 2010.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 2010–16489 Filed 7–6–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8655

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8655, Reporting Agent Authorization for Magnetic Tape/Electronic Filers.

DATES: Written comments should be received on or before September 7, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Elaine Christophe, (202) 622–3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Elaine.H.Christophe@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reporting Agent Authorization for Magnetic Tape/Electronic Filers.

OMB Number: 1545–1058.

Form Number: Form 8655.

Abstract: Form 8655 allows a taxpayer to designate a reporting agent to file certain employment tax returns electronically or on magnetic tape, to receive copies of notices and other tax information, and to submit Federal tax deposits. This form allows IRS to disclose tax account information and to provide duplicate copies of taxpayer correspondence to authorized agents.

Current Actions: There are no changes being made to this form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 110,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 11,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 28, 2010.

Gerald Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–16383 Filed 7–6–10; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Wednesday,
July 7, 2010

Part II

Environmental Protection Agency

40 CFR Part 2

Proposed Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule and Proposed Amendment to Special Rules Governing Certain Information Obtained Under the Clean Air Act; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[EPA–HQ–OAR–2009–0924; FRL–9171–2]

RIN 2060–AQ04

Proposed Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule and Proposed Amendment to Special Rules Governing Certain Information Obtained Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to determine in this action the confidentiality status of data required to be reported under the Mandatory Greenhouse Gas Reporting Rule. This action describes the data categories EPA has developed for the Mandatory Greenhouse Gas Reporting Rule data elements and EPA's proposed confidentiality determination for each category. In addition, this action includes EPA's proposed amendment to *Special rules governing certain information obtained under the Clean Air Act.* The proposed amendment would authorize EPA to release or withhold as confidential reporting elements in the Mandatory Greenhouse Gas Reporting Rule according to the determinations made in a final action without taking certain additional procedural steps currently required. This action also solicits comments on several key issues related to the proposed confidentiality determinations and amendment.

DATES: *Comments.* Comments must be received on or before September 7, 2010.

Public Hearing. EPA does not plan to conduct a public hearing unless requested. To request a hearing, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by July 14, 2010. The hearing will be held on July 22, 2010 in the Washington, DC area starting at 9 a.m., local time. EPA will provide further information about the hearing on its Web page if a hearing is requested.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0924, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *E-mail: GHGReportingCBI@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. EPA–HQ–OAR–2009–0924, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2009–0924. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; e-mail address: *GHGMRR@epa.gov.* For technical information, contact the Greenhouse Gas Reporting Rule Hotline at: *http://www.epa.gov/climatechange/emissions/ghgrule_contactus.htm.* Alternatively, contact Carole Cook at 202–343–9263.

SUPPLEMENTARY INFORMATION:

Additional Information on Submitting Comments: To expedite review of your comments by Agency staff, you are encouraged to send a separate copy of your comments, in addition to the copy you submit to the official docket, to Carole Cook, U.S. EPA, Office of Atmospheric Programs, Climate Change Division, Mail Code 6207–J, Washington, DC, 20460, telephone (202) 343–9263, e-mail *GHGReportingCBI@epa.gov.*

Regulated Entities. This proposed determination and amendment to 40 CFR 2.301 would affect entities that must submit annual greenhouse gas (GHG) reports under 40 CFR Part 98. The Administrator determined that Part 98 is subject to the provisions of Clean Air Act (CAA) section 307(d). *See* CAA section 307(d)(1)(V) (the provisions of CAA section 307(d) apply to "such other actions as the Administrator may determine"). The Mandatory Greenhouse Gas Reporting Rule and this action affect fuel and chemicals suppliers, and direct emitters of GHGs. Affected categories and entities include those listed in Table 1 of this preamble:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Category	NAICS	Examples of affected facilities
General Stationary Fuel Combustion Sources.	.....	Facilities operating boilers, process heaters, incinerators, turbines, and internal combustion engines:
	211	Extractors of crude petroleum and natural gas.
	321	Manufacturers of lumber and wood products.
	322	Pulp and paper mills.
	325	Chemical manufacturers.
	324	Petroleum refineries, and manufacturers of coal products.
	316, 326, 339	Manufacturers of rubber and miscellaneous plastic products.
	331	Steel works, blast furnaces.
	332	Electroplating, plating, polishing, anodizing, and coloring.
	336	Manufacturers of motor vehicle parts and accessories.
	221	Electric, gas, and sanitary services.
	622	Health services.
	611	Educational services.
Electricity Generation	221112	Fossil-fuel fired electric generating units, including units owned by Federal and municipal governments and units located in Indian Country.
Adipic Acid Production	325199	Adipic acid manufacturing facilities.
Aluminum Production	331312	Primary Aluminum production facilities.
Ammonia Manufacturing	325311	Anhydrous and aqueous ammonia manufacturing facilities.
Cement Production	327310	Portland Cement manufacturing plants.
Electronics Manufacturing	334111	Microcomputers manufacturing facilities.
	334413	Semiconductor, photovoltaic (solid-state) device manufacturing facilities.
	334419	LCD unit screens manufacturing facilities.
		MEMS manufacturing facilities.
Ethanol Production	325193	Ethyl alcohol manufacturing facilities.
Ferroalloy Production	331112	Ferroalloys manufacturing facilities.
Fluorinated GHG Production	325120	Industrial gases manufacturing facilities.
Food Processing	311611	Meat processing facilities.
	311411	Frozen fruit, juice, and vegetable manufacturing facilities.
	311421	Fruit and vegetable canning facilities.
Glass Production	327211	Flat glass manufacturing facilities.
	327213	Glass container manufacturing facilities.
	327212	Other pressed and blown glass and glassware manufacturing facilities.
HCFC–22 Production and HFC–23 Destruction.	325120	Chlorodifluoromethane manufacturing facilities.
Hydrogen Production	325120	Hydrogen manufacturing facilities.
Iron and Steel Production	331111	Integrated iron and steel mills, steel companies, sinter plants, blast furnaces, basic oxygen process furnace shops.
Lead Production	331419	Primary lead smelting and refining facilities.
	331492	Secondary lead smelting and refining facilities.
Lime Production	327410	Calcium oxide, calcium hydroxide, dolomitic hydrates manufacturing facilities.
Magnesium Production	331419	Primary refiners of nonferrous metals by electrolytic methods.
	331492	Secondary magnesium processing plants.
Municipal Solid Waste Landfills	562212	Solid waste landfills.
	221320	Sewage treatment facilities.
Nitric Acid Production	325311	Nitric acid manufacturing facilities.
Petroleum and Natural Gas Systems	486210	Pipeline transportation of natural gas.
	221210	Natural gas distribution facilities.
	211	Extractors of crude petroleum and natural gas.
	211112	Natural gas liquid extraction facilities.
Petrochemical Production	32511	Ethylene dichloride manufacturing facilities.
	325199	Acrylonitrile, ethylene oxide, methanol manufacturing facilities.
	325110	Ethylene manufacturing facilities.
	325182	Carbon black manufacturing facilities.
Petroleum Refineries	324110	Petroleum refineries.
Phosphoric Acid Production	325312	Phosphoric acid manufacturing facilities.
Pulp and Paper Manufacturing	322110	Pulp mills.
	322121	Paper mills.
	322130	Paperboard mills.
Silicon Carbide Production	327910	Silicon carbide abrasives manufacturing facilities.
Soda Ash Manufacturing	325181	Alkalies and chlorine manufacturing facilities.
	212391	Soda ash, natural, mining and/or beneficiation.
Sulfur Hexafluoride (SF_6) from Electrical Equipment.	221121	Electric bulk power transmission and control facilities.
Titanium Dioxide Production	325188	Titanium dioxide manufacturing facilities.
Underground Coal Mines	212113	Underground anthracite coal mining operations.
	212112	Underground bituminous coal mining operations.
Zinc Production	331419	Primary zinc refining facilities.
	331492	Zinc dust reclaiming facilities, recovering from scrap and/or alloying purchased metals.
Industrial Landfills	562212	Solid waste landfills.
	221320	Sewage treatment facilities.

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY—Continued

Category	NAICS	Examples of affected facilities
	322110	Pulp mills.
	322121	Paper mills.
	322122	Newsprint mills.
	322130	Paperboard mills.
	311611	Meat processing facilities.
	311411	Frozen fruit, juice, and vegetable manufacturing facilities.
	311421	Fruit and vegetable canning facilities.
Wastewater Treatment	322110	Pulp mills.
	322121	Paper mills.
	322122	Newsprint mills.
	322130	Paperboard mills.
	311611	Meat processing facilities.
	311411	Frozen fruit, juice, and vegetable manufacturing facilities.
	311421	Fruit and vegetable canning facilities.
	325193	Ethanol manufacturing facilities.
Suppliers of Coal Based Liquids Fuels	211111	Coal liquefaction at mine sites.
Suppliers of Petroleum Products	324110	Petroleum refineries.
Suppliers of Natural Gas and NGLs	221210	Natural gas distribution facilities.
	211112	Natural gas liquid extraction facilities.
Suppliers of Industrial GHGs	325120	Industrial gas manufacturing facilities.
Suppliers of Carbon Dioxide (CO_2)	325120	Industrial gas manufacturing facilities.
CO_2 ER Projects	211	Oil and Gas Extraction Projects using CO_2 ER.
GS Sites	N/A	CO_2 geologic sequestration projects.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities likely to be affected by this action. This table lists the types of facilities that EPA is now aware could be potentially affected by the reporting requirements under 40 CFR part 98. Other types of facilities and suppliers not listed in the table could also be subject to reporting requirements. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart A. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Many facilities that are affected by Part 98 have GHG emissions from multiple source categories listed in Table 1 of this preamble.

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

BAMM Best Available Monitoring Methods
CAA Clean Air Act
CBI confidential business information
CEMS continuous emission monitoring system(s)
CFR Code of Federal Regulations
DoE Department of Energy
EPCRA Emergency Planning and Community Right to Know Act
EIA Energy Information Administration
EO Executive Order
EOR enhanced oil recovery
EPA U.S. Environmental Protection Agency
GHG greenhouse gas
FOIA Freedom of Information Act
HHV higher heating value
LDC local distribution company
MRV Monitoring, Reporting, and Verification
Mscf thousand standard cubic feet
NEI National Emissions Inventory
NAICS North American Classification System
RFA Regulatory Flexibility Act
SCC Source Classification Code
SIC Standard Industrial Classification Code
TRI Toxics Release Inventory
UMRA Unfunded Mandates Reform Act
U.S. United States

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I. Executive Summary, Background, and General Rationale

A. Executive Summary

Under Part 98 of the final Mandatory Greenhouse Gas Reporting Rule (74 FR 56259, October 30, 2009, and subsequent amendments), hereinafter referred to as Part 98, EPA will collect data from facilities that directly emit GHGs from their processes or stationary fuel combustion sources ("direct emitters") as well as upstream suppliers of fuels and industrial GHGs. EPA recognizes the importance of this data and is committed to transparency and access to this data. Specific data elements to be reported in the annual reports vary by source category, and considering the combination of all source categories, there are over 1,500 individual data elements that are required to be reported in annual reports. In addition to the data elements required in annual reports, facilities may also submit other data elements as part of Best Available Monitoring

Method (BAMM) extension requests, requests for approval of alternative methods for adipic acid or nitric acid production facilities, or Monitoring, Reporting and Verification (MRV) Plans for Geological Sequestration facilities (*see* proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010).

This action proposes to determine the confidentiality status of the data elements required to be reported under Part 98 pursuant to CAA section 114(c).[1] To make the proposed determinations, EPA has grouped the Part 98 data elements into 22 data categories (11 for direct emitters and 11 for suppliers), each containing similar data elements. The proposed determinations regarding confidential treatment of each data category are summarized in Table 2 of this preamble for direct emitters and Table 3 of this preamble for suppliers. Further background, information on EPA's decision process, and detailed rationales for the proposed determinations for each data category are presented in the remainder of this preamble. Public release of the information collected under Part 98 that are emission data or non-CBI is important because it ensures transparency and promotes public confidence in the data. In an effort to promote transparency, EPA intends to publish on EPA's Web site much of the Part 98 data that we determine to be emission data or not otherwise entitled to confidential treatment pursuant to CAA section 114(c). Those data elements that we determine to be entitled to confidential treatment would not be published on the Web site or made available to the public through Freedom of Information Act (FOIA) requests.

TABLE 2—SUMMARY OF PROPOSED DETERMINATIONS FOR DIRECT EMITTER DATA CATEGORIES

Data category	Proposed confidentiality determination for data elements in each category		
	Emission Data[a]	Data that are not emission data and not CBI	Data that are not emission data but are CBI[b]
Facility and Unit Identifier Information	X		
Emissions	X		
Inputs to Emission Equations	X		
Calculation Methodology and Methodological Tier	X		
Data Elements Reported for Periods of Missing Data that are Not Inputs to Emission Equations	X		
Unit/Process "Static" Characteristics that are Not Inputs to Emission Equations		X	
Unit/Process Operating Characteristics that are Not Inputs to Emission Equations		X	
Test and Calibration Methods		X	
Production/Throughput Data that are Not Inputs to Emission Equations			X
Raw Materials Consumed that are Not Inputs to Emission Equations			X
Process-specific and Vendor Data Submitted in BAMM Extension Requests			X

[a] Under CAA section 114, "emission data" is not entitled to confidential treatment. *See* Section I.C of this preamble for further discussion.
[b] As explained in more detail in Section I.C of the preamble, CAA section 114(c) affords confidential treatment to data (except emission data) that are considered trade secret or confidential business information (collectively referred to as "CBI").

TABLE 3—SUMMARY OF PROPOSED DETERMINATIONS FOR SUPPLIER DATA CATEGORIES

Data category	Proposed confidentiality determinations for data elements in each category		
	Emission data[a]	Data that are not emission data and not CBI	Data that are not emission data but are CBI[b]
GHGs reported		[c]X	[c]X
Production/throughput quantities and composition		[c]X	[c]X
Identification information		X	
Unit/process operating characteristics		[d]X	
Calculation, test, and calibration methods		X	
Data Elements Reported for Periods of Missing data that are not related to production/throughput or materials received		X	
Emission factors			X
Amount and composition of materials received			X
Data Elements Reported for Periods of Missing data that are related to production/throughput or materials received			X
Supplier customer and vendor information			X
Process-Specific and Vendor Data Submitted in BAMM Extension Requests			X

[a] Under CAA section 114, "emission data" is not entitled to confidential treatment. *See* Section I.C of this preamble for further discussion.
[b] As explained in more detail in Section I.C of the preamble, CAA section 114(c) affords confidential treatment to data (except emission data) that are considered trade secret or confidential business information (collectively referred to as "CBI").

[1] The only exception would be supporting documentation provided by applicants for approval of alternative methods for adipic acid and nitric acid facilities. EPA recognizes that supporting documentation included in these applications may include information that is sensitive or proprietary, such as detailed process designs or site plans. Because the exact nature of this documentation cannot be predicted with certainty, EPA proposes to make case-by-case confidentiality determinations under CAA section 114(c) for any supporting documentation for approval of alternative methods for adipic acid and nitric acid facilities claimed confidential by applicants either upon receipt of such information or upon a request for such information after receipt.

[c] EPA proposes to determine that some facility-level and product-specific data elements in this data category are entitled to confidential treatment while others are not entitled to confidential treatment. Such data elements would be released only in aggregated form. *See* Table 4 and 5 in Section II.D of this preamble for summaries of the proposed confidential determinations and levels of aggregation (for disclosure purposes) for these data categories.

[d] Reported data will be released except for one reported data element for suppliers of industrial GHGs (40 CFR part 98, subpart OO) that will be held confidential. *See* Section II.D.5 of this preamble.

In this action, EPA is also proposing a regulatory amendment to 40 CFR 2.301 (Special rules governing certain information obtained under the Clean Air Act) that sets forth specific procedures for handling Part 98 data. The amendment would allow EPA to release Part 98 data that are determined to be emission data or not otherwise entitled to confidential treatment upon finalizing the confidentiality status of these data. The proposed amendment also sets forth procedures for treatment of Part 98 data determined to be CBI. The proposed amendment pertains only to Part 98.

Lastly, EPA is soliciting comment on several key issues related to the confidentiality determinations and proposed amendments, such as whether the proposed data categories are appropriate and reasonable, whether there are unique circumstances that would warrant a limited process for a facility to seek reconsideration of a final determination of non-confidential status when it submits its information, whether alternative interpretations of emission data would be appropriate, and whether there are any approaches for delaying publication of data elements that would ease potential concerns by industry while enabling EPA to meet our obligations under FOIA and CAA.

B. 40 CFR Part 98

Part 98 requires reporting of numerous data elements to characterize, quantify, and verify GHG emissions and related information. Following proposal of Part 98, EPA received comments addressing the issue of whether certain data could be entitled to confidential treatment. Industry commenters generally expressed concern that they consider much of the information reported under the rule to be confidential (*e.g.,* production and process data). Some commenters also presented arguments regarding why certain information would not be "emission data" under the CAA. Other commenters favored the wide dissemination of information, and some argued that all of the information gathered under Part 98 should be "emission data" and hence not entitled to confidential treatment. In response to these comments, EPA stated in the preamble to the final rule (74 FR 56287, October 30, 2009), that through a notice and comment process, it would establish those data elements that are entitled to confidential treatment.

The Mandatory GHG Reporting Rule was promulgated under the authority of CAA sections 114(a) (for stationary sources) and 208 (for motor vehicle and engine manufacturers).[2] Today's proposed action addresses the confidentiality of the data elements codified in 40 CFR part 98.

Several subparts of Part 98 were published on October 30, 2009 (74 FR 56374). EPA intends to finalize additional source category subparts during calendar year 2010. Today's action covers data elements that will be reported under the subparts that were finalized in 2009, data elements in subparts that are expected to be finalized in 2010, and data elements in proposed amendments to Part 98 that are expected to be finalized in 2010. Specifically, the action covers the following data elements:

(1) Data required by 40 CFR part 98, subpart A and other subparts promulgated in 2009. Today's action includes the data elements required by 40 CFR part 98, subpart A and other subparts that were published on October 30, 2009. This includes the data elements required to be reported in annual reports under the following subparts of Part 98:

- Subpart A, General Provisions;
- Subpart C, General Stationary Fuel Combustion Sources;
- Subpart D, Electricity Generation;
- Subpart E, Adipic Acid Production;
- Subpart F, Aluminum Production;
- Subpart G, Ammonia Manufacturing;
- Subpart H, Cement Production;
- Subpart K, Ferroalloy Production;
- Subpart N, Glass Production;
- Subpart O, HCFC–22 Production and HFC–23 Destruction;
- Subpart P, Hydrogen Production;
- Subpart Q, Iron and Steel Production;
- Subpart R, Lead Production;
- Subpart S, Lime Manufacturing;
- Subpart U, Miscellaneous Uses of Carbonate;
- Subpart V, Nitric Acid Production;
- Subpart X, Petrochemical Production;
- Subpart Y, Petrochemical Production;
- Subpart Z, Phosphoric Acid Production;
- Subpart AA, Pulp and Paper Manufacturing;
- Subpart BB, Silicon Carbide Production;
- Subpart CC, Soda Ash Manufacturing;
- Subpart EE, Titanium Dioxide Production;
- Subpart GG, Zinc Production;
- Subpart HH, Municipal Solid Waste Landfills;
- Subpart JJ, Manure Management;[3]
- Subpart LL, Suppliers of Coal-based Liquid Fuels;
- Subpart MM, Suppliers of Petroleum Products;
- Subpart NN, Suppliers of Natural Gas and Natural Gas Liquids;
- Subpart OO, Suppliers of Industrial Greenhouse Gases; and
- Subpart PP, Suppliers of Carbon Dioxide.

In addition, the action covers data required to be submitted in BAMM extension requests and requests from adipic acid and nitric acid facilities for approval of alternative monitoring methods. Although amendments may be made during 2010 to further clarify some of these data elements, we expect that any amended data element would still logically fall into the same or another data category that is addressed in this action and is therefore covered by the confidentiality determination for that data category. In the final confidentiality determination, EPA will address any revised data elements within these subparts that have been amended prior to the publication of the final confidentiality determination.

(2) Data required by subparts that are being finalized in a separate action published today. These subparts include the following subparts from Part 98:

- Subpart FF, Underground Coal Mines;
- Subpart T, Magnesium Production;
- Subpart TT, Industrial Landfills; and
- Subpart II, Wastewater Treatment.

[2] The vehicle manufacturing requirements are found in 40 CFR parts 86, 87, 89, 90, 94, 1033, 1039, 1042, 1045, 1048, 1051, 1054, and 1065. The data collected under those parts are not included in this notice. This proposed CBI determination applies only to the data collected under 40 CFR part 98.

[3] EPA will not be implementing 40 CFR part 98, subpart JJ due to a Congressional restriction prohibiting the expenditure of funds for this purpose. As a result, 40 CFR part 98, subpart JJ is not included in the scope of this notice.

(3) Data required by subparts that have recently been proposed or re-proposed but not yet finalized. Earlier this year, EPA proposed or re-proposed several source category subparts that were not included in the October 30, 2009 final rule. These include data elements to be reported in the annual reports and data elements to be included in other documents required to be submitted to EPA (*e.g.,* data elements included in MRV Plans for geological sequestration facilities (proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010). These subparts are as follows:

- Subpart I, Electronics Manufacturing (75 FR 18652, April 12, 2010);
- Subpart L, Fluorinated Gas Production (75 FR 18652, April 12, 2010);
- Subpart W, Petroleum and Natural Gas Systems (75 FR 18608, April 12, 2010);
- Subpart DD, Sulfur Hexafluoride (SF_6) and Perfluorocarbons (PFCs) from Electrical Equipment at an Electric Power System (75 FR 18652, April 12, 2010);
- Subpart RR, Injection and Geologic Sequestration of Carbon Dioxide (75 FR 18576, April 12, 2010);
- Subpart SS, Sulfur Hexafluoride and PFCs from Electrical Equipment Manufacture or Refurbishment (75 FR 18652, April 12, 2010);
- Subpart QQ, Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-charged Equipment or Closed-cell Foams (75 FR 18652, April 12, 2010).

EPA expects to finalize these subparts in 2010. Today's proposed confidentiality determination covers these data elements based on the proposed (and re-proposed) subparts. Although the data elements in these subparts, when finalized, may not be exactly the same as those in the proposed subparts, we expect that any revised or refined data element in the relevant final subpart would still logically fall into the same or another data category that is addressed in this action and would therefore be covered by the confidentiality determination for that data category. EPA will address such data elements in the final confidentiality determination.

(4) Data required by the proposed amendment to 40 CFR part 98, subpart A (75 FR 18455, April 12, 2010). The proposed amendment to 40 CFR part 98, subpart A would require reporting of parent company and other ownership information, North American Classification System (NAICS) codes, and operation of cogeneration units. Today's proposed confidentiality determination covers the data elements as proposed on April 12, 2010. Although the data elements in the final amendment to 40 CFR part 98, subpart A may not be exactly the same as they were in the proposed amendment, we expect that any revised or refined data element in the final amendment would still logically fall into the same or another data category that is already addressed in this action and would therefore be covered by the final confidentiality determination for that category. EPA will address such data elements in the final confidentiality determination.

(5) Data required by the proposed Technical Corrections, Clarifying and Other Amendments to Certain Provisions of the Greenhouse Gas Reporting Rule (signed May 27, 2010). The proposed amendments would correct technical and editorial errors, and would correct data reporting requirements so that they more closely conform to the information used to perform emission calculations. The reporting requirements from the following Part 98 subparts are affected by these proposed amendments:

- Subpart E, Adipic Acid Production;
- Subpart H, Cement Production;
- Subpart K, Ferroalloy Production;
- Subpart N, Glass Production;
- Subpart O, HCFC–22 Production and HFC–23 Destruction;
- Subpart P, Hydrogen Production;
- Subpart Q, Iron and Steel Production;
- Subpart S, Lime Manufacturing;
- Subpart V, Nitric Acid Production;
- Subpart Z, Phosphoric Acid Production;
- Subpart CC, Soda Ash Manufacturing;
- Subpart EE, Titanium Dioxide Production;
- Subpart GG, Zinc Production;
- Subpart HH, Municipal Solid Waste Landfills;
- Subpart LL, Suppliers of Coal-based Liquid Fuels;
- Subpart MM, Suppliers of Petroleum Products; and
- Subpart NN, Suppliers of Natural Gas and Natural Gas Liquids.

EPA expects to publish the proposed amendments after receiving and addressing public comments. Although the data elements in the final amendments may not be exactly the same as they were in the proposed amendments, we expect that any revised or refined data element in the final amendments would still logically fall into the same or another data category that is already addressed in this action and would therefore be covered by the final confidentiality determination for that category. EPA will address such data elements in the final confidentiality determination.

Publication of Data. As previously mentioned, EPA is committed to transparency and intends to publish on EPA's Web site much of the Part 98 data that is submitted; however, we are not publishing data elements that are CBI.

Public release of the information collected under Part 98 that are emission data or non-CBI is important because it ensures transparency and promotes public confidence in the data. For example, facility identification data (*e.g.,* name and physical address of a direct emitter) allows the public to identify which facilities are emitting GHGs and how much they are emitting. This information is useful for comparing the GHG emissions of different facilities and for evaluating changes in a facility's GHG emissions over time. Comparisons of facility-specific data will improve our understanding of the factors that influence GHG emission rates and actions facilities could in the future or already take to reduce emissions. By tracking changes in facility-specific data, EPA and other stakeholders will be able to track trends in GHG emissions from industries and facilities over time and assess responses to policies and potential regulations. Information on unit characteristics and operations are valuable to policy makers, the public, and industry because they improve our understanding of the sources of emissions and the relationship between process operating characteristics and emissions. The number of times substitute data are used in place of measured parameters, methods used to calculate emissions, methods used to determine the composition of materials, and the frequency of calibrating measurement devices are all valuable for evaluating the quality of the reported data. These data are also important to the GHG verification checks.

Data submitted by suppliers are needed by EPA and other users of the reported data to help develop policies that could affect sources under a variety of CAA provisions. For example, the geographic distribution of suppliers of various fuel types and industrial GHGs may prove useful in evaluating the impact of transportation distances and transportation emissions on the feasibility and effectiveness of different GHG control strategies. These may include regulatory and nonregulatory strategies and technologies for preventing or reducing air pollutants, such as energy conservation, end-use efficiency, and fuel- or raw-material switching.

This is not a comprehensive listing of all the ways the information collected under Part 98 is valuable to EPA and others, but it illustrates the importance of making available to the public data that are not entitled to confidential treatment under CAA section 114(c). Such disclosure is required under CAA section 114(c).

Given the importance of this data, we are publishing data elements that are emission data or are determined to be not CBI. For those limited data that are CBI, EPA intends to publish the data only where they can be aggregated in a manner to protect the confidentiality of these data elements. There are a number of different formats in which both CBI and non-CBI data could be published using tables, graphs, charts, and other graphical methods. For example, EPA could publish tables or bar charts showing the emission data for individual facilities to allow comparison of data between facilities within a source category. Alternatively, EPA could publish pie charts of emission data by source category or by geographical region to allow easy comparison of data between different industry sectors or locations. EPA is interested in receiving suggestions on formats for presenting both CBI and non-CBI data that would be most useful to the public. We are specifically soliciting suggestions on approaches to aggregating CBI data that would provide useful information to the public without disclosing data determined to be CBI. We are also soliciting comment on the value of publishing facility-level CBI data elements within numerical ranges that maintain the confidentiality of the actual reported values. Specifically, we are soliciting comment on whether publishing ranges of values at the facility-level would provide valuable information that aggregated data may not convey.

C. Section 114 of CAA, "Emission Data," and Confidentiality

Section 114(c) of CAA requires that "[a]ny records, reports, or information obtained under [CAA section 114(a)] shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, (other than emission data) * * * if made public, would divulge methods or processes entitled to protection as trade secrets * * *, the Administrator shall consider such record, report, or information or particular portion thereof confidential * * *." EPA has interpreted CAA section 114(c) to afford confidential treatment to both trade secrets and confidential business information (hereinafter collectively referred to as "CBI") (40 FR 21987, 21990 (May 20, 1975)). Section 114(c) of CAA precludes "emission data" from being considered confidential and requires that such data be available to the public.

Pursuant to CAA section 114(c), EPA proposes to determine the confidentiality status of data that are required to be reported under Part 98. As described in more detail in Section II.A of this preamble, EPA has grouped Part 98 data into 22 separate data categories and proposes to determine the confidentiality status of Part 98 data on a category basis. There are 11 categories of direct emitter data and 11 categories of supplier data. For the list of all 22 data categories and brief descriptions of the data elements within each category, please *see* Section II.C of this preamble for direct emitter data categories and Section II.D of this preamble for supplier data categories.

In making the confidentiality determination, EPA first examined, on a data category basis, whether the data elements constituted "emission data" under CAA section 114(c). Specifically, EPA examined whether the data elements in a given category met the definition of "emission data" at 40 CFR 2.301(a)(2)(i), which is as follows:

Emission data means, with reference to any source of emission of any substance into the air—

(A) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

(B) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source); and

(C) A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

With respect to the 11 categories of direct emitter data, because there are no established GHG emission limits for the facilities subject to Part 98, EPA finds that 2.301(a)(2)(i)(B), which addresses emissions that sources are *authorized* to emit, does not apply. EPA focused its analysis on whether the data elements in a given direct emitter category met the emission data definitions at 2.301(a)(2)(i)(A) or (C). EPA proposes to determine that the data in a direct emitter data category qualify as "emission data" if they are necessary to determine the identity, amount, frequency, or concentration of the emission emitted by the reporting facilities. *See* 40 CFR 2.301(a)(2)(i)(A). As discussed in more detail in Sections II.C.2 through II.C.6 of this preamble, EPA proposes to determine that the GHG emissions to be reported by direct emitters, as well as those data that are required to perform the emissions calculations specified in the direct emitter subparts (*i.e.,* inputs to equations/calculations as well as information otherwise needed to calculate or determine emissions), meet the definition of "emission data" at 40 CFR 2.301(a)(2)(i)(A). In addition, EPA proposes to determine that locational and other identifying information regarding the emitting sources (*i.e.,* the data elements in the direct emitter facility and unit identifier information category) are emission data because these data describe a reporting emitting source's location and other identifying information that help distinguish the source from other sources. *See* 40 CFR 2.301(a)(2)(i)(C).

With respect to the data elements in the remaining direct emitter data categories, EPA proposes to determine that they are not "emission data" under 40 CFR 2.301(a)(2)(i) for purposes of determining the GHG emissions required to be reported by direct emitters under Part 98. These data elements are in the following direct emitter data categories:

- Unit/process "static" characteristics that are not inputs to equations.
- Unit/process operating characteristics that are not inputs to equations.
- Test and calibration methods.
- Production/throughput data that are not inputs to emission equations.
- Raw materials consumed that are not inputs to emission equations.
- Process-Specific and Vendor Data Submitted in BAMM Extension Requests.

Part 98 sets forth in relevant subparts the specific methods and equations for calculating direct emitters' GHG emissions. Direct emitters' GHG emissions can be (and must be) calculated by inputting the necessary data elements into the relevant equations (or other specified calculation

methodologies) as prescribed in Part 98. None of the data elements in the data categories listed immediately above are inputs to equations/calculations or information otherwise needed to calculate or determine emissions and are therefore not necessary to calculate direct emitters' GHG emissions under Part 98. We therefore propose to determine that these data elements are not "emission data" under 40 CFR 2.301(a)(2)(i) for purposes of determining the direct emitters' GHG emissions that are required to be reported under Part 98. However, EPA notes that these data elements may nonetheless meet the criteria of "emission data" at 40 CFR 2.301(a)(2)(i) if they are "necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality)" of a reporting facility's emission in the context of another (or future) regulatory program or future legislation. Therefore, the proposed determination described above is made strictly in the context of determining the direct emitters' GHG emissions required to be reported under Part 98, considering the specific equations and methodologies prescribed in the relevant Part 98 subparts for calculating such emissions. The proposed determination does not speak to whether any of these data elements may qualify as "emission data" in any other contexts described above.

With respect to the 11 categories of supplier data, EPA proposes to determine that *none* of these data qualify as emission data. EPA interprets 2.301(a)(2)(i) to define "emission data" as information relative to emissions emitted, or authorized to be emitted, by the reporting sources. The data to be reported by suppliers under Part 98 pertain to potential future GHG emissions from the eventual use of the suppliers' products, not emissions from these suppliers' facilities. Therefore, these data do not meet the definition of emission data at 40 CFR 2.301(a)(2)(i).

For Part 98 data that are not considered "emission data" in today's proposal, EPA proposes to determine, by category, whether such data qualify as CBI under CAA section 114(c). In making the CBI determination, EPA considered the confidentiality determination criteria at 40 CFR 2.208, which are as follows:

Determinations issued under §§ 2.204 through 2.207 shall hold that business information is entitled to confidential treatment for the benefit of a particular business if:

(a) The business has asserted a business confidentiality claim which has not expired by its terms, nor been waived nor withdrawn;

(b) The business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures;

(c) The information is not, and has not been, reasonably obtainable without the business's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding);

(d) No statute specifically requires disclosure of the information; and

(e) Either:

(1) The business has satisfactorily shown that disclosure of the information is likely to cause substantial harm to the business's competitive position; or

(2) The information is voluntarily submitted information (*see* § 2.201(i)), and its disclosure would be likely to impair the Government's ability to obtain necessary information in the future.

Because EPA proposes to determine the CBI status of Part 98 data in advance of their submission, EPA assumes in this proposal that the data meet the criteria at 40 CFR 2.208(a) and (b). Specifically, EPA assumes that the reporting facilities have asserted confidentiality claims. EPA further assumes that the reporting facilities are taking and will continue to take reasonable measures to protect the data. The data elements at issue also meet the criterion at 40 CFR 2.208(d). As discussed above, EPA proposes to determine that these data elements are not "emission data" (which must be disclosed under CAA section 114(c)), and EPA is not aware of any other statute requiring their disclosure. With the assumptions/findings described above, EPA evaluated whether the remaining criteria at 40 CFR 2.208 are met. Specifically, EPA focused on whether release of the data is likely to cause substantial harm to the business's competitive position. *See* 40 CFR 2.208(e)(1). EPA also considered whether the data are already publicly available or reasonably obtainable by a non-governmental entity. *See* 40 CFR 2.208(c). EPA proposes to determine that the data in a given category are not CBI (or are "non-CBI") under CAA section 114(c) if the data fail to satisfy either of the remaining criteria (*i.e.,* 40 CFR 2.208(c) and (e)). If EPA finds that the data in a given category meet the remaining criteria at 40 CFR 2.208, EPA proposes to determine that such data are CBI under CAA section 114(c).

Data that are determined to be non-CBI must be disclosed to the public under CAA section 114(c). Data that are determined to be CBI will be entitled to confidential treatment as long as the data continue to meet all of the criteria at 40 CFR 2.208.

EPA is seeking comment generally on its proposed interpretation of the term "emission data", to include data that are required to perform emission calculations specified in the direct emitter subparts, as used in the statute and as defined in EPA's regulations at 40 CFR 2.301. For example, would a narrower interpretation of the regulatory definition of "emission data", that does not include all inputs to equations, be appropriate as a legal and policy matter? When commenting on this issue, please (i) provide a description of what the narrower interpretation should be, (ii) explain why the narrower interpretation would be reasonable as well as why it would be sufficient for purposes of Part 98 and/or any other CAA programs, (iii) describe how it would fit within the regulatory definition, and (iv) discuss how it would be consistent with prior interpretations or implementation of that term [4] as well as the statutory goal behind the CAA section 114(c) language. More specifically, please suggest exactly what Part 98 data you think should be considered emission data, describe what Part 98 data you think should not be emission data and why (and whether such non-emission data are CBI and why), and clearly explain how a narrower definition of "emission data" would be consistent with the "necessary to determine" clause in 40 CFR 2.301, as well as with the purpose behind the statutory language.

EPA is also seeking comment on whether a broader interpretation of "emission data" would be appropriate for Part 98 and asks that the same information discussed above be provided in any such comments (*e.g.,* clear description of broader interpretation, explanation of what additional data should be considered to be "emission data", discussion of how the revised interpretation is consistent with the regulations and statute, *etc.*).

D. Rationale for Making Confidentiality Determinations Through This Action

In accordance with 40 CFR part 2, subpart B, EPA generally makes case-by-case confidentiality determinations on submitted data when an entity submitting data makes a claim of

[4] For example, in a 1991 **Federal Register** notice, EPA described certain information that it would consider emission data under CAA section 114 (56 FR 7042, February 21, 1991).

confidentiality. Under CAA section 114(c), reporters can make confidentiality claims only for data that does not meet the definition of "emission data" in 40 CFR 2.301(a)(2)(i).

EPA considered case-by-case determinations for Part 98 data and concluded that case-by-case confidentiality determinations would likely result in significant delays in making Part 98 data available for use by the public and policy makers. With over 1,500 individual data elements and more than 10,000 individual reporters, the amount of data to be reported under Part 98 is considerable. The data elements reported under the rule are detailed in nature, and many of them are likely to be considered sensitive by reporting industries. For each case-by-case determination, reporters would have to identify and claim specific reported data elements as confidential and provide written justification supporting their confidentiality claim. EPA would then need to evaluate each confidentiality claim individually to determine first whether the information is "emission data" under CAA section 114(c) and thus required to be made available. If the data element is not emission data, EPA would next evaluate the data based on the criteria at 40 CFR 2.208, including whether the information is already publicly available or obtainable without the business's consent, whether the submitter has taken steps to protect the data, and whether releasing the data is likely to cause substantial harm to the business's competitive position. This procedure would need to be done for each data element that each reporter claims is confidential. This would be extremely time consuming for the reporter who has to prepare the confidentiality claim. Further, considering the number of reporters and the amount of data to be reported under Part 98, EPA would likely receive a very large number of individual confidentiality claims for a wide variety of data elements. In light of the large volume of confidentiality claims EPA expects to receive and the time it would take to evaluate each confidentiality claim, EPA would not be able to make Part 98 data available to the public in a timely manner, which would impact the usefulness of the data to the public, State and local governments, and other stakeholders who need the data to assess and formulate GHG policies and programs.

EPA also believes case-by-case determinations on an entity-specific basis would be unnecessarily burdensome for reporters. As mentioned above, reporters would have to identify and claim as confidential each data element, even if similar data (or same data from a previous year) have been previously submitted and claimed as confidential. The confidentiality claims for data submitted as part of the annual report would have to be reevaluated each year. As explained in greater detail in Section I.C of this preamble, EPA has grouped similar data elements into data categories and evaluated the data elements within each data category using the same criteria used to evaluate case-by-case confidentiality claims. We are proposing on category basis which data elements would or would not be entitled to confidential treatment. By making confidentiality determinations prior to data reporting through this proposal and rulemaking process, potential reporters are able to submit comments identifying data they consider sensitive and provide the rationales and supporting documentation they would otherwise submit for case-by-case confidentiality determinations. EPA will consider all comments received on this proposal and will evaluate claims of confidentiality before finalizing the proposed confidentiality determinations.

In the development of this proposal, EPA evaluated the process that the Toxics Release Inventory (TRI) program uses to determine whether data elements are entitled to confidential treatment. Per Emergency Planning and Community Right to Know Act (EPCRA) regulations codified at 40 CFR part 350, only one data element, the specific chemical name, can be claimed as a trade secret. TRI reporters claiming the chemical name as a trade secret must check a box on the reporting form and also complete a justification form, which is evaluated on a case-by-case basis by EPA. Typically, less than 20 TRI reporters in a year submit claims that the chemical name is a trade secret. Although the number of reporters in the TRI program (approximately 22,000) is on the same order of magnitude as the number of reporters under Part 98, EPA expects that the number of reporters requesting data be considered CBI, as well as the number of data elements reporters would request be considered CBI would be much higher under Part 98. For the reasons stated above, EPA proposes to determine upfront the confidentiality status of Part 98 data.

Although EPA has concluded that case-by-case determinations would result in a delay in the release of data, we are soliciting comment on whether (and if so, what) unique circumstances may arise for a reporting facility, after finalization of the confidentiality status of the Part 98 data, that would warrant the need for EPA to reconsider a final non-CBI determination applicable to certain Part 98 data from that facility. In providing your comments, please explain the types of unique circumstances that may arise, the types of Part 98 data elements that may be affected, and how such circumstances would qualify the affected Part 98 data as CBI. We further solicit comments on whether there should be a limited, less cumbersome process for reconsidering any of our final non-CBI determinations under those unique circumstances, what kind of process would facilitate such reconsideration, and how we limit such a process to only those cases that warrant such reconsideration. If respondents believe that such a process is necessary, please describe specifics of the proposed process as well as the appropriate criteria (*e.g.,* the type of facility, the type of data, and the specific technical reason for release of the data, *etc.*) that would have to be met in order to enable the use of such a process.

E. Proposed Rule Amendment Addressing Treatment of Part 98 Data Elements

As previously discussed, pursuant to CAA section 114(c), EPA must make available to the public data submitted under Part 98, except for data (other than emission data) that are considered confidential under CAA section 114(c). Accordingly, EPA intends to release Part 98 data after their submission to EPA in accordance with EPA's determinations of their confidentiality status in a final rule. Specifically, EPA intends to release Part 98 data that are determined in the final rule to be emission data or not otherwise entitled to confidential treatment under CAA section 114(c) (*i.e.,* "non-CBI"). EPA intends to make much of such data available to the public through an EPA Web site. Data elements that we determine to be CBI under CAA section 114(c) would be published on the Web site only if they can be aggregated in a manner that would protect the confidentiality of these data elements (*e.g.,* production data determined to be CBI that is aggregated by source category).

40 CFR part 2, subpart B sets forth procedural steps that EPA must follow before releasing any information either on the Agency's own initiative or in response to requests made pursuant to FOIA. In particular, EPA is generally required to make case-by-case confidentiality determinations and to notify individual reporting businesses before disclosing information that businesses have submitted with a confidentiality claim. As discussed in Section I.D of this preamble, in light of

the voluminous data EPA will receive under Part 98 and the multiple procedural steps required under 40 CFR part 2, subpart B, EPA would not be able to make Part 98 data (determined to be emission data or non-CBI) publicly available in a timely fashion, *i.e.,* in order to make such data informative to the public and/or useful to the State regulators and local governments in formulating their own GHG policies, if it were required to make separate CBI determinations based on each submitter's individual claim of confidentiality.

To facilitate timely release of GHG data collected under Part 98 that are emission data or non-CBI, EPA proposes to amend 40 CFR 2.301, *Special rules governing certain information obtained under the Clean Air Act.* The proposed amendments pertain only to Part 98. Under the proposed amendment, EPA may release Part 98 data that are determined to be emission data or non-CBI upon finalizing the confidentiality status of these data. Consistent with the 40 CFR part 2 procedures, this rulemaking provides the reporting businesses an opportunity to justify any confidentiality claim they may have for the data they are required to submit (except for emission data which are not entitled to confidential treatment). In addition, businesses have the benefit of seeing EPA's rationales and analyses prior to submitting any justification, information that they would not otherwise have under the current 40 CFR part 2 procedures. EPA will consider comments received on this proposal before finalizing the confidentiality determinations.

The proposed amendment also sets forth procedures for treatment of information in Part 98 determined to be CBI. The proposed procedures are similar to or consistent with the existing 40 CFR part 2 procedures.

EPA solicits comment on the proposed amendments to 40 CFR 2.301, *Special rules governing certain information obtained under the CAA.*

F. Other Relevant Background

This section briefly describes existing policies and practices regarding "emission data" and the release of data obtained under CAA section 114.

February 21, 1991 notice of policy on public release of certain data elements submitted under CAA sections 110 and 114. In a 1991 EPA notice of policy (35 FR 7042, February 21, 1991), EPA stated that certain data fields constitute "emission data" and therefore cannot be withheld as confidential. The 1991 notice indicated that while confidentiality determinations are typically made on a case-by-case basis, some kinds of data will always constitute emission data within the meaning of CAA section 114(c). The notice listed several data fields that are to be considered emission data including facility identification data (*e.g.,* facility name; address; ownership; Standard Industrial Classification (SIC); emission point, device or operation description information) and emission parameters (*e.g.,* compounds emitted; origin of emissions; emission rate, concentration, release parameters, boiler or process design capacity, emission estimation method). The notice clarified that the list in the notice was not exhaustive and that other data might be found, in a proper case, to constitute emission data.

The National Emissions Inventory (NEI) is EPA's compilation of estimates of air pollutants discharged on an annual basis and their sources. The compilation includes emissions estimates submitted by State, Local and Tribal air pollution control agencies, estimates calculated by EPA, and emissions obtained from other sources. NEI does not collect data directly from facilities; rather it gets facility-level data from the States. Based on the 1991 notice, NEI considers everything they receive to be emission data, and therefore publishes all of the information that it receives.

Many of the data elements under Part 98 are the same as or similar to the data fields listed in the 1991 notice as "emission data". However, there are many data elements under Part 98 that are not addressed in EPA's 1991 notice. As described above, today's action addresses all data elements reported under Part 98.[5]

Acid Rain Program. The Acid Rain program releases to the public data similar to the data collected under Part 98. Under the Acid Rain program, facilities are required to submit quarterly reports that contain data on CO_2 emissions, as well as the data used to identify emission units and calculate the CO_2 emissions. For the Acid Rain program, the CO_2 emissions are determined using either Continuous Emissions Monitoring Systems (CEMS) or alternative methods specified in the rule (*e.g.,* 40 CFR part 75, appendix G methods and the method used to calculate CO_2 emissions by facilities with low mass emissions).

Data submitted to the Acid Rain program include facility identification information, CO_2 mass emission data, data elements used to calculate annual CO_2 emissions, combustion unit characteristics, and measurement methodologies (*e.g.,* hourly load, operating time, hourly heat input rate, unit output or steam load, fuel type, fuel quantity, fuel heating value, control status of the unit, methods used to measure or calculate CO_2 emissions or other parameters such as fuel flow and heat input). These are posted for the public on EPA's Acid Rain Web site (*http://www.epa.gov/acidrain*).

The Acid Rain program allows facilities to make confidentiality claims for data that are not "emission data" (*see* 40 CFR 75.60(c)). Although facilities subject to the Acid Rain program are allowed to assert claims of data confidentiality for data that are not emission data, to date no such representations have been received and all of the data submitted to EPA are made available to the public.

In the Acid Rain program, public release of these data ensures transparency and public confidence in the program. Since many of the data fields required by the Acid Rain program are the same or similar to the data elements to be reported by direct-emitting facilities subject to Part 98, EPA finds that public release of Part 98 data that are emission data or non-CBI would likewise ensure transparency and promote public confidence in the accuracy and completeness of the data reported under Part 98. However, EPA recognizes that Part 98 differs from the Acid Rain Program in the scope of industries required to report. For example, EPA recognizes that electricity producers may be inherently less concerned about the disclosure of reported data than other industries reporting under Part 98 because they are publicly regulated utilities and detailed data on their process, production, and pricing structure are already in the public domain. Therefore, EPA is proposing to determine that some data elements reported under Part 98 remain CBI (*e.g.,* production data reported by industrial facilities in cases where production data is not needed to calculate GHG emissions) even though similar data elements for the utility industry are publicly available.

[5] The only exception is supporting documentation provided by applicants for approval of alternative methods for adipic acid and nitric acid facilities. EPA recognizes that supporting documentation included in these applications may include information that is sensitive or proprietary, such as detailed process designs or site plans. Because the exact nature of this documentation cannot be predicted with certainty, EPA proposes to make case-by-case confidentiality determinations under CAA section 114(c) for any supporting documentation claimed confidential by applicants either upon receipt of such information or upon a request for such information after receipt.

G. Public Comments on the Proposed Mandatory GHG Reporting Rule

In response to the April 10, 2009 proposed rule (74 FR 16448), EPA received a number of comments on whether data collected under Part 98 should be afforded confidential treatment. Comments on this topic were received from a wide range of interested parties, including industry, State and local governments, private citizens, environmental organizations, and other nongovernment organizations. The comments received can be classified into two broad categories: those supporting the release of as much data as possible; and those opposed to releasing one or more of the reported data elements. A summary of the comments is provided in this section of the preamble. For additional information, *see* the memorandum "Summary of Comments on the Release of Reported Data Submitted in Response to EPA's Request for Comments on the Proposed Mandatory Greenhouse Gas Reporting Rule" Published April 10, 2009 in Docket EPA–HQ–OAR–2009–0924.

EPA is not responding further to public comments related to the confidentiality of data elements received on the proposed GHG reporting rule. Today's action proposes confidentiality determinations and solicits additional public comments. Public comments received will be addressed in the final action and associated response to comments documents.

Comments Supporting Release of Reported Data. States, local government, environmental groups, and private citizens generally supported the release of reported data. Many commenters stated that reported data should be made broadly available to the public and other government agencies (including State and local government). Some argued that all of the information gathered under Part 98 should be "emission data" and hence not entitled to confidential treatment. Many commenters cited strong public interest in both the emissions and verification data as their reason for recommending the broad dissemination of data. Some commenters also stated that making the data broadly available would be consistent with the President's and EPA Administrator's commitment to transparency and public access to government information. Several commenters stated that release of detailed emission data would be useful to State regulators and local governments because the data would inform future policies and assist with the implementation GHG emission reduction plans. Some commenters also noted that the release of emission data would be consistent with other programs, such as the Acid Rain program and the European Union Emissions Trading System.

Comments Opposing the Release of Reported Data. Many businesses and industry organizations opposed making the reported data broadly available to the public. Several expressed concern that Part 98 did not address the confidentiality of the reported data. Many commenters submitted general statements that confidential data should not be made public but did not specify which data elements should be afforded confidential treatment. Some commenters identified specific data elements that they considered confidential but did not explain why such data elements should be considered confidential. Some commenters explained in more detail their confidentiality claims. These comments are summarized below.

Some commenters argued that detailed process-related information, such as production throughputs, product characteristics, operating hours, raw material consumption, fuel usage, and unit descriptions, should be protected as confidential because its release would reveal information on energy usage, raw materials, product chemistry, production efficiency, and other information that would infringe on business confidentiality. These commenters argued that disclosing annual production and raw material quantities could reveal operational strengths and weaknesses, and could be used to deduce pricing structures. Several commenters also recommended that unit or process level emission data should be afforded confidential treatment because this data may be used in certain instances to determine other proprietary information about a facility, such as production or output rates, capacity, utilization rates, process efficiency, and the information on the type or design of a process. Other commenters argued that only facility-level emission data should be released and that all other data was entitled to confidential treatment because they did not view it as "emission data" as defined in 40 CFR part 2.

Several commenters were in favor of classifying supplier data, in particular product quantities and characteristics, as confidential. One commenter noted that public disclosure of production quantities and product characteristics would divulge sensitive information related to marketing and distribution of products, as well as competitive strategies of a company. Another commenter claimed that public disclosure of supplier data may prevent off-shore suppliers and customers from doing business with U.S.-based companies if sensitive information were not held to be confidential.

As mentioned above, EPA stated in the preamble to the final rule that it would determine the confidentiality status of the data elements to be collected under Part 98 through a notice and comment process. Today's action proposes for public comment confidentiality determinations to be made for data elements that are codified in Part 98. Today's action also includes an amendment to 40 CFR 2.301 to clarify the procedures for the treatment of Part 98 data in accordance with the final confidentiality determination of such data.

II. Proposed Emission Data and Confidentiality Determinations for Data Required by the Mandatory GHG Reporting Rule in Part 98

A. Overview

This action describes the 22 data categories EPA has developed for all of the data to be reported under Part 98 and EPA's proposed determination by category. As mentioned in previous sections of this preamble, because Part 98 has over 1,500 data elements and has several different subparts with similar types of data elements, EPA grouped similar data elements together into data categories, with 11 distinct data categories for the direct emitter source categories and 11 for supplier source categories. The data elements within a given data category are similar from a technical standpoint, with some exceptions explained in the descriptions of each data category in Sections II.C and II.D of this preamble. A list of all the data elements assigned to each category is provided in a memorandum (*see* Memorandum "Data Category Assignments for Reporting Elements" in Docket EPA–HQ–OAR–2009–0924 and the Web site (*http://www.epa.gov/climatechange/emissions/ghgrulemaking.html*). For the explanation of the approach taken by EPA to determine which data elements within each data category are entitled to confidential treatment, *see* Section I.C of this preamble.

In addition to reporting facility GHG emissions (or supplier GHG quantities that would or could potentially be emitted when the products they supply are used), Part 98 requires reporting of a wide range of other facility and process-specific data. Most of this data are required primarily to enable

emissions verification. The information is also needed to support analysis of GHG emissions for future CAA policy and program development, including programs that could affect direct emitters or suppliers. For example, the required information would be helpful to policy makers in understanding the specific sources of emissions and the amounts emitted by each unit/process. The information is also important for understanding the effect of different processes, fuels, and feedstocks on emissions.

B. Request for Comments

Today's action provides affected businesses subject to Part 98, other stakeholders, and the general public an opportunity to provide comment on the proposed confidentiality determination of Part 98 data and the proposed amendment to 40 CFR 2.301. In addition to soliciting comment on our proposed amendments to 40 CFR 2.301 and proposed confidentiality designations, we are also soliciting comment on the following specific issues relevant to the proposed confidentiality determinations:

Data Categories. As discussed above, EPA has categorized individual data elements into 22 data categories (*i.e.,* 11 for direct emitters and 11 for suppliers) and has made confidentiality determinations for each data category. While we consider this approach to be reasonable given the number of data elements and the technical similarity among data elements across subparts, EPA is interested in stakeholder views on this approach. In particular, EPA is soliciting comment on whether grouping data elements into data categories, and making a confidentiality determination by data category is a reasonable approach and whether the proposed data categories are sufficient for this purpose. Specifically, we request comments on whether the 22 data categories described in this action are appropriately delineated and whether the data elements within each category are sufficiently similar to allow confidentiality determinations to be made on a data category basis, or whether some data categories should be combined or broadened. In commenting on these topics, please identify the specific data categories that should be narrowed or broadened, provide suggestions for how this might be done, and provide specific reasons and examples of why such an approach is necessary.

Recognizing that transparency is a key priority, we are also requesting comments on whether it may be necessary to make source category-specific confidentiality determinations within any of the proposed data categories. This would allow either a narrower or broader release of the data depending on the source category in order to enable the release of as much data as possible. Each of the data categories discussed in this action contains data elements from multiple source categories (subparts). For most data categories, a single confidentiality determination is proposed for the entire data category. However, for some of the supplier data categories (*i.e.,* the GHGs Reported Category, the Production Throughput Quantities and Composition Data Category, and the Unit/Process Operating Characteristics Category), we are proposing to determine that some data elements within a data category are entitled to confidential treatment and others within the same category are not. For example, in the supplier data category for Production and Throughput Data, EPA is proposing that throughput data reported by NGL fractionators would be entitled to confidential treatment, but throughput data reported by Local Distribution Companies (LDCs) would not be entitled to confidential treatment because this data is already publicly available. We are soliciting comments on whether, for any other data categories, there are unique circumstances within particular source categories (rule subparts) that would warrant making subpart-specific confidentiality determinations within categories beyond what is proposed in this action. If so, please explain what specific technical, economic, or market considerations within a particular source category (*e.g.,* within a particular industry) warrant a source category (rule subpart) specific decision on confidentiality.

As discussed in Section I.D of this preamble, we are also soliciting comment on whether (and if so, what) unique circumstances may arise for a reporting facility, after finalization of the confidentiality status of the Part 98 data, that would warrant the need for EPA to reconsider a final non-CBI determination applicable to certain Part 98 data from that facility. In providing your comments, please explain the types of unique circumstances that may arise, the types of Part 98 data elements that may be affected, and how such circumstances would qualify the affected Part 98 data as CBI. We further solicit comments on whether there should be a limited, less cumbersome process for reconsidering any of our final non-CBI determinations under those unique circumstances, what kind of process would facilitate such reconsideration, and how we limit such a process to only those cases that warrant such reconsideration. If respondents believe that such a process is necessary, please describe specifics of the proposed process as well as the appropriate criteria (*e.g.,* the type of facility, the type of data, and the specific technical reason for release of the data, *etc.*) that would have to be met in order to enable the use of such a process.

"*Emission Data*" *Determination.* As previously discussed in Section I.C of this preamble, EPA proposes to determine as "emission data" data required to perform the emissions calculations for direct emitters specified in Part 98 because these inputs to GHG emission equations are "necessary to determine the identity, amount * * *" of emissions and are therefore "emission data" under the meaning of 40 CFR 2.301(a)(2)(i). The Inputs to Emission Equations Category for direct emitters includes all data elements that are inputs to equations; and for some source categories this includes data such as production and raw material quantities and compositions that may be considered sensitive by businesses. (*See* Section II.C of this preamble for a description of the Inputs to Emission Equations data category.) As previously discussed, "emission data" cannot be kept confidential per CAA section 114.

EPA is seeking comment generally on its proposed interpretation of the term "emission data", to include data that are required to perform emission calculations specified in the direct emitter subparts, as used in the statute and as defined in EPA's regulations at 40 CFR 2.301. For example, would a narrower interpretation of the regulatory definition of "emission data", that does not include all inputs to equations, be appropriate as a legal and policy matter? When commenting on this issue, please (i) provide a description of what the narrower interpretation should be, (ii) explain why the narrower interpretation would be reasonable as well as why it would be sufficient for purposes of Part 98 and/or any other CAA programs, (iii) describe how it would fit within the regulatory definition, and (iv) discuss how it would be consistent with prior interpretations or implementation of that term [6] as well as the statutory goal behind the CAA section 114(c) language. More specifically, please specify exactly what Part 98 data you

[6] For example, in a 1991 **Federal Register** notice, EPA described certain information that it would consider emission data under CAA section 114 (56 FR 7042, February 21, 1991).

think should be considered emission data, describe what Part 98 data you think should not be emission data and why (and whether such non-emission data are CBI and why), and clearly explain how a narrower definition of "emission data" would be consistent with the "necessary to determine" clause in 40 CFR 2.301, as well as with the purpose behind the statutory language.

EPA is also seeking comment on whether a *broader* interpretation of "emission data" would be appropriate for Part 98 and asks that the same information discussed above be provided in any such comments (*e.g.,* clear description of broader interpretation, explanation of what additional data should be considered to be "emission data", discussion of how the revised interpretation is consistent with the regulations and statute, *etc*).

Delay Release of Emission Data and Data Not Entitled To Confidential Treatment. Under Part 98, reports are due by March 31st for the previous year's data. The Agency considered options of delaying release of some data for a given period of time (*e.g.,* one to three years rather than releasing immediately after verification) as a means to address potential industry concerns over release of data. One option EPA considered is delaying the publication (*i.e.,* posting on the Web site) of some data elements that are proposed in this action to be released. Recognizing that the Inputs to Emission Equations Data Category may contain data elements that are considered sensitive by many businesses (*see* Section II.C of this preamble for a description of the data elements included in this data category), EPA considered whether delaying publication of the data in this and possibly other data categories by a given time period would ease businesses' concerns regarding the release of this data. (The data might be less sensitive and less likely to cause harm if it were to be released at a later date, when it would be less current). However, even if EPA does not automatically release Part 98 data that are determined to be emission data or non-CBI but are nonetheless considered by the businesses to be sensitive data, that data would still be subject to FOIA request. Therefore, per FOIA regulations and consistent with EPA's final confidentiality determination, emission data and non-CBI would be released. For the reason stated above, EPA believes that this option does not resolve the industry's concern and only unnecessarily delays release of information that must be made public pursuant to CAA section 114(c).

EPA also considered delaying the final confidentiality determination by one year. However, as in the previous scenario, EPA would still be subject to FOIA requests during the one year period before issuing the final confidentiality determination. Once the case-by-case decisions are made through the FOIA process, data that are determined to be not entitled to confidential treatment would be released pursuant to EPA's CBI regulations. Given the number of data elements and reporters covered by Part 98, the intent of this proposed action is to avoid these case-by-base decisions. In addition, this approach would have no effect on data submitted in the years subsequent to the first year of reporting.

For these reasons, EPA concluded that delaying publication of potentially sensitive data or delaying our final confidentiality determination would not ease businesses' concerns regarding the release of reported data. While we believe that neither of these approaches is a viable option, EPA solicits comment on whether delaying publication of certain data elements would ease business concerns and whether there are any alternative approaches that would allay such concerns while enabling us to meet our obligations under FOIA and CAA.

Duration of Confidentiality Treatment. In the interest of transparency and consistency with the practice of other EPA programs' release of all data (*e.g.,* Acid Rain Program), EPA solicits comment on whether, for data reporting elements that are proposed today to be entitled to confidential treatment, the confidential treatment of such data should be time limited (*i.e.,* whether these items could be released without causing substantial harm to business after a certain period of time). If stakeholders believe that data elements that are proposed to be entitled to confidential treatment could eventually be released without causing substantial harm to business, please specify which data elements fall into this group, the amount of time delay that would be required prior to release, and the reason for the change in the proprietary nature of the data element.

C. Direct Emitting Facilities

Direct emitting facilities are those facilities subject to Part 98 that directly emit GHGs to the atmosphere. They include stationary fuel combustion sources that meet the criteria in 40 CFR 98.2(a)(3)) and facilities containing any of the source categories listed in 40 CFR 98.2(a)(1) and (a)(2) (including source categories proposed on April 12, 2010). This section of the preamble covers all of the data elements required to be reported for these source categories (subparts) and certain data elements in proposed amendments to Part 98. This section also covers certain data elements from proposed 40 CFR part 98, subpart RR (Injection and Geological Sequestration of CO_2) that are related to emissions to the atmosphere from reporting facilities (*i.e.,* emissions from surface equipment and from the leakage of CO_2 from geologic sequestration[7]). All remaining data elements for 40 CFR part 98, subpart RR are covered in Section II.D of this preamble because they are not related to direct emissions.

In addition to data elements reported in the annual GHG reports, this section includes data elements in applications from adipic acid and nitric acid producers for approval of alternative methods (excluding supporting documentation[8]) and BAMM extension requests. EPA has categorized each data element into one of 11 data categories. This section describes the data elements within each of the 11 data categories and proposes whether the data in each category will be treated as confidential.

1. Data Categories

The data categories for "direct emitting" facilities are as follows and are further described in Sections II.C.2 through II.C.12 of this preamble:

- Facility and unit identifier information.
- Emissions.
- Inputs to emission equations.
- Calculation methodology and methodological tier.
- Data elements reported for periods of missing data that are not inputs to emission equations).
- Unit/process "static" characteristics that are not inputs to emission equations.
- Unit/process operating characteristics that are not inputs to emission equations.
- Test and calibration methods.
- Production/throughput data that are not inputs to emission equations.
- Raw materials consumed that are not inputs to emission equations.

[7] Leakage is defined in proposed subpart RR as the movement of CO_2 from the injection zone to the surface (for example to the atmosphere, indoor air, oceans or surface water) (*see* 75 FR 18576, April 12, 2010).

[8] EPA recognizes that supporting documentation included in applications for approval of alternative methods from adipic acid and nitric acid producers may include information that is sensitive or proprietary, such as detailed process designs or site plans. Because the exact nature of this documentation cannot be predicted with certainty, EPA proposes to make case-by-case confidentiality determinations under CAA section 114(c) for any supporting documentation claimed confidential by applicants either upon receipt of such information or upon a request for such information after receipt.

• Process-Specific and Vendor Data Submitted in BAMM Extension Requests.

Sections II.C.2 through II.C.12 of this preamble describe the proposed determination for each of the 11 data categories for direct emitting facilities and provide the rationale for EPA's proposed determination. A list of all the data elements assigned to each category is provided in a memorandum (*see* Memorandum "Data Category Assignments for Reporting Elements to be Reported under 40 CFR Part 98 and its Amendments" in Docket EPA–HQ–OAR–2009–0924 and the Web site (*http://www.epa.gov/climatechange/emissions/CBI.html*.

2. The Facility and Unit Identifier Information Category

EPA proposes to determine that facility and unit identifiers are "emission data" under 40 CFR 2.301(a)(2)(i).

Description of data elements. Part 98 requires sources to report information needed to identify each facility and emission unit subject to reporting. Facility identifying information must be reported by all facilities as specified in 40 CFR part 98, subpart A. Unit-specific identifying information is reported if required by an applicable source category subpart. Unit-specific identifying information is required in those subparts that require emissions to be calculated on a unit-by-unit basis. For these source categories, unit-specific data are needed to calculate emissions using the procedures in Part 98, so the unit associated with the emissions must be identified.

Data elements in this category include the following data elements required under 40 CFR part 98, subpart A to be included in each annual report: Facility name and physical street address, including the city, State, and zip code; the year and months covered by the report; the date of submittal of the report; and a signed and dated certification statement of the accuracy and completeness of the report, which is provided by the designated representative of the owner or operator. Also included are data elements from the proposed amendments to the reporting requirements in 40 CFR part 98, subpart A (75 FR 18455, April 12, 2010). These data elements include: U.S. parent company(s), percentage ownership of each parent company, and all applicable NAICS codes.

The data elements in this category also include the information required by individual subparts of Part 98 for identifying each emission unit for which emissions must be reported, including, an emission unit or group identification number and the type of unit (*e.g.,* cement kiln, electric arc furnace, glass production furnace, lead smelting furnace, engine, turbine, boiler, process heater).

This data category also includes facility and unit identification information submitted to EPA in applications from adipic acid and nitric acid facilities for approval of alternative methods (applicable to 40 CFR part 98, subparts E and V only) and BAMM extension requests. These data elements include: The facility name and physical address; identification numbers for emission units, common exhaust stacks, and common pipelines; number and type of units; and descriptions of monitoring equipment.

Rationale for Proposed Determination. As discussed in Section I.C of this preamble, emission data must be available to the public and is not entitled to confidential treatment under CAA section 114(c). "Emission data" is defined in 40 CFR 2.301(a)(2)(i)(A) to include, among other things, "information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source* * *" EPA considers the term "identity * * * of any emission" as not simply referring only to the names of the pollutants being emitted, but to also include other identifying information, such as from what and where (*e.g.,* the identity of the emission unit) the pollutants are being emitted. Further, 40 CFR 2.301(a)(2)(i)(C) specifies that emission data includes "[a] general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources* * *". Consistent with the definition of emission data described above, EPA considers facility and emission unit identifiers to be source information or "information necessary to determine the identity * * * of any emission which has been emitted by the source," and therefore emission data under 40 CFR 2.301(a)(2)(i).

The 1991 EPA notice of policy (discussed in Section I.F of this preamble) provided a list of data fields that EPA considered to be emission data. For example, in the 1991 notice, EPA considered that plant name, address, city, State, zip code, emission point or device description, SIC code, and Source Classification Code (SCC) are emission data. Therefore, the public has been on notice that EPA considers many of the data elements in this data category to be emission data and thus not entitled to confidential treatment. The 1991 notice also makes clear that the list of data is not comprehensive and that other data might be found to constitute emission data.

Summary. EPA is proposing to determine that data elements in the Facility and Unit Identifier Information Category are "emission data" as defined in 40 CFR 2.301(a)(2)(i). Under CAA section 114(c), emission data cannot be held confidential and must be available to the public. EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

3. The Emissions Category

EPA proposes to determine that the GHG emissions to be reported by direct emitters are "emission data" under 40 CFR 2.301(a)(2)(i).

Description of data elements. Data elements included in this data category are the GHG emissions to be reported by direct emitters under Part 98. Under 40 CFR part 98, subpart A, all direct emitters must report annual CO_2e emissions and must also report emissions by GHG and source category. In addition, certain direct emitters are required to report GHG emissions in more detail as specified in the applicable source categories subparts in Part 98. Each of these subparts lists the specific GHGs to be reported for a particular source category and whether facility emissions are reported only at the source-category level or separately for each process, manufacturing line, or emission unit within a source category. In general, emissions are reported at the same level of detail in which they are calculated or measured. If emissions are calculated or measured for individual emission units, they are also reported for individual units. In some cases, emissions are calculated or measured, and reported, for a group of units that share a common fuel supply line or a common stack. For some source categories, facilities calculate and report only their total emissions from the source category based on an overall mass balance, rather than calculating and reporting emissions by process line or unit.

Provided below are some examples of the data elements in the Emissions Category:

• CO_2, CH_4, and N_2O emissions from each stationary combustion unit (40 CFR part 98, subpart C).

• Process N_2O emissions from adipic acid production (40 CFR part 98, subpart E).

• Process CO_2 and N_2O emissions from each electric arc furnace at a ferroalloy production facility (40 CFR part 98, subpart K).

• Process CO_2 emissions from each glass furnace and all furnaces combined at a glass manufacturing facility (40 CFR part 98, subpart N).

• Process CO_2 emissions from each soda ash manufacturing line at soda ash manufacturing plants (40 CFR part 98, subpart CC).

For each facility, GHG emissions are reported at the facility level, the subpart level, and, in many cases, the emission unit or process level. For example, petroleum refineries will report GHG emissions under 40 CFR part 98, subpart A and under 40 CFR part 98, subpart Y at the following separate levels:

• Annual CO_2e emissions (excluding biogenic CO_2) aggregated for all GHG from all applicable source categories (*i.e.,* one value for the whole facility).

• Annual emissions of biogenic CO_2 aggregated for all applicable source categories (*i.e.,* one value for the whole facility).

• CO_2, CH_4, and N_2O coke burn-off emissions from each catalytic cracking unit, fluid coking unit, and catalytic reforming unit.

• CO_2 emissions from sour gas sent off site for sulfur recovery operations.

• CO_2 process emissions from each on-site sulfur recovery plant.

• CO_2, CH_4, and N_2O emissions from each coke calcining unit.

• CO_2 and CH_4 emissions from asphalt blowing operations.

• CH_4 emissions from equipment leaks, storage tanks, loading operations, delayed coking units, and uncontrolled blowdown systems.

• CO_2, CH_4, and N_2O emissions from each process vent not specifically covered above.

• CO_2 and CH_4 emissions from non-merchant hydrogen production.

Rationale for Proposed Determination. EPA proposes to determine that the emissions at each reporting level constitute "emission data." "Emission data" is defined in 40 CFR 2.301(a)(2) as "information necessary to determine the identity, amount, frequency, concentration, * * * of any emission which has been emitted by the source * * *". As described above, the data elements in this category consist of all emissions to be reported under Part 98. These data elements are clearly information regarding the identity, amount, and frequency of any emission emitted by the reporting direct emitters and, therefore, they are "emission data."

As described above, EPA proposes that all emissions reported by direct emitters under Part 98, including emissions of each GHG at the levels required by the applicable rule subparts (*e.g.,* facility-level; by source category; and by process, process line, or unit), are "emission data." Facilities are also required to report GHG emissions in terms of CO_2e, which is also part of this data category, and is considered to be emission data. For those source categories where the methodology requires emissions to be calculated at a process line or unit level, the calculated emissions for each process line or unit are the identity and quantity emitted by the source and are "emission data" within the meaning of 40 CFR 2.301(a)(2). Likewise, emissions broken out by GHG are needed to determine the "identity" of the emissions and to calculate CO_2e. In summary, all reported emissions are "emission data."

As discussed in Section I.F of this preamble, in the 1991 EPA notice of policy (35 FR 7042, February 21, 1991), EPA identified, without attempting to be comprehensive, data elements that EPA considered to constitute emission data. The 1991 notice lists the "Emission type (*e.g.,* the nature of emissions, such as CO_2, particulate or a specific toxic compound, and origin of emissions such as process vents, storage tanks or equipment leaks)" and "Emission rate (*e.g.,* the amount released to the atmosphere over time such as kg/yr or lbs/yr)" as data that are not entitled to confidential treatment and are, therefore, releasable to the public. Our proposed determination for this data category is consistent with the 1991 notice, which considers that identity (*e.g.,* CO_2, N_2O, SF_6) and emission rate (*i.e.,* the amount emitted during a specified time period) are emission data and not entitled to confidential treatment.

Summary. EPA proposes to determine that the data elements in the Emissions Category are "emission data" as that term is defined at 40 CFR 2.301(a)(2)(i). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

4. The Inputs to Emission Equations Category

EPA proposes to determine that data elements in the Inputs to Emission Equations Category are "emission data" under 40 CFR 2.301(a)(2)(i).

Description of data elements. The data elements in this category consist of inputs to the equations specified in Part 98 for calculating emissions to be reported by direct emitters. Part 98 requires direct emitters to calculate annual mass emissions (metric tons per year) for each GHG. Specific calculation methods are contained in each direct emitting source category subpart.

Data elements included in this category are inputs to the emission equations used by the reporting direct emitting sources to calculate their annual GHG emissions under Part 98. Each subpart specifies the equations that must be used to calculate GHG emissions and the inputs to the equations that must be reported for a particular source category. Many of these subparts provide more than one calculation method for a process or unit and allow reporting facilities to select their preferred method from those provided. Therefore, the specific data elements to be reported depend on the source category and on the calculation method chosen.

All reported data elements that are inputs to a GHG emission calculation equation used by the reporting facilities are assigned to this category. Accordingly, this data category includes data elements such as raw materials consumed, unit/process characteristics, and production/throughput data that are used by a reporting facility as inputs to an emission equation. As discussed in Section II.C.1 of this preamble, there are separate data categories for raw materials consumed, unit/process characteristics, and production/throughput data that are not inputs to equations (either because they are not part of any emission calculation equations provided in Part 98 or the reporting facility chooses to use another calculation method that does not use these data as inputs).

Examples of data elements in the Input to Emissions Equations Category include the following:

• Fuel information used by reporting facilities as inputs to emissions equations, such as mass or volume of fuel combusted (per year), fuel type, molecular weight of gaseous fuels, high heat value, and quantity of biomass consumed (40 CFR part 98, subpart C).

• Control device information used by reporting facilities as inputs to emissions equations, such as the destruction efficiency (40 CFR part 98, subparts E and V), sorbent used in the reporting year (40 CFR part 98, subpart C), and abatement utilization factor (40 CFR part 98, subparts E and V).

• Production/throughput and raw material consumption information used by reporting facilities as inputs to emissions equations, including volume or mass of feedstock for source categories such as ammonia manufacturing (40 CFR part 98, subpart

G), hydrogen production (40 CFR part 98, subpart P), and petrochemical production (40 CFR part 98, subpart X); and volume or mass of product produced for source categories such as ferroalloy (40 CFR part 98, subpart K), lead (40 CFR part 98, subpart R), and zinc production (40 CFR part 98, subpart GG).

• Characteristics of raw materials, products, and by-products used by reporting facilities as inputs to emissions equations, such as the carbon content of petroleum coke used in silicon carbide production(40 CFR part 98, subpart BB), inorganic carbon content of trona or soda ash for soda ash manufacturing (40 CFR part 98, subpart CC), molecular weight of sorbent (40 CFR part 98, subpart C), molecular weight of raw materials (40 CFR part 98, subparts G and X), Calcium oxide and magnesium oxide content of clinker used in cement product (40 CFR part 98, subpart H), carbonate content of raw materials used in glass production (40 CFR part 98, subpart N), and hourly CO_2 concentration in liquid alkaline feedstock for soda ash manufacturing (40 CFR part 98, subpart CC).

• Operating information that are used by reporting facilities as inputs to emissions equations, such as hourly average CO_2 concentration in exhaust gases, hourly average stack gas volumetric flow rate, hourly moisture percentage in the stack gas, mass of steam generated by fuel combustion, and operating time (40 CFR part 98, subpart Y).

• Site-specific emission factors, used by reporting facilities as inputs to emissions equations, for source categories such as adipic acid production (40 CFR part 98, subpart E), nitric acid production (40 CFR part 98, subpart V), and iron and steel production (40 CFR part 98, subpart Q).

• Equipment or system specifications that are used by reporting facilities as inputs to emissions equations to calculate GHG emissions, such as the collection efficiency of landfill gas systems (40 CFR part 98, subpart HH).

Rationale for Proposed Determination. As discussed in Section I.C of this preamble, emission data must be available to the public and is not entitled to confidential treatment. "Emission data" is defined in 40 CFR 2.301(a)(2) as "information necessary to determine the identity, amount, frequency, concentration, * * * of any emission which has been emitted by the source * * *". Consistent with this definition of emission data, EPA considers inputs to emission equations to be "information necessary to determine * * * the amount" of any emission emitted by the source.

As explained above, many subparts allow the facility to select from two or more calculation methods. For example, many source category subparts allow companies to choose to calculate emissions by either (1) measuring gas flow rates and emissions concentrations with CEMS and using those data to calculate annual mass emissions, or (2) using emission calculation equations provided in the rule and site-specific input data needed to perform the calculation. However, once a facility selects a calculation method, then the equation becomes the only way for determining such emissions for the time period the selected calculation method is used.[9] Since the data inputs required by the selected equation are needed to perform the emission calculation, these inputs to the equation are information "necessary to determine" the calculated emissions.

Our proposed determination for this data category is consistent with the 1991 EPA notice of policy on emission data. Some of the data fields listed in the 1991 notice are the same as some of the data elements in this data category. For example, in the 1991 notice, EPA considered the emission rate, emission concentration, and emission density or molecular weight to be emission data and therefore releasable to the public.

Summary. EPA proposes to determine that the data elements in the Inputs to Emission Equations Category are "necessary to determine" the sources' emissions and are therefore "emission data" as defined in 40 CFR 2.301(a)(2)(i). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

Use of Continuous Monitoring Systems (CEMS). EPA notes that in many cases the use of CEMS reduces the number of data parameters required to be reported. Many subparts allow facilities to choose between using CEMS and using source-category specific GHG calculation procedures. This action proposes that for direct emitting facilities, inputs to emission calculation equations are "emission data" and would be released. However, if a facility chooses to use CEMS to determine CO_2 emissions from a particular process, then emissions are directly measured, and the facility would have no reported data elements that are inputs to CO_2 emission equations. For example, all ammonia production facilities must report the amount of feedstock used; however, under the proposed determinations, this data would be treated as confidential only for facilities using CEMS. For facilities that do not use CEMS, the feedstock data would not be eligible for confidential treatment since it is used as inputs to the mass balance equations provided in 40 CFR part 98, subpart G and would be considered "emission data".

In addition, facilities that use CEMS generally have to report fewer data elements than those using emission equations. For example, ammonia production facilities that do not use CEMS must report the carbon content, as well as the amount, of each feedstock used. Therefore, by using CEMS, a reporting facility would be required to submit a more limited range of data elements, thereby potentially alleviating any concern for other data not required.

EPA recognizes that there are some situations where use of a CEMS for one GHG will not avoid release of data elements used to calculate emissions of other GHGs. For example, many facilities that use CEMS to determine CO_2 emissions from stationary combustion sources will use calculation procedures to determine CH_4 and N_2O emissions from the same combustion sources. In this case, reported data elements such as fuel use and higher heating value (HHV) for these combustion units would be inputs to emission equations for CH_4 and N_2O emission calculations and would therefore be released, regardless of the fact that CEMS are used to determine CO_2 emissions.

EPA solicits comments on whether and to what extent the use of CEMS would relieve industry concerns regarding making data available to the public. We specifically solicit comment on the extent to which industry would take advantage of the option if EPA added CEMS methodologies for CH_4 and N_2O to the Mandatory Reporting Rule where appropriate.

5. The Calculation Methodology and Methodological Tier Category

EPA proposes to determine that the reported calculation methodology and the methodological tier used by a reporting facility to calculate its GHG emissions are "emission data" under 40 CFR 2.301(a)(2)(i).

Description of data elements. Data elements included in this category are the methodology used by a reporting facility to calculate its annual GHG emissions under Part 98, including the

[9] 40 CFR 98.3(e) allows a reporter to switch methods during the reporting year as long as they document the date and reason for the change in their annual report.

methodological tiers used to calculate CO_2 emissions from fuel combustion under 40 CFR part 98, subpart C. This category also includes data elements that are used to determine the correct calculation method or to select the correct input for a GHG emission calculation.

Each subpart of Part 98 specifies the method(s) that must be used to calculate GHG emissions. Some subparts allow a choice of two or more specified alternative methods. When this occurs, the rule requires that the method chosen be reported. The methods vary by subpart but may include, for example, the following:

- Using a "mass balance" approach to calculate GHG emissions based on the amount and carbon content of the raw materials fed to the manufacturing process and the amount of carbon that is removed from the process in the final product and waste streams.
- Using a mass balance approach to calculate GHG emissions based on the amount of GHGs used in a manufacturing process, the utilization rate of GHG in the process, and the fraction of excess GHG destroyed by an abatement device.
- Using a site-specific GHG emission factor determined from stack testing and measurements of process parameters during the test.
- Calculating GHG emissions from default emission factors provided in Part 98 and the amount of material consumed as either a fuel or raw material in a manufacturing process.
- Monitoring GHG emissions directly from a stack or vent using a CEMS.

40 CFR part 98, Subpart C (General Stationary Fuel Combustion Sources) specifies four different methodological "tiers" for calculating CO_2 emissions. The lowest tier (Tier 1) uses default heating values and default CO_2 emission factors listed in Part 98 (by fuel) to calculate CO_2 emissions. The highest tier (Tier 4) uses CEMS to measure CO_2 emissions directly. Tiers 2 and 3 use data from measurements of heating value and/or carbon contents of the fuels combusted at a facility to calculate CO_2 emissions. Reporters are required to report which tier was used to calculate emissions.

In addition to which method or tier was used, this category also contains data elements that are used to determine which calculation methodology must be used. For example, in 40 CFR part 98, subpart C, the tier(s) that a facility is allowed to use depends on the size of the combustion unit, the type of fuel(s) combusted, and whether there is existing fuel and emissions monitoring at the reporting facility. In 40 CFR part 98, subpart Y (Petroleum Refineries), the maximum rated throughput is used to determine which calculation method is used for catalytic cracking units and fluid coking units. Therefore, these data elements are included in this data category.

This data category also includes the calculation methods submitted in applications for approval of alternative methods from adipic acid and nitric acid facilities and BAMM extension requests, and the methods and other information included in or required to be reported by a Geologic Sequestration MRV Plan.

Examples of data elements in this category include the following:

- The tier used to determine CO_2 emissions from each stationary combustion unit under 40 CFR part 98, subpart C.
- Criteria needed to decide which tier is allowed to be used to determine CO_2 emissions from each stationary combustion unit under 40 CFR part 98, subpart C (*e.g.,* size of the combustion unit, and the type of fuel(s) combusted).
- Whether process emissions were determined using the carbon mass balance method or whether the site-specific emission factor method was used to determine CO_2 emissions (*e.g.,* 40 CFR part 98, subpart Q Iron and Steel Production).
- Whether the facility used a measured value, default emission factor, or unit-specific emission factor to determine CH_4 and N_2O emissions (*e.g.,* 40 CFR part 98, subpart Y Petroleum Refineries).
- Whether CO_2 emissions were calculated using the trona input method, the soda ash output method, or a site-specific emission factor method (*e.g.,* 40 CFR part 98, subpart CC Soda Ash Manufacturing).
- Method used for estimating waste disposal quantity and reason for its selection (*e.g.,* 40 CFR part 98, subpart HH Municipal Solid Waste Landfills).
- Proposed alternative method for determining emissions from adipic acid or nitric acid production facilities, including the calculation method, test methods (as applicable), monitoring, QA/QC, and missing data procedures) submitted in applications for approval of alternative methods (40 CFR part 98, subparts E and V).
- Identification of the parameter, subpart, and rule citation for which a BAMM extension is requested (40 CFR part 98, subpart A).
- Methods and other data submitted in MRV Plans (including methods for detecting and quantifying any CO_2 leakage to the surface, methods assessing the risk of leakage of CO_2 to the surface from geologic sequestration, methods for establishing pre-injection environmental baselines, and any other information included in the MRV Plan (*e.g.,* location and depth of all potential leakage pathways, qualitative descriptions of each potential leakage pathway; methods used to characterize the site)), and any data required by an approved MRV plan to be submitted to EPA in the annual report (proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010).

Rationale for Proposed Determination. EPA proposes to determine that the data elements in the Calculation Methodology and Methodological Tier Category are "emission data" under 2.301(a)(2) because they are "information necessary to determine * * * the amount" of any emission emitted by the source.

The method (including the methodological tiers in 40 CFR part 98, subpart C) used by a direct emitter to calculate emissions is "emission data" under 40 CFR 2.301(a)(2) because it is information necessary for the reporter to actually calculate the emissions and for EPA and the public to verify that an appropriate method was used. The method used by a facility is important for determining whether the facility selected the appropriate equations and used appropriate inputs to the calculations. For example, if a facility chooses to use a default emission factor method, they must select the appropriate factor provided in the rule, whereas if they select a site-specific emission factor method, they must collect additional data to support their own factor. Therefore, data elements that are used to determine what methodology is required (or allowed) to be used are also necessary to determine emissions because these data are also needed to determine whether the reporter selected the appropriate equations and inputs.

As discussed in Section I.C of this preamble, the 1991 EPA notice of policy provided a list of information that EPA considered to constitute "emission data" under 40 CFR 2.301(a)(1)(2)(i). That list includes "emission estimation method (*e.g.,* the method by which an emission estimate has been calculated such as material balance, source test, use of AP–42 emission factors, *etc.*)," which are the same type of data elements as those in this data category and would include methods already provided in Part 98, as well as alternative methods included in applications submitted by adipic acid and nitric acid facilities (40 CFR part 98, subparts E and V) and the methods included in MRV Plans submitted by geologic sequestration facilities

(proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010). In addition to the methods included in the MRV Plans, EPA has concluded that the supporting documentation (*e.g.,* location and description of potential leakage pathways, frequency of monitoring, and the strategy for detecting leaks) are integral to the "emission estimation method" selected and are therefore also considered to be "emission data".

Summary. EPA is proposing to determine that the data elements in the Calculation Methodology and Methodological Tier Category are "emission data" as defined in 40 CFR 2.301(a)(2)(i). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category. In particular, EPA seeks comment on whether any specific elements, methods, or supportive material that could be part of an MRV plan should not be determined to be "emission data", and if so which specific elements, methods, or supportive material. If commenters believe that specific MRV plan elements, methods, or supportive material should not be determined to be "emission data", please comment on why the data element does not fall within the regulatory definition of emission data as well as whether you think the data elements are CBI, and if so why.

6. The Data Elements Reported for Periods of Missing Data That Are Not Inputs to Emission Equations

EPA proposes to determine that the data elements that must be reported during missing data periods that are not inputs to emission equations are "emission data" under 40 CFR 2.301(a)(2)(i).

Description of data elements. Data elements in this category include information that is reported when data specified in Part 98 for calculating annual GHG emissions are missing. This category does not include the numeric values used as substitutes for missing data.[10] Rather, this category includes data elements that indicate the overall quality and reliability of the reported GHG emissions, such as the number of times substitute values are used and the method used to determine a substitute value.

Each subpart of Part 98 has a section that specifies how values are to be generated as substitutes for missing data. For example, if the high heating value or carbon content of a fuel is missing, a substitute value is generated by using the arithmetic average of the quality assured value of that parameter immediately preceding and following the missing data incident. If a source is using a CEMS to measure GHG emissions, then the subpart will specify that the missing data procedures in 40 CFR part 75 should be followed. In other cases, a subpart may specify that the reporter can substitute for missing data an estimate derived from the best available process information from the source.

The Missing Data Category contains the following data elements that all facilities are required to report under 40 CFR part 98, subpart A:

- Identification of each data element used as an input for estimating annual GHG emissions for which a missing data procedure was used.
- The total number of hours in the year that a missing data procedure was used for each data element.

The source category subparts specify any other information that must be included in annual GHG reports when substitute values are used as inputs for estimating emissions in place of missing values. Provided below are some additional examples of the data elements in the Missing Data Category:

- Number of times missing data procedures were used to estimate missing data, such as carbon content and molecular weight of fuels (40 CFR part 98, subpart C), carbon content of raw materials (40 CFR part 98, subparts BB and EE), phosphate rock consumption (40 CFR part 98, subpart Z), and hourly CO_2 concentration (40 CFR part 98, subpart CC).
- The time period during which missing data procedures were used, such as the percentage of operating hours in which substitute values are used for CO_2 concentrations (40 CFR part 98, subpart C).

Rationale for Proposed Determination. EPA proposes to determine that the data elements in the Missing Data Category are "emission data", as defined at 40 CFR 2.301(a)(2)(i) because the identification of data elements for which substitute values were used and the methods used to estimate substitute values are needed to determine whether a reasonable methodology was used to determine substitute values and whether the annual GHG emissions are correctly calculated. Part 98 requires sources to calculate annual mass emissions (metric tons per year) for each GHG. Therefore, every period of emissions must be considered, even if the monitors needed to measure or calculate emissions are temporarily not operating correctly. Each subpart specifies the frequency with which certain data elements used to calculate GHG emissions need to be collected, and specifies procedures (or allows a choice of methods) to be followed if data are missing because they were not collected at the required frequency or the monitor is not operating properly.

Identification of all periods of missing data and use of substitute data during such periods are necessary for determining the annual GHG emissions. In order to determine if the reported annual emission data are complete and the correct methods were used to determine substitute values, EPA needs to know when reported data values are substitutes for missing data and what method was used to calculate substitute data (for subparts that provide a choice or allow the reporter to develop and describe their own method). For the reasons stated above, the data elements in this data category are necessary to determine the amount of reported emissions and therefore qualify as "emission data" under 40 CFR 2.301(a)(i).

Summary. EPA proposes to determine that the data elements in the Missing Data Category are "emission data", as defined in 40 CFR 2.301(a)(2)(i). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

7. The Unit/Process "Static" Characteristics That Are Not Inputs to Emission Equations Category

As explained in Section I.C of this preamble, EPA is proposing to determine that the data elements in this category (none of which are inputs to equations/calculation methods or information otherwise needed to calculate or determine emissions) are not "emission data" under 40 CFR 2.301(a)(2)(i) for purposes of determining the direct emitters' GHG emissions to be reported under Part 98. For the reasons stated below, EPA also proposes to determine that the data elements in this category are not CBI under CAA section 114(c).

Description of data elements. Data elements in this category include basic characteristics of units, process units, general equipment, abatement devices,

[10] Numeric values used as substitutes for missing data are included in the Inputs to Equations Data Category, since these values are used to calculate GHG emissions during periods when data was not collected in accordance with the monitoring methods specified in the applicable subpart (*e.g.,* during periods of equipment failure or malfunction).

and other facility-specific characteristics. Data elements in this category are "static" because they do not vary with time or with the operation of the process. The data elements assigned to this category are required to be reported under one or more direct emitter source category subparts of Part 98, but are not used as inputs to GHG emission equations provided in the rule.[11] Static characteristics that are inputs to GHG emission equations are assigned to the Input to Equations Data Category.

The data elements that must be reported differ for each source category. Examples of data elements in this category include the following:

- Identification of the type of unit or process associated with the emissions (*e.g.,* type of nitric acid process, type of smelter technology used, type of control device, type of abatement technology).
- The annual product production capacity of the unit or production process that is not used to determine a calculation method (*e.g.,* maximum annual production capacity for each soda ash manufacturing line).
- The number of units (*e.g.,* kilns, furnaces, boilers, *etc.*) at a facility.
- The type of emission control technology used.
- Description of each abatement system through which fluorinated GHGs or N_20 flows at the facility, including associated tools and/or process for which the device treats exhaust, model number of each abatement device, and the manufacturers guaranteed destruction or removal efficiency (DRE) (proposed 40 CFR part 98, subpart I, 75 FR 18652, April 12, 2010).
- Description of the gas collection system, including capacity and number of wells in each gas collection system (40 CFR part 98, subparts HH and TT).

Rationale for Proposed Determination. EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c). EPA finds that the disclosure of the information is not likely to cause substantial harm to the competitive position of the businesses required to report these data elements under Part 98. The data elements in this category consist of general descriptions of the number and type of GHG emission units and emission control devices and do not reveal any proprietary information or any other information that could provide insight for competitors to gain an advantage. For example,

- The requirement in several subparts to report the type of process unit, equipment, or emission control technology used requires only reporting of the general equipment without disclosure of specific design details. For example, the requirement in 40 CFR part 98, subpart Y to report type of unit is satisfied by identifying that a unit is a fluidized catalytic cracking unit, thermal catalytic cracking unit, catalytic reforming unit, *etc.* These types of units are commonly used in the industry and no detailed specifications are required to be reported.
- The requirement to report information on the number, and characteristics of control and abatement devices is not likely to disclose information that is sensitive. The number and type of control devices located at a facility and the process units to which they are connected is information that is included in construction and operating permits and therefore already publicly available. The destruction efficiency of control devices is also publicly available from marketing materials published by the manufacturer. While the name of the manufacturer and the model number of the control device installed at a particular facility may not be publicly available, the disclosure of this information is not likely to reveal sensitive information regarding the production, manufacturing process design, or raw materials consumed. For example, the proposed 40 CFR part 98, subpart I, Electronics Manufacturing (75 FR 18652, April 12, 2010), requires reporters to describe the abatement systems used at each facility and provide the model number for each abatement system. This information does not disclose sensitive production information, such as the quantity and compositions of specific products produced of materials consumed at an electronics manufacturing facility, nor could it be used by competitors to devise competitive strategies to harm reporting parties.
- Descriptions of GHG collection systems and design capacities of landfills do not reveal information that is proprietary or sensitive in nature. For example, 40 CFR part 98, subpart HH, Municipal Landfills and 40 CFR part 98, subpart TT, Industrial Landfills require reporters to disclose the landfill design capacity and the number of wells in the gas collection system. These data are not likely to harm the reporters' competitive position. The number of wells in a gas collection system is not proprietary or sensitive information. It does not reveal any information about manufacturing processes or products and is unlikely to reveal any proprietary information on the design or operation of a landfill gas collection system. The landfill design capacity is routinely included in State solid waste permits and Part 70 operating permits so is often already publicly available.
- The number of units and the capacities of manufacturing process units (which are reported under various subparts) are routinely included in permits, such as Part 70 operating permits.

As shown above, the information required by the data elements in this category is not the type of information that could provide competitors with business insights and/or a competitive advantage over the reporting facility. Further, the information to be reported is general and would not contain details regarding product characteristics, actual production data (*e.g.,* raw material consumption and the quantity of product produced), or operating efficiency (*e.g.,* amount of product produced per unit of raw material consumed). It does not provide data that could allow competitors to infer market share, production costs, or pricing structures. For the reasons stated above, EPA finds that releasing the data in this category would not be likely to cause substantial harm to the reporting business's competitive position.

Further, certain data elements in this category are already being made publicly available. Facility and unit-level production capacity data for many industries subject to Part 98 are already available in the public domain as part of data released by other reporting programs or through reference materials available for purchase or through the Internet. Several publications contain production capacity for facilities. For example, production capacity for the iron and steel industry is available through the Association for Iron & Steel Technology (*http://steellibrary.com*). SRI's Chemical Economics Handbook publishes plant-level capacity data for both commodity and specialty chemicals (*http://www.sriconsulting.com*). The Energy Information Administration (EIA) publishes facility level capacity data for petroleum refineries, which is released annually in EIA's "Refinery Capacity Report" and on the Interned (*http://www.eia.doe.gov*). In addition, some State permits, such as Part 70 operating permits, contain maximum capacities of combustion units or manufacturing process units.

[11] Note that unit characteristics needed to determine what calculation or tier methodologies are allowed to be used (*e.g.,* maximum rated heat input of a combustion unit used to determine the correct tier for 40 CFR part 98, subpart C) are assigned to the Calculation Methodology and Methodological Tier Category described in Section II.C.5. of this preamble and are not assigned to this category.

Summary. For the reasons stated above, EPA is proposing to determine that the data elements in this category are not CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

8. The Unit/Process Operating Characteristics That Are Not Inputs to Emission Equations Category

As explained in Section I.C of this preamble, EPA is proposing to determine that the data elements in this category (none of which are inputs to equations/calculation methods or information otherwise needed to calculate or determine emissions) are not "emission data" under 40 CFR 2.301(a)(2)(i) for purposes of determining the direct emitters' GHG emissions to be reported under Part 98. For the reasons stated below, EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c).

Description of data elements. Data elements in this category include the operating characteristics related to process and combustion units. Data elements in this category are "operational" because they change over time with changes in operations or processes. This category does not include unit/process operating characteristics that are inputs to the GHG emissions equations provided in Part 98.[12] The data elements in this category that must be reported differ for each source category. Examples of types of data elements in this category include the following:

- Total number of source operating hours in the reporting year.
- Number of operating kilns.
- Description of the flare service, *e.g.,* general, unit, emergency, or back-up for refineries (40 CFR part 98, subpart Y).
- Type of vessel into which material that has an equilibrium vapor-phase concentration of CH_4 of 0.5 volume percent or greater is loaded (40 CFR part 98, subpart Y).
- Sampling analysis results for carbon content of consumed petroleum coke as determined for QA/QC of supplier data (40 CFR part 98, subparts G, BB, and EE).
- Surface area of the landfill containing waste (40 CFR part 98, subpart HH).
- Identification of combustion units that burned both process off-gas and supplemental fuel (40 CFR part 98, subpart X).
- Statement indicating whether any of the reported GHG emissions are from cogeneration units (proposed amendments to 75 FR 18455, April 12, 2010).
- Reasons for applying for a BAMM extension request, anticipated date of installation of monitoring equipment, descriptions of actions the facility will take to obtain and install the monitoring equipment) (40 CFR part 98, subpart A).

Rationale for Proposed Determination. EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c). EPA finds that the disclosure of the information is not likely to cause substantial harm to the competitive position of the businesses required to report these data elements under Part 98. Most of the data elements in this category consist of general information on number of operating units, operating hours, vessel type and for four subparts the results of QA/QC sample analysis and do not reveal any proprietary information or any other information that would likely provide insight for competitors to gain an advantage. For example,

- The requirement in 40 CFR part 98, subpart Y to describe the flare service (how the flare is utilized) is satisfied by describing whether the flare was used as a general facility flare, a unit flare, or an emergency/back-up flare during the reporting year. Flares are commonly used in the industry for these purposes and no detailed specifications are required to be reported.
- Similarly, the disclosure of general information reported in 40 CFR part 98, subpart HH, such as the surface areas of the landfill containing waste does not disclose proprietary information. Surface area containing waste can be readily observed, *e.g.,* from touring the landfill or aerial photos, so is already available and not entitled to confidential treatment.
- Releasing information, such as the number of operating kilns (40 CFR part 98, subpart H) or the total number of operating hours in the reporting year for combustion units (40 CFR part 98, subpart C), does not disclose actual production rates of various products nor could it be used to determine production rate or production capacity. It also does not reveal details about the production processes used, or other information (*e.g.,* production efficiency, production costs, or pricing structure) that a competitor could use to develop marketing strategies to undermine the reporter's competitive position.
- Identifying the combustion units that burned both process off-gas and supplemental fuel under 40 CFR part 98, subpart X provides no specific details on equipment design or confidential manufacturing processes. Combustion of process off-gas is a common practice for petrochemical production facilities, where destruction of waste gases exhausted from process units is frequency used to comply with other regulations (*e.g.,* 40 CFR part 60 and part 63) and therefore, is information that is generally included in Part 70 operating permits.
- Stating whether cogeneration units were used during the reporting units as proposed in the amendments to 40 CFR part 98, subpart A (75 FR 18652, April 12, 2010) does not reveal information about the type, number, or operating hours of the cogeneration units located at a facility, or reveal sensitive information about a production process.

As explained above, the information required by the elements in this category is not the type of information that could provide competitors with business insights and/or a competitive advantage over the reporting facility. Further, the information to be reported is general and could not contain details regarding product characteristics, actual production data (*e.g.,* raw material consumption or quantity of product produced), or operating efficiency (*e.g.,* amount of product produced per amount of raw material consumed). It does not provide information that could allow competitors to infer market share, production costs, or pricing structures and thus gain a competitive advantage.

There is one type of data element in this category, the results of QA/QC sampling for 40 CFR part 98, subparts G, N, BB, and EE that are specific numerical values dealing with material composition that could be considered sensitive or proprietary information. These carbon contents are not used as inputs in emission equations. Rather they are measured only once a year for the purposes of QA/QC of the composition data provided to the facility by the suppliers of their raw material and used as inputs to the emission calculations. The numerical values obtained from the annual QA/QC sampling should be consistent with the carbon content data provided by suppliers. As discussed in Section II.C.4 of this preamble, the carbon content data provided by suppliers is included as a data element in Inputs to Equations Category, which EPA proposes to

[12] Note also that unit characteristics that are needed to determine what calculation or tier methodologies are allowed to be used (*e.g.,* fuel type used to determine the appropriate tier for 40 CFR part 98, subpart C) are assigned to the Calculation Methodology or Methodological Tier Category described in Section II.C.5 of this preamble, and are not assigned to the unit/process operating characteristics category.

determine is "emission data" as defined in 40 CFR 301(a)(2)(i) and make publicly available. Therefore, release of the annual QA/QC sampling results data element could not reveal any substantive additional information regarding the composition of materials because the carbon content data provided by the raw material supplier would be publicly available.

For these reasons stated above, EPA finds that releasing the data in the category is not likely to cause substantial harm to the reporting business's competitive position.

Further, the same data are already being submitted and made available to the public under other Federal programs. For example, for electricity generating units, the Acid Rain program already releases unit operating characteristics such as operating hours and fuel type for combustion units, which are the same data to be reported under 40 CFR part 98, subparts C and D.

Summary. For the reasons stated above, EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

9. The Test and Calibration Methods Category

As explained in Section I.C of this preamble, EPA is proposing to determine that the data elements in this category (none of which are inputs to emission equations or information otherwise needed to calculate or determine emissions) are not "emission data" under 40 CFR 2.301(a)(2)(i) for purposes of determining the direct emitters' GHG emissions to be reported under Part 98. For the reasons stated below, EPA also proposes to determine that the data elements in this category are not CBI under CAA section 114(c).

Description of data elements. Data elements in this category include information about the site-specific calibration methods used to calibrate monitoring instruments required by Part 98, frequency of sampling and analysis, test methods used for performance tests, and methods for analyzing compositions of materials. Each of the data elements in this category is required to be reported under one or more source category subparts in Part 98. Examples of data elements in this category include the following:

- Frequency at which sampling and analysis is performed. For example, the frequency with which samples of fuel are collected and analyzed for HHV, carbon content, and molecular weight (40 CFR part 98, subpart C).
- Method used for:

—Determining quantity of feedstock.
—Determining carbon content.
—Tracking startups, shutdowns, and malfunctions.
—Determining quantity of lime and lime byproduct/waste sold (*e.g.,* 40 CFR part 98, subpart S Lime Manufacturing).
—Estimating municipal waste composition from other or more refined waste categories (*e.g.,* 40 CFR part 98, subpart HH Municipal Solid Waste Landfills).
—Determining the average carbon content of coke (*e.g.,* for catalytic cracking units and coking units under 40 CFR part 98, subpart Y Petroleum Refineries).

- Test method used for performance tests (stack emission tests) (*e.g.,* 40 CFR part 98, subpart V Nitric Acid Production).
- Indication of whether the fraction of CH_4 in landfill gas was determined based on measured values or the default value (*e.g.,* 40 CFR part 98, subpart HH Municipal Solid Waste Landfills).

Rationale for Proposed Determination. EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c). EPA finds that the disclosure of the information is not likely to cause substantial harm to the competitive position of the businesses required to report these data elements under Part 98. The data elements in this category consist of general descriptions of methods and the frequency of conducting performance tests or sample analysis for the purposes of determining values used as inputs to equations. The data elements in this category do not reveal the numerical results of such tests. The data elements do not reveal any proprietary information or any other information that would likely provide insight for competitors to gain an advantage. For example,

- Data elements such as methods and frequencies used to determine the carbon content and HHV of various materials do not reveal proprietary information and are not likely to provide insight into the composition of materials used or other sensitive information related to raw materials consumption. The analytical method and frequency of analysis does not reveal any numerical data on material composition and the limited information on material type that is revealed is either already common knowledge or is reported information that is necessary to determine the GHG emissions. For example, the method used by a titanium dioxide production facility (40 CFR part 98, subpart EE) to determine the carbon content of their petroleum coke could not reveal any proprietary information on the raw materials used since it is common knowledge that petroleum coke is a raw material for the production of titanium dioxide. Similarly, the method used to determine the carbonate content of raw materials used at a glass production facility (40 CFR part 98, subpart N) could not reveal any additional substantive information because detailed data on each raw material must be reported and is used as inputs to the equations. As discussed in the "Inputs to Equations" in Section II.C.4 of this preamble, EPA proposes that inputs to equations are "emission data" and would be publicly released.
- Similarly, the disclosure of measurement dates, locations and methods used for performance tests, locations of flow measurements, or types of meters used does not provide specific operational details about production processes. It also does not provide any numerical information about amounts or composition of products or raw materials consumption.
- The requirement in 40 CFR part 98, subpart Y to provide the basis for the average carbon content of coke is satisfied by identifying the means by which the value was determined. Details regarding the actual measured carbon content will not be disclosed.

As explained above, the information required by the data elements in this category is not the type of information that could provide competitors with business insights and/or competitive advantage over the reporting facility. Further, the information to be reported are general and would not contain details regarding product characteristics, production data (*e.g.,* raw material consumed or quantity of product produced), or operating efficiency (*e.g.,* amount of product produced per unit of raw material consumed). It also does not provide data that could allow competitors to infer market share, production costs, and pricing structures and thus gain a competitive advantage.

Further, information on the test methods and frequency of measurement are already being submitted and made available to the public under other Federal programs. For example, the Acid Rain program requires reporters to report the method used for determining fuel flow over a given period. This is the same type of information as the

requirement in 40 CFR 98.76, which requires ammonia manufacturers to report the method used to determine the quantity of liquid feedstock consumed using a flow meter. The Acid Rain program also requires reporting of the method used to determine fuel gross calorific value, which is identical to the requirement to report the method used to determine HHV required under various subparts of Part 98. As discussed in Section I.F of this preamble, the Acid Rain program currently makes all of the reported data available to the public.

Summary. For the reasons stated above, EPA proposes to determine that the data elements in this data category are not CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

10. The Production/Throughput Data That Are Not Inputs to Emission Equations Category

As explained in Section I.C of this preamble, EPA is proposing to determine that the data elements in this category (none of which are inputs to equations/calculation methods or information otherwise needed to calculate or determine emissions) are not "emission data" under 40 CFR 2.301(a)(2)(i) for purposes of determining the direct emitters' GHG emissions to be reported under Part 98. For the reasons stated below, EPA proposes to determine that the data elements in this data category are CBI under CAA section 114(c).

Description of data elements. Data elements included in this category are production and throughput data that are not used as inputs to calculate annual GHG emissions under Part 98. Each of these data elements is required to be reported under one or more of the direct emitting source category subparts of Part 98. The data elements that must be reported differ for each source category. Provided below are some examples of the data elements in this Category:

- Monthly or annual production quantity of products and byproducts, such as annual quantities of petrochemicals produced (40 CFR part 98, subpart X), annual urea production (40 CFR part 98, subpart G), monthly cement production (40 CFR part 98, subpart H), annual production of ferroalloy products (40 CFR part 98, subpart K), annual glass production (40 CFR part 98, subpart N), synthetic fertilizer production (40 CFR part 98, subparts G and V), and annual amount of byproducts produced (40 CFR part 98, subpart S).
- Beginning and end of year inventories for byproducts and wastes (40 CFR part 98, subpart S).
- Annual quantity of products sold and not sold (40 CFR part 98, subpart S).
- Product and byproduct characteristics, such as the type of petrochemical and other products produced (40 CFR part 98, subpart X), carbon content of wastes (40 CFR part 98, subpart EE), and the monthly results of chemical composition analysis of lime products and sold (40 CFR part 98, subpart S).

Rationale for Proposed Determination. EPA proposes to determine that the data elements in this data category are entitled to confidential treatment because disclosure of these production and throughput data is likely to cause substantial harm to the competitive position of businesses required to report these data elements under Part 98. Disclosing a facility's production/throughput data could be detrimental to a firm's competitiveness by revealing confidential process information and operational and marketing strategies. For example:

- The disclosure of annual production quantities of products, used in conjunction with other publicly available data related to capacity, provides insight to a firm's operational strengths and weaknesses. Competitors could determine at what percent capacity a firm is operating, which can reveal information on the financial and competitive strength of the firm. For example, it could reveal that a manufacturer is operating well below capacity and likely experiencing financial difficulties. Having such information could allow competitors to narrow the competition by adjusting their prices to the further detriment of the reporting company, or to formulate other competitive strategies or corporate acquisition strategies to the detriment of the reporting company. Having information on the percent of capacity at which a firm is operating could also reveal whether a manufacturer has existing capacity available to take on new customers in a growing market or is already at their maximum production and would need to invest capital to expand capacity in order to produce more. Having such information could give competitors insights to make competitive decisions on expanding their own production rates or altering their pricing strategies to the detriment of the reporting company.
- The disclosure of annual production quantities—in particular, products sold and not sold—provide insight to a firm's market strength and position. Competitors could use production data to gain a competitive advantage over a firm by better approximating a firm's market share. For example, annual production data may reveal confidential information related to rapid growth or decline in market share, customer base, and marketing strategies. It might enable firms to tell which of their competitors won a contract/new customer they competed for. This could substantially harm the firm's competitive position because the information could enable competitors to devise strategies to steal specific customers or even key employees. Changes in the mix of products produced could reveal marketing strategies. In many cases, an accurate estimate of the market position of a firm is difficult to procure, and the disclosure of such information through Part 98 could lead to distortions in the market and could expose reporting parties to disadvantageous market conditions.
- Disclosure of facility-level production/throughput quantities and product compositions could give competitors insight into a firm's local and regional market conditions and expansion plans, enabling competitors to devise strategies to prevent expansion and to steal market share in specific locations. In general, competitors do not currently have access to actual facility production rates or other information that could allow them to assess competition and market conditions in regional detail, because publicly available financial and economic information is released at the corporate level rather than the facility level.
- Information about production quantities of each product and the product mix of a firm may enable competitors to determine the type of production process used (since different processes can have different characteristic product mixes). Such information is proprietary and public disclosure could substantially harm a firm's competitive position by revealing sensitive information. This information may also allow competitors to reasonably infer the types and approximate amounts of feedstocks consumed, which may enable competitors to devise strategies to compete for raw material resources. If in addition to production quantities, feedstock consumption data are also released under Part 98, competitors could use the combination of production and feedstock consumption data to expose sensitive information such as operating efficiencies (amount

of product produced per unit of raw material consumed) and allow competitors to infer production costs and pricing structures. Competitors could use such information to steal market share by undercutting a firm's pricing structure.

• Information about the chemical composition of products may allow competitors to reasonably infer the types of feedstocks or raw materials consumed. This may enable competitors to devise strategies to compete for resources and harm the competitive position of reporting entities by otherwise driving up the costs of materials used for production.

Summary. For the reasons stated above, EPA proposes to determine that data elements in this category are CBI under CAA section 114. EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

Release of Aggregated Production Data. For data elements in this category, EPA could release the data in an aggregated format that would maintain the confidentiality of the data. For example, EPA could release production data aggregated at the national level for all sources in each source category. EPA solicits comments on whether and in what ways aggregated data would be useful to the public, and suggestions for ways in which the data could be aggregated without affecting the confidentiality of the underlying data.

11. The Raw Materials Consumed That Are Not Inputs to Emission Equations Category

As explained in Section I.C of this preamble, EPA is proposing to determine that the data elements in this category (none of which are inputs to equations/calculation methods or information otherwise needed to calculate or determine emissions) are not "emission data" under 40 CFR 2.301(a)(2)(i) for purposes of determining the direct emitters' GHG emissions to be reported under Part 98. For the reasons stated below, EPA also proposes to determine that the data elements in this data category are CBI under CAA section 114(c).

Description of data elements. Data elements included in this category are the amount and composition of raw materials (excluding fuel) consumed as inputs to the production process or received for other uses on site. This category does not include raw materials consumed that are inputs to the equations provided in Part 98 for calculating annual GHG emissions. Each of the data elements in this category is required to be reported under one or more subparts of Part 98. Provided below are some examples of the data elements in this category:

• Annual quantity of feedstock consumed (40 CFR part 98, subpart G).

• Annual quantity of carbonate based-raw material charged (40 CFR part 98, subpart N).

• Annual mass of reactants fed into a process (40 CFR part 98, subpart O).

• Names of carbon-containing feedstocks (40 CFR part 98, subpart X).

• Annual arithmetic average percent inorganic carbon in phosphate rock from monthly records (40 CFR part 98, subpart Z).

• Annual steam purchases (40 CFR part 98, subpart AA).

Rationale for Proposed Determination. EPA proposes to determine that the data elements in this data category are CBI under CAA section 114(c) because the disclosure of these data could cause substantial harm to the competitive position of businesses reporting these data. Releasing these data would likely be detrimental to the operational and marketing strategies of the reporting facilities. For example:

• The disclosure of the amount of feedstocks consumed and reactants fed into particular processes at a facility could provide insight into a facility's operational strengths and weaknesses. Competitors could determine at what percent capacity a facility is operating sensitive details such as detailed manufacturing processes and product chemistries.

• Information about feedstock quantities and composition could expose a firm's competitive and marketing strategies. For example, a record showing significant consumption of a particular raw material resource may indicate to competitors that a firm is seeking entry into a new market, enabling the competitors to devise disruptive strategies.

• Information about feedstock quantities and composition could reveal a firm's suppliers and sourcing strategies. Among other things, competitors could use this information to create new strategies to compete for raw material resources and to obtain similar production cost structures.

• Disclosure of facility-level (and in some cases the unit or process level) raw material consumption and composition data could give competitors insight into a firm's local and regional market conditions, enabling competitors to devise strategies to steal market share in specific locations. In general, competitors do not currently have access to actual facility or unit-level raw material information that could allow them to assess competition and market conditions in regional detail, because publicly available financial and economic information is released at the corporate level rather than the facility level.

• Information about feedstock consumption may enable competitors to determine the type of manufacturing processes used since processes vary by raw material consumption characteristics. This information may also allow competitors to reasonably infer production quantities of each product and the product mix of a facility. If in addition to raw materials consumption, production quantities data are also released under Part 98, competitors could use the combination of production and feedstock consumption data to expose sensitive information such as operating efficiencies (amount of product produced per unit of raw material consumed) and allow competitors to infer production costs and pricing structures. For example, disclosing the annual amount of steam purchases reported under 40 CFR part 98, subpart AA, in combination with other production data, may reveal a facility's operating efficiency. Competitors could use such information to steal market share by undercutting a firm's pricing structure.

Summary. For the reasons stated above, EPA proposes to determine that data elements in this category are CBI under CAA section 114. EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

12. The Process-Specific and Vendor Data Submitted in BAMM Extension Requests Category

As explained in Section I.C of this preamble, EPA is proposing to determine that the data elements in this category (none of which are inputs to equations/calculation methods or information otherwise needed to calculate or determine emissions) are not "emission data" under 40 CFR 2.301(a)(2)(i) for purposes of determining the direct emitters' GHG emissions to be reported under Part 98. For the reasons stated below, EPA also proposes to determine that the data elements in this data category are CBI under CAA section 114(c).

Description of data elements. The data elements in this category include

certain information submitted by reporters in petitions to extend the use of BAMM. These data elements are submitted once, as part of the petition, and are not submitted on a recurring basis in the annual GHG reports. Part 98 allowed use of BAMM for the first three months of 2010. A petition process was established in 40 CFR 98.3(d)(2) allowing facilities to submit, for EPA approval, requests to extend the use of BAMM beyond March 31, 2010. Similar allowances to submit BAMM requests are included in proposed rule amendments (*see* 75 FR 18652, April 12, 2010 and 75 FR 18576, April 12, 2010). Much of the information submitted in BAMM requests, such as facility identification and location information and planned dates by which full monitoring equipment will be installed are classified in other data categories. However, some of the petitions received contain detailed process design information, vendor and cost information that are not technically similar to other data collected through Part 98. Provided below are some examples of the data elements in this Category:

- Location where each monitor will be installed. Process diagrams may be included to show specific locations.
- Information on alternative monitoring equipment suppliers and delivery dates investigated.
- Supporting documentation demonstrating that it is not possible to isolate the equipment and install monitoring instruments without a full process unit shutdown.
- Information on process unit shutdowns including frequency and dates of previous and planned shutdowns.

Rationale for Proposed Determination. EPA proposes to determine that the data elements in this data category are CBI under CAA section 114(c) because the disclosure of these process-specific and vendor data submitted with BAMM extension requests is likely to cause substantial harm to the competitive position of businesses submitting these requests under Part 98. Disclosure could allow competitors to gain insight into the specific processes used by the facility that they could use to gain a competitive advantage. For example:

- The disclosure of process design diagrams submitted to show monitor location or to show that it is not possible to install monitoring equipment without a process unit shutdown could allow competitors to determine the type of process, specific equipment, and sequence of process steps used in the reporter's manufacturing process. Such information is often proprietary, and public disclosure could reveal trade secret or sensitive information and substantially harm a firm's competitive position. The process configuration diagrams could also be used by a competitor to gain insight into whether the facility has multiple or interconnected lines to produce products, likely bottlenecks, potential spare capacity, and flexibility to produce alternative products. This could provide competitors with insight into a petitioner's operational strengths and weaknesses. Such process-specific information could be used to infer information on production costs, pricing structures, and the ability of a firm to respond to changing market conditions. Having such information could give competitors insights to make competitive decisions on expanding their own production rates or altering their pricing strategies to the detriment of the reporting company.
- Information provided in the petition about their communications with alternative suppliers, delivery dates, and backorder notices could reveal a variety of information that the facility submitting the BAMM requests and their suppliers consider sensitive. For example, documentation could include information on the exact equipment being ordered and/or price quotes. This information could be used by competitors of the reporter submitting the petition to infer the costs the reporter is paying to comply with mandatory reporting rule, which is sensitive information. It could also be used by competitors of the firms supplying monitoring equipment quotes to undercut prices or offer better delivery schedules and gain a competitive advantage. Documentation pertaining to the investigation and ordering of monitoring equipment could also include specific information about the process stream characteristics in the process lines being monitored. Such information might be provided to a supplier to be sure the monitoring equipment could withstand the process conditions (*e.g.,* corrosive chemicals, temperatures) that the monitoring equipment will encounter. This information could allow competitors to gain insight into the production processes used by a facility and assist them in formulating competitive strategies as described in the preceding paragraph.
- Information and frequency and schedule for process unit shutdowns could give competitors an understanding of the amount of process downtime and insight into process efficiency. It could also be used to infer if process modifications are being made (*e.g.,* if there is a long shutdown). Knowledge about periods when a process unit will be shutdown and potentially have trouble supplying demand for a product could allow competitors to develop strategies to steal customers during such periods.

Summary. For the reasons stated above, EPA proposes to determine that data elements in this category are CBI under CAA section 114. EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

D. Suppliers

Part 98 also requires reporting from suppliers of products the use of which would or could release GHG emissions. Specifically, suppliers of fossil fuel products or industrial gases listed in 40 CFR 98.2(a)(4) are required to report. The data reported under the supplier source categories differ from those required to be reported under the direct emitting source categories discussed in section II.C. of this preamble. Instead of reporting direct emissions to the atmosphere from their facilities and related information, suppliers report the quantities of fuel products or industrial gases they supply into the economy or export to another country, and the estimated GHG emissions that would or could ultimately be released when the fuels they supply are combusted or the industrial gases they supply are released.

This section of the preamble covers all of the data elements required to be reported by the supplier source categories (subparts). Some facilities that are producers of fuels or industrial gases must report under both the direct emitter source categories and supplier source categories. For example, petroleum refineries must report the data elements required by 40 CFR part 98, subpart Y (Petroleum Refineries) and 40 CFR part 98, subpart MM (Suppliers of Petroleum Products). The data elements reported under direct emitter subparts (*e.g.,* 40 CFR part 98, subpart Y) are discussed in Section II.C of this preamble. In general, the data reported under the direct emitter and supplier categories are different. For example, 40 CFR part 98, subpart Y does not require reporting of product-specific production quantities and compositions that are reported under 40 CFR part 98, subpart MM. In a few cases, facilities that are subject to both a direct emitter subpart and a supplier subpart are required to

submit the same information under both subparts. For example, the proposed direct emitter 40 CFR part 98, subpart L (Fluorinated Gas Production)(75 FR 18652, April 12, 2010) and the supplier 40 CFR part 98, subpart OO (Suppliers of Industrial GHGs) both require facilities subject to these subparts to report the mass of each fluorinated gas produced by each process. In these cases, we assigned each data element reported under 40 CFR part 98, subpart L to the appropriate direct emitter data category and each data element reported under 40 CFR part 98, subpart OO to the appropriate supplier data category. However, the proposed determination that the data element is CBI is the same for the data element reported under the proposed direct emitter subpart L and the supplier 40 CFR part 98, subpart OO. In all instances where the same information is reported under both a direct emitter and a supplier source category, the proposed confidentiality determination is the same for both elements.

This section also covers certain data elements from proposed 40 CFR part 98, subpart RR (Injection and Geological Sequestration of CO_2) that are related to the injection and sequestration of CO_2. All other data elements for proposed 40 CFR part 98, subpart RR are covered in Section II.C of this preamble because they relate to direct emissions from surface equipment and emissions from the leakage of CO_2 from geologic sequestration.

As previously mentioned, EPA has grouped the supplier data elements in Part 98 into 11 data categories and proposes to determine, by category, whether the data elements are entitled to confidential treatment. As discussed in Section I.C of this preamble, EPA proposes to determine that none of the categories qualify as emission data. This section describes the data elements within each of the 11 supplier data categories and EPA's proposed determination as to whether the data elements in each supplier category are CBI under CAA section 114(c).

1. Data Categories and Confidentiality Analysis

The 11 data categories for suppliers are as follows and are further described in Sections II.D.2 through II.D.12 of this preamble:

- GHGs reported.
- Production/throughput quantities and composition.
- Identification information.
- Unit/process operating characteristics.
- Calculation, test, and calibration methods.
- Data elements reported for periods of missing data that are not related to production/throughput or materials received.
- Emission factors.
- Amount and composition of materials received.
- Data elements reported for periods of missing data that are related to production/throughput or materials received.
- Supplier customer and vendor information.
- Process-specific and vendor data submitted in BAMM extension requests.

Sections II.D.2 through II.D.12 of this preamble describe EPA's proposed CBI determination and rationale for each of the 11 supplier data categories. A list of all the data elements in each category, by subpart, is provided in a memorandum (*see* Memorandum "Data Category Assignments for Reporting Elements" in Docket EPA–HQ–OAR–2009–0924 and the Web site (*http://www.epa.gov/climatechange/emissions/ghgrulemaking.html*).

2. The Greenhouse Gases Reported Category

EPA proposes to determine that certain supplier GHG quantity data elements at the facility level (or importer/exporter level or LDC level for the subparts that require those entities to report) are not CBI under CAA section 114(c), but that most of the product-specific GHG quantity data are CBI. Some data elements in this category do not qualify as CBI because they are already publicly available. For reported GHG quantity data that are determined to be CBI, EPA intends to release such data only at aggregated levels.

Description of the Data Elements. Under Part 98, suppliers of fuel products, industrial GHGs, and CO_2 are required to report the annual quantity of each GHG that would or could be emitted from the complete combustion, oxidation, or use (*i.e.,* 100 percent release) of the products they supply to the economy in a calendar year. These data elements are required under 40 CFR part 98, subpart A and the subparts of Part 98 that are applicable to suppliers. This data category also includes CO_2 data reported under proposed 40 CFR part 98, subpart RR (Injection and Sequestration of CO_2) (75 FR 18576, April 12, 2010), including the quantities of CO_2 received, produced, and injected for geologic sequestration facilities. Examples of the data elements in this category include the following:

- Total quantity of CO_2e (metric tons) aggregated for all GHGs from all applicable supply categories for the calendar year. This is the CO_2e that would or could result from complete combustion or use of fuel products or industrial GHGs supplied in a calendar year (40 CFR part 98, subpart A).
- Quantity of each GHG from each applicable supply category (40 CFR part 98, subpart A).
- CO_2 quantities that would be emitted from the complete combustion of each coal-based liquid fuel, each petroleum product, or each natural gas liquid supplied (40 CFR part 98, subparts LL, MM, NN) in a calendar year. Examples of individual products would be the different types and grades of gasoline, distillate fuel oils, petrochemical feedstocks, and other products supplied by a refinery as listed in Table MM–1 of 40 CFR part 98, subpart MM.
- CO_2 quantities that would be emitted from complete combustion of each coal-based liquid fuel or petroleum product imported and exported (40 CFR part 98, subparts LL and MM) in a calendar year.
- CO_2 quantities associated with annual volumes of natural gas received by LDCs, put into storage, withdrawn from the storage system, and delivered to transmission pipelines or end users (40 CFR part 98, subpart NN).
- Mass of each fluorinated gas and N_2O produced and destroyed by industrial GHG producers; mass of each industrial GHG imported or exported (40 CFR part 98, subpart OO).
- Mass of each fluorinated gas imported or exported in pre-charged equipment or closed-cell foams (proposed 40 CFR part 98, subpart QQ, 75 FR 18652, April 12, 2010).
- Mass of CO_2 imported, exported, or supplied by a producer (40 CFR part 98, subpart PP).
- Mass of CO_2 received, produced and injected for geologic sequestration (proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010).

Rationale for the Proposed Determination. Table 4 of this preamble describes the data elements in the supplier category subparts in Part 98 that fall in the Greenhouse Gas Reported Category. Table 4 also indicates EPA's proposed determination of the confidential status of such data.

TABLE 4—PROPOSED CBI DETERMINATION AND LEVEL OF RELEASE FOR GREENHOUSE GASES REPORTED

Source category (part 98 subpart)	Data elements	Are these data CBI?	If CBI, intended aggregated level of release [a]
Suppliers of Coal-Based Liquid Fuels and Petroleum Products (subparts LL and MM): Producers.	Total facility-level CO_2e from subparts LL–PP [b]; Facility-level CO_2 from each subpart [c].	No.	
	Product-specific CO_2	Yes	Release national aggregation of CO_2 by product [d] (*e.g.,* national CO_2 from No. 6 fuel oil aggregated for all facilities in subpart MM that supply No. 6 fuel oil).
Suppliers of Coal-Based Liquids and Petroleum Products (subparts LL and MM): Importers.	Total importer level CO_2e from subparts LL–PP [b]; Importer level CO_2 from each subpart [c]; Product-specific CO_2.	No.	
Suppliers of Coal-Based Liquids and Petroleum Products (subparts LL and MM): Exporters.	Total exporter level CO_2e from subparts LL–PP; Exporter level CO_2 from each subpart [c].	No.	
	Product-specific CO_2	Yes	Release national aggregation of CO_2 by product (*e.g.,* national CO_2 from No. 6 fuel oil aggregated for all companies that export No. 6 fuel oil).
Suppliers of Natural Gas and NGLs (subpart NN): LDCs.	Total LDC-level CO_2e from subparts LL through PP; LDC-level CO_2 from subpart NN [c]; Product-specific CO_2.	No.	
Suppliers of Natural Gas and NGLs (subpart NN): Fractionators.	Total Facility-level CO_2e from subparts LL through PP; Facility-level CO_2 from subpart NN [c].	No.	
	Product-specific CO_2	Yes	Release national aggregation of CO_2 by product (*e.g.,* national CO_2 from propane aggregated for all facilities that supply propane).
Suppliers of Industrial GHGs (subpart OO): Producers.	Total facility-level CO_2e from subparts LL through PP [b].	No. [e]	
	Facility-level GHG quantities, by gas, from subpart OO; Product-specific GHG quantities.	Yes	Release national aggregation, by GHG and product aggregated for all facilities covered by subpart [f] (*e.g.,* national N_2O quantity from all facilities producing N_2O).
Suppliers of Industrial GHGs (subpart OO): Importers and Exporters.	Total importer/exporter level CO_2e from subparts LL through PP.	No.	
	Importer/exporter level GHG quantities, by gas, from subpart OO; Product-specific GHG quantities.	Yes	Release national aggregation, by GHG and product aggregated, for all facilities covered by subpart OO (*e.g.,* national N_2O quantity from all facilities importing or exporting N_2O).
Suppliers of CO_2 (subpart PP): Producers	Annual mass or volume of CO_2 by each flow meter.	No.	
	Total facility-level CO_2e from subparts LL through PP [b].	No.	
Suppliers of CO_2 (subpart PP): Importers and Exporters.	Total importer/exporter level CO_2e from subparts LL through PP; Facility-level CO_2 from subpart PP.	No.	
Injection and Sequestration of CO_2 (proposed subpart RR, 75 FR 18576, April 12, 2010).	Annual mass or volume of CO_2 injected measured by each flow meter.	No.	
	Annual mass or volume of CO_2 transferred onsite or produced measured by flow meter.	Yes	Aggregated data released at the facility-level.
	Facility-level data on CO_2 received, produced, and injected.	No.	
Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-charged Equipment or Closed-cell Foams (proposed subpart QQ) (75 FR 18652, April 12, 2010).	Total importer/exporter level CO_2e from subparts LL through PP.	No.	
	Importer/exporter level GHG quantities, by gas, from subpart QQ.	Yes	Release national aggregation, by GHG for all facilities covered by subpart QQ.

[a] EPA could release supplier data aggregated in a number of different ways without revealing confidential data for individual suppliers. EPA solicits suggestions on alternative approaches to aggregating data elements in this category and comments on the extent to which aggregated data are useful to the public.

[b] This data element, reported under 40 CFR part 98, subpart A, represents the aggregation of CO_2e from all supplier source categories at the facility. For example, if a refinery supplies petrochemical products (40 CFR part 98, subpart MM) and is also a CO_2 supplier (40 CFR part 98, subpart PP) the facility-level CO_2e would represent the CO_2e for both activities combined.

[c] This data element, reported under 40 CFR part 98, subpart A, represents an aggregation of CO_2 (by source category) from multiple individual products the reporter supplies.

[d] National aggregation would be released only if there are three or more reporters.
[e] In cases where a facility produces a single product, this data element will be held as CBI.
[f] For 40 CFR part 98, subpart 00, national aggregation would be released only for products where there are three or more reporters.

As shown in Table 4 of this preamble, EPA proposes to determine that the reported facility-level or importer/exporter-level CO_2e quantities, and the facility-level or importer/exporter-level CO_2 quantity by supply category are not CBI because the release of these data elements is unlikely to cause substantial harm to suppliers reporting these data elements. These data elements represent the aggregated emissions from a mixture of products supplied to the economy by each supplier. With the exception of some industrial GHGs suppliers described below, fuel and industrial GHG suppliers produce, import, or export a number of different products for sale or delivery. The disclosure of these suppliers' facility-level CO_2e and CO_2 could not be used to back-calculate and reveal annual production rates of particular products or industrial gases or other sensitive information. Therefore, release of these data is not likely to harm the competitive positions and market strategies of reporting entities.

As noted in the footnote in Table 4 of this preamble, in cases where suppliers of industrial GHGs produce a single product, GHG quantities would be considered CBI because they could be used to back-calculate production rates of particular products or other sensitive information.

For suppliers (other than importers of coal-based liquid fuels and petroleum products, LDCs, and suppliers of CO_2), EPA proposes to determine as CBI reported facility and importer/exporter-level product-specific GHG data. Facility-level GHG quantities associated with each individual fuel product a petroleum refiner supplied (*e.g.,* each type or grade of gasoline, fuel oil, or other products supplied by a refinery) would be considered CBI. Similarly, we would consider as CBI the GHG quantities for each individual gas supplied by a supplier of industrial GHGs. For CO_2 injection and sequestration facilities, facility and flow meter-specific data on the amount of CO_2 received by or produced at a facility would be considered CBI. EPA finds that disclosure of these product-specific GHG data described above could likely cause substantial harm to the competitive position of the suppliers required to report these data elements under Part 98. For example, facility GHG information at the product level could be used to back-calculate a facility's or company's production rates, which EPA has determined are entitled to confidential treatment. *See* the supplier "Production/Throughput Quantity and Composition" category discussion in Section II.D.3 of this preamble for the complete explanation of why production data are CBI and the types of harm likely to be caused by releasing data that reveal the amount of product a facility or company produces and supplies.

For fuels (40 CFR part 98, subparts LL, MM and NN), GHG emissions are closely related to the carbon content of the fuel and are generally calculated as an emission factor times the amount of a fuel product produced. 40 CFR part 98, subparts MM and NN provide default emission factors, so if the GHG associated with a particular fuel product is released, competitors could calculate the amount of fuel product a facility supplies. For industrial GHG producers, each GHG is a product, so release of GHG data by product equates to direct release of the quantity of each product supplied.

As mentioned earlier in this section, there are four product-specific GHG data, disclosed at the reported level, that are not considered CBI. The reasons for these exceptions are as follows:

1. EPA does not consider CO_2 quantities that importers of petroleum products and coal-based liquids must report by product at the importer-level to be CBI. The EIA already releases the quantity of each petroleum product and coal-based liquids imported. Therefore, these product quantities are already in the public domain.

2. EPA does not consider the CO_2 quantities to be reported by product at the individual LDC level to be CBI. The EIA already releases the quantities of products distributed by LDCs. LDCs are defined in 40 CFR part 98, subpart NN as entities that are regulated as separate operating companies by State public utility commissions or operated as independent municipally-owned distribution systems. As such, LDC data related to rates and distribution quantities are already in the public domain.

3. EPA does not consider facility-level CO_2 quantity by product for suppliers of CO_2 to be CBI because much of this data is already available in the public domain. For this category, the CO_2 quantity reported by each supplier is the same as their CO_2 production (or import or export). *See* the supplier "Production/Throughput Quantities and Composition" category in Section II.D.3 of this preamble for the explanation of why release of CO_2 supplier product quantities is not likely to cause competitive harm and is not entitled to confidential treatment.

4. EPA does not consider facility-level CO_2 injection data by CO_2 injection and geologic sequestration facilities to be CBI because much of this data is already available in the public domain. For this category, the CO_2 quantity injected by each facility is the same as their CO_2 throughput data. *See* the supplier "Production/Throughput Quantities and Composition" category in Section II.D.3 of this preamble for the explanation of why release of CO_2 injection quantities is not likely to cause competitive harm and is not entitled to confidential treatment.

While EPA proposes to determine product-specific GHG data at the facility and importer/exporter level to be CBI (other than the four exceptions described above), EPA proposes to aggregate these GHG data, by gas, for each product and release the aggregated data by source category as shown in Table 4 of this preamble. For example, EPA would release the CO_2 associated with the total amount of each grade of gasoline, fuel oil, *etc.* supplied by all producers of petroleum products combined. As another example, EPA would also release the total amount of each GHG supplied in the U.S. by all suppliers of industrial gases in cases where the gas is produced at three or more facilities. Release of the aggregated data, which disclose the GHG associated with total national supply of a product, is not likely to cause substantial harm to the competitive position of businesses because competitors could not determine the products or quantities produced by an individual facility or corporation from this national level of data.

EPA solicits comments on the extent to which aggregated data are useful to the public. EPA also solicits comments on the aggregation approach described above or suggestions on alternative approaches to aggregating data for this data category.

Summary. EPA proposes to determine that CO_2e quantities reported by suppliers of petroleum products, coal-based liquids, natural gas, natural gas liquids, industrial GHGs, and CO_2 are not CBI under CAA section 114(c). EPA proposes to determine that the CO_2 quantities reported at the facility or importer/exporter-level are CBI, with four exceptions described above (which are determined to be non-CBI). EPA proposes to determine that CO_2 quantities reported by importers of petroleum products and coal-based liquids, CO_2 quantities reported by LDCs, and CO_2 quantities reported by suppliers CO_2 are not CBI. EPA solicits comments on the proposed determinations, including whether the data category determinations are

appropriate as well as whether the appropriate data elements were assigned to this category.

3. The Production/Throughput Quantities and Composition Category

EPA proposes to determine to be CBI under CAA section 114(c) facility-level production/throughput quantity and composition data for most suppliers except for the following: (1) Facility-level or importer/exporter-level data for suppliers of CO_2, (2) natural gas LDCs, (3) and importers of petroleum products. Some data elements in this category do not qualify as CBI because they are already publicly available. EPA proposes to determine that the data elements listed above are not CBI.

Description of data elements. The GHG Reporting Rule requires suppliers to report production and throughput quantities and product compositions (including products produced, imported, or exported). Suppliers are required to report production/throughput data at the product-specific level (*e.g.,* suppliers of petroleum products report the annual quantity of each petroleum product imported, exported, or leaving the refinery). Importers and exporters report the amount of each product imported and exported. Producers report the amount produced, sold, or delivered. Composition refers to information about the product make-up such as the fraction of the product that is derived from fossil fuels or the molecular components of a product, such as carbon share (the percent of total mass that carbon represents in a product). The data elements included in this category vary by supplier source category. The following list provides examples of the types of data included in this category.

Under 40 CFR part 98, subpart LL, suppliers of coal-to-liquids (CTLs) products must report:

- Annual quantity of each product listed in Table MM–1 of 40 CFR part 98, subpart MM that leaves the CTL facility.
- Percent of the volume of each product that is petroleum-based.

Under 40 CFR part 98, subpart MM, suppliers of petroleum products must report:

- Annual quantity of each petroleum product and natural gas liquid (NGL) that leaves the refinery.
- Annual quantity of each product and NGL imported or exported.
- Percent of the volume of each petroleum product or NGL that is petroleum-based (when petroleum-based products are blended with biomass based products).
- Carbon share and density of products produced, imported, or exported.

Under 40 CFR part 98, subpart NN, suppliers of natural gas and NGLs (NGL fractionators and LDCs) must report:

- Annual quantity of ethane, propane, normal butane, isobutane, and "pentanes plus" products they supply.
- Annual quantity of propane that the NGL fractionator odorizes at the facility and delivers to others.

Under 40 CFR part 98, subpart OO, suppliers of industrial GHGs must report:

- Annual quantity of nitrous oxide or each fluorinated GHG that was produced.
- Throughput information including the total mass of the reactants, by-products, and wastes permanently removed from each fluorinated GHG or nitrous oxide production process.
- Annual quantity of nitrous oxide or each fluorinated GHG that was sold or transferred for transformation and destruction.
- Annual mass of nitrous oxide or each fluorinated GHG that was imported or exported in bulk.
- Commodity code of the fluorinated GHGs or nitrous oxide shipped.

Under proposed 40 CFR part 98, subpart QQ (75 FR 18652, April 12, 2010), suppliers, importers and exporters of pre-charged equipment and closed cell-foam products must report:

- Quantity of the fluorinated GHG contained in the foam in each appliance imported or exported.
- Number of each type of appliance containing closed-cell foam imported or exported.
- Density of the fluorinated GHG contained in closed cell-foams that are not inside of appliances.
- Quantity of foam imported or exported for each type of closed-cell foam.

Under 40 CFR part 98, subpart PP, suppliers of CO_2 must report:

- Annual mass of CO_2 imported or exported.
- Aggregated annual quantity of CO_2 that is transferred off site for various end use applications (*e.g.,* greenhouse uses for plant growth, research and development).

Under proposed 40 CFR part 98, subpart RR, facilities must report:

- Annual mass of CO_2 received.
- Annual mass of CO_2 produced onsite.
- Annual CO_2 injected.
- Annual CO_2 sequestered in subsurface geologic formations.
- Cumulative mass of CO_2 reported as sequestered in the subsurface geologic formation in all years since the reporter began reporting.

Rationale for Proposed Determination. EPA proposes to determine that the data elements in the supplier production/throughput quantity and composition data category, with the exception of certain data elements that are already publicly available, are CBI under CAA section 114(c). Table 5 of this preamble shows the levels at which supplier production/throughput data are reported under each subpart, which data would be considered CBI, and which data are already publicly available and therefore not considered CBI. For data that EPA proposes to consider CBI, the table indicates the level of aggregation at which EPA would release the data.

TABLE 5—PROPOSED CONFIDENTIALITY DETERMINATION AND LEVEL OF RELEASE FOR SUPPLIER PRODUCTION AND THROUGHPUT DATA

Source category (part 98 subpart)	Level reported	Are these data CBI [a] (Y/N)?	If CBI, proposed aggregated level of release [b]
Suppliers of Coal-Based Liquid Fuels and Petroleum Products (Subparts LL and MM): Producers.	Facility level, by product	Yes	Release national aggregation, by product.[c d]
Suppliers of Coal-Based Liquids and Petroleum Products (Subparts LL and MM): Importers.	Importer level, by product	No.	
Suppliers of Coal-Based Liquids and Petroleum Products (Subparts LL and MM): Exporters.	Exporter level, by product	Yes	Release national aggregation, by product.

TABLE 5—PROPOSED CONFIDENTIALITY DETERMINATION AND LEVEL OF RELEASE FOR SUPPLIER PRODUCTION AND THROUGHPUT DATA—Continued

Source category (part 98 subpart)	Level reported	Are these data CBI [a] (Y/N)?	If CBI, proposed aggregated level of release [b]
Suppliers of Natural Gas and NGLs (Subpart NN): LDCs.	LDC level	No.	
Suppliers of Natural Gas and NGLs (Subpart NN): Fractionators.	NGL Fractionator level	Yes	Release national aggregation, by product.
Suppliers of Industrial GHGs (Subpart OO): Producers.	Facility level, by fluorinated GHG	Yes	Release national aggregation, by fluorinated GHG.[e]
	Facility level throughput [f] information, by process.	Yes	N/A.[g]
Suppliers of Industrial GHGs (Subpart OO): Importers and Exporters.	Importer and Exporter level, by fluorinated GHG.	Yes	Release national aggregation, by fluorinated GHG.
Suppliers of CO_2 (Subpart PP): Producers	Facility level total CO_2 production	No.	
	CO_2 mass or volume measured by flow meter.	No.	
	Facility level annually aggregated production information, by end use application.	No.	
Suppliers of CO_2 (PP): Importers and Exporters.	Importer and Exporter level total CO_2 imported/exported.	No.	
	CO_2 mass or volume measured by flow meter, scales and weigh bills.	Yes	Release Importer/exporter level aggregation.
	Importer and Exporter level annually aggregated production information, by end use application.	No.	
Importers and Exporters of Fluorinated Greenhouse Gases Contained in Pre-charged Equipment or Closed-cell Foams (proposed subpart QQ, 75 FR 18652, April 10, 2010).	Importer and Exporter level production information, by pre-charged equipment, closed-cell foam, and appliance containing closed-cell foam.	Yes	Release national aggregation, by pre-charged equipment, closed-cell foam, and appliance containing closed-cell foam.
Injection and Geological Sequestration of CO_2 (Proposed Subpart RR, 75 FR 18576, April 12, 2010).	Annual mass or volume of CO_2 injected measured by each flow meter.	No.	
	Annual mass or volume of CO_2 transferred onsite and produced measured by each flow meter.	Yes	Aggregated data released at the facility-level.
	Facility-level data on CO_2 received, produced, and injected.	No.	

[a] Production/throughput data are reported by product.
[b] EPA could release supplier data aggregated in a number of different ways without revealing confidential data. EPA solicits suggestions on alternative approaches to aggregating data for this data category and comments on the extent to which aggregated data are useful to the public.
[c] Product-specific data submitted by individual reporters is entitled to confidential treatment. The data will be aggregated and released only at the national level, by source category and product (*e.g.,* national production of No. 6 fuel oil aggregated for all facilities in 40 CFR part 98, subpart MM that supply No. 6 fuel oil).
[d] For 40 CFR part 98, subpart LL, national aggregation will be released only if there are three or more reporters.
[e] For 40 CFR part 98, subpart OO, national aggregation would be released only for products where there are three or more reporters.
[f] Throughput information includes the total mass of the reactants, by-products, and wastes permanently removed from each fluorinated GHG or nitrous oxide production process.
[g] Not applicable. Given the diversity of by-products, wastes, and reactants removed from different processes and facilities, it is not feasible to provide a national aggregation by product.

As shown in Table 5 of this preamble, EPA proposes to determine to be CBI reported facility level and importer/exporter level production and throughput quantity and composition data, and release it only in aggregated form, for the following reporters:

- Producers of CTLs and petroleum products (40 CFR part 98, subparts LL and MM).
- Exporters of CTLs and petroleum products (40 CFR part 98, subparts LL and MM).
- NGL fractionators (40 CFR part 98, subpart NN).
- Producers of industrial GHGs (40 CFR part 98, subpart OO).
- Importers and exporters of industrial GHGs (40 CFR part 98, subpart OO).
- Importers and exporters of fluorinated greenhouse gases contained in pre-charged equipment or closed-cell foams (proposed 40 CFR part 98, subpart QQ, 75 FR 18652, April 12, 2010).

Disclosure of these data would likely cause substantial harm to the competitive positions of businesses reporting these data. Releasing these data could be detrimental to the operational and marketing strategies of the reporting parties. For example:

- The disclosure of annual production quantities of products (*i.e.,* quantities sold and/or delivered), used in conjunction with other publicly available data related to capacity (*e.g.,* EIA publishes facility-level capacity data for refineries), could provide insight to a firm's operational strengths and weaknesses. Competitors could determine at what percent capacity a firm is operating, which can reveal information on the financial and competitive strength of the firm. For example, it could reveal that a manufacturer is operating well below capacity and likely experiencing financial difficulties. Having such information could allow competitors to narrow the competition by adjusting their prices to the further detriment of the reporting company, or to formulate other competitive strategies or

corporate acquisition strategies to the detriment of the reporting company. Having information on the percent of capacity at which a firm is operating could also reveal whether a manufacturer has existing capacity available to take on new customers in a growing market or is already at their maximum production and would need to invest capital to expand capacity in order to produce more. Having such information could give competitors insights to make competitive decisions on expanding their own production rates or altering their pricing strategies to the detriment of the reporting company.

• The disclosure of annual production quantities and compositions—in particular, products sold or delivered—provides insight into a firm's market strength and position. Competitors could use production quantity data (*i.e.,* quantities sold and/or delivered) to gain a competitive advantage over a firm by better approximating a firm's market share. For example, annual production data may reveal whether a firm is experiencing rapid growth or decline in market share. The data may also reveal the reporting supplier's customer base and marketing strategies. It might enable firms to determine which of their competitors won a contract/new customer for which they competed. This could substantially harm the firm's competitive position because the information could enable competitors to devise strategies to steal specific customers or even key employees. Changes in the mix of products produced could reveal marketing strategies. In many cases, an accurate estimate of the market position of a firm is difficult to procure, and the disclosure of such information through the GHG Reporting Rule could harm the competitive position of reporting parties.

• Disclosure of facility-level production/throughput quantities and product compositions could give competitors insight into a firm's local and regional market conditions and expansion plans, enabling competitors to devise strategies to prevent expansion and to steal market share in specific locations. In general, competitors do not currently have access to actual facility production rates or other information (*i.e.,* financial information) that could allow them to assess competition and market conditions in regional detail, because publicly available financial and economic information is released at the corporate level rather than the facility level.

• Information about production quantities and product composition may allow competitors to reasonably infer the types and approximate amounts of feedstocks or raw materials consumed. This may enable competitors to devise strategies to compete for resources. If in addition to production quantities, raw materials consumption data reported under the GHG Reporting Rule were also released, competitors could use the combination to expose sensitive information such as operating efficiencies (amount of product produced per unit of raw material consumed) and allow competitors to infer production costs and pricing structures.

As shown in Table 5 of this preamble, EPA proposes that the following data elements are not CBI:

• LDC-level production/throughput quantity and composition data reported by natural gas LDCs (40 CFR part 98, subpart NN).

• Importer-level data on quantities and compositions of products imported by CTL and petroleum product importers (40 CFR part 98, subparts LL and MM).

• CO_2 production/throughput data reported by CO_2 producers and at the importer or exporter level by importers, and exporters of CO_2 (40 CFR part 98, subpart PP).

• CO_2 injection data reported by CO_2 injection and geologic sequestration facilities (proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010).

EPA is proposing that the LDC-level production/throughput data collected under 40 CFR part 98, subpart NN and the importer-level data for petroleum products collected from importers under 40 CFR part 98, subparts LL and MM are not CBI because many of the same data elements from the same LDCs and importers are already collected and released annually by EIA in documents and databases posted on the Internet each year. For example, EIA collects and publicly releases, at the LDC and importer level, the quantities of natural gas supplied by LDCs and the quantities and relative densities of each product imported by importers of petroleum products and CTLs. Because the public already has access to these data elements, they are not CBI.

While the GHG Reporting Rule collects some production/throughput data elements under 40 CFR part 98, subparts LL and MM that are not collected (and therefore not released) by the EIA, these data elements could be estimated from data released by EIA or from data already publicly available. For example, 40 CFR part 98, subparts LL and MM require reporting of carbon share if the importer chooses to use a particular GHG calculation method (the rule provides different calculation options). Carbon share is a product composition data element that is not collected and released by EIA. However, the EIA releases information on the type of category of product imported (*e.g.,* residual fuel oil, reformulated motor gasoline), which could be used to determine the range within which the carbon share would fall. In addition, EIA collects and releases other importer-level product composition data for imported petroleum products (*e.g.,* sulfur content and API gravity). Carbon share data for imported products is unlikely to be any more sensitive than the sulfur content and API gravity data already released by EIA. EIA's release of sulfur content and API gravity data, suggests that product composition data, including carbon share, is not considered to be sensitive information by importers of petroleum products.

40 CFR part 98, subpart MM also requires importers to report the percent volume of each biomass-blended product that is petroleum-based. Although EIA does not publish this data element at the importer-level, the percent volume of petroleum in some biomass-blended products is already publicly available. For example, the percent of ethanol, and subsequently petroleum, in blended fuels is disclosed because Federal standards allow producers to blend only a certain percentage of ethanol in most gasoline products. Given the amount and type of importer-level product quantity and composition data already available, the release of these data elements, which are generally less sensitive in nature, is unlikely to cause substantial harm to the competitive position of importers of CTLs and petroleum products.

While the GHG Reporting Rule collects one production/throughput data element from LDCs that is not collected and released by EIA (reporter-specific HHV if reporters elect not to use the default factor provided for calculating emissions), EPA has determined that it is not CBI for the following reason: LDCs as defined in 40 CFR part 98, subpart NN are entities that are regulated as separate operating companies by State public utility commissions or operated as independent municipally-owned distribution systems. As such, LDC data related to rates and distribution quantities are already public knowledge. Moreover, LDCs are not subject to the same competitive marketplace experienced by other supplier categories. They generally serve one area and rarely overlap their distribution networks with those of their competitors.

Also already publicly available are facility-level production and throughput data from producers of CO_2 and exporter/importer level data from importers and exporters of CO_2. Only three States have facilities producing CO_2 from natural wells and all three States currently release the data. Therefore, facility and flow meter-specific data from these facilities is already publicly available from State oil and gas commissions. In addition, facility-specific information is published in other Federal or State publications such as the Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2007, which is updated each year. For example, this inventory

publishes the annual amount of CO_2 produced and the percentage of total production used for enhanced oil recovery (EOR) and non-EOR applications for two facilities currently producing CO_2 from naturally-occurring CO_2 reservoirs (Jackson Dome, Mississippi, and Bravo Dome, New Mexico). The amount of CO_2 produced annually by the two facilities mentioned above is the same data, when aggregated at the facility and annual level, reported by suppliers of CO_2 under 40 CFR part 98, subpart PP. Since CO_2 production data aggregated at the facility-level is already publicly available for producers of CO_2, the flow meter-specific data reported by producers is unlikely to disclose additional process-specific data that is not already discernable from data that is publicly available.

The GHG Reporting Rule requires suppliers of CO_2 to report the amount of CO_2 transferred to each end-use application. Some of this data is already publicly available. For example, the percentage of total CO_2 production used for EOR and non-EOR applications is reported in the Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2007. Additionally, the estimated CO_2 extraction (*i.e.,* production) data from power and industrial facilities engaged in RD&D efforts are routinely published and made publicly available. The International Energy Agency (IEA) provides facility-specific information through its online RD&D projects database (*see* the project details for the Great Plains Synfuels Plant (GPSP) CO2 Capture and Compression facility). IEA documents include data that is the same or can be used to calculate data reported under the GHG Reporting Rule. For example, the daily amount of CO_2 captured (*i.e.,* produced) by three commercial U.S. facilities and the end-use application of the captured CO_2 is included in the IEA project descriptions. The GHG Reporting Rule requires reporting of the annual, rather than daily, CO_2 production and the end uses. However, the annual data can be inferred from the daily data that is publicly documented by IEA. Therefore disclosure of the annual data collected under the GHG Reporting Rule would not reveal additional information that is likely to cause harm to the competitive positions of reporters. Therefore, EPA proposes to determine that facility- or importer/exporter-level production data for CO_2 suppliers reported under Part 98 are not CBI because much of the data are already publicly available, and the disclosure of end use application of the CO_2 is not likely to cause harm to the competitive position of CO_2 suppliers since it does not reveal detailed customer information.

For proposed 40 CFR part 98, subpart RR (75 FR 18576, April 12, 2010), CO_2 injection data is general in nature and not likely to be correlated with any confidential commercial operations. Detailed data on CO_2 injection flow rates are already reported either to EPA or to a State agency under EPA's Underground Injection Control Program. Two States currently publish on their Web sites the data for the 48 CO_2 injection facilities in their jurisdictions. Such publication suggests that CO_2 injection data at the facility and flow meter-level is unlikely to be considered sensitive commercial information. We are also not aware of any competitive harm that has resulted from the disclosure of such information. We therefore find that the disclosure of these data elements is unlikely to cause substantial harm to a reporting company's competitive position. EPA solicits comment on whether detailed CO_2 injection data or any other data to be reported under proposed 40 CFR part 98, subpart RR are held confidential by other regulatory programs.

Summary. EPA proposes to determine to be CBI, under CAA section 114(c), facility-level production/throughput data for most suppliers (as listed in Table 5 of this preamble) because their disclosure is likely to cause substantial harm to the competitive position of the reporting suppliers. Data determined to be CBI would be released only at an aggregated national level (by subpart and by product) that would not compromise the confidentiality of these data elements, as listed in Table 5 of this preamble. EPA proposes that the following three types of production/throughput data are not CBI because they are already publicly available: Facility-level and importer/exporter-level data reported by suppliers of CO_2, LDC-level data reported by for natural gas LDCs, and importer-level data reported by importers of petroleum products. EPA solicits comments on the proposed determinations, including whether the data category determinations are appropriate as well as whether the appropriate data elements were assigned to this category. EPA also solicits suggestions on alternative approaches to aggregating data for this data category and comments on the extent to which aggregated data are useful to the public.

4. The Identification Information Category

EPA proposes to determine that the supplier identification information is not CBI under CAA section 114(c).

Description of the Data Elements. 40 CFR part 98, subpart A requires all suppliers subject to the rule to report information needed to identify themselves. The data elements in this category consist of the supplier identifying information specified in 40 CFR part 98, subpart A, the proposed amendments to 40 CFR part 98, subpart A (75 FR 18455, April 12, 2010), and individual supplier subparts. These data elements include: The supplier name and physical street address, including the city, State, and zip code; the year and months covered by the report; the date of submittal of the annual report; importer number for the shipment (40 CFR part 98, subpart OO); the signed and dated certification statement of the accuracy and completeness of the annual report, provided by the designated representative of the owner or operator; the well identification number (proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010); name and address of U.S. parent company(s) and their percentage ownership interest in the supplier (proposed amendments to 40 CFR part 98, subpart A); and NAICS codes (proposed amendments to 40 CFR part 98, subpart A).

This data category also includes facility and unit identification information submitted to EPA in BAMM extension requests. These data elements include: The facility or supplier name and physical address; unit identification numbers; number and type of units; and descriptions of units and monitoring equipment.

Rationale for the Proposed Determination. EPA proposes to determine that the data elements in this category do not qualify as CBI under CAA section 114(c). This information is not currently protected by suppliers. Businesses that are suppliers of fossil fuels and industrial GHGs make their identities known to potential customers as a part of normal business practices and do not take steps to prevent the release of this information. The information does not pertain to any sensitive business information, such as information on specific processes used at the facility or production information. Therefore, its disclosure is not likely to cause substantial harm to the reporting suppliers' competitive position. Furthermore, identifying information for suppliers of various fossil fuels and industrial GHGs, including those subject to Part 98, is already collected and released to the public under various EPA and Department of Energy (DoE) programs. Examples include EPA's TRI and DoE's EIA periodic energy reporting programs. We are not aware of any

competitive harm that resulted from the disclosure of such information and conclude that this is the case as well for the data elements in this category.

Summary. For the reasons described above, EPA proposes to determine that the data elements in the Supplier Identification Information Category are not CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

5. The Unit/Process Operating Characteristics Category

This data category includes data elements from 40 CFR part 98, subpart OO (Suppliers of Industrial GHGs), subpart PP (Suppliers of Carbon Dioxide), proposed subpart QQ (Importers and Exporters of Fluorinated-Greenhouse Gases in Pre-Charged Equipment or Closed-cell Foams) (75 FR 18652, April 12, 2010), and proposed subpart RR (Injection and Geological Sequestration of Carbon Dioxide) (75 FR 18576, April 12, 2010). EPA proposes to determine that one of the data elements under 40 CFR part 98, subpart OO is CBI under CAA section 114(c) and the remaining data elements under 40 CFR part 98, subparts OO and PP, and proposed 40 CFR part 98, subparts QQ and RR are not CBI.

Description of Data Elements. The following data elements are included in this category:

- The estimated percent transformation efficiency of each production process for the fluorinated GHG produced (40 CFR part 98, subpart OO).[13]
- The destruction efficiency (DE) of each fluorinated GHG destruction unit (40 CFR part 98, subpart OO).[13]
- The chemical identity of the fluorinated GHG(s) used in the performance test conducted to determine DE (40 CFR part 98, subpart OO).[13]
- Dates on which the fluorinated GHGs or nitrous oxide were imported (40 CFR part 98, subpart OO and proposed subpart QQ, 75 FR 18652, April 12, 2010).
- Port of entry through which the fluorinated GHGs or nitrous oxide were imported (40 CFR part 98, subpart OO and proposed subpart QQ, 75 FR 18652, April 12, 2010).
- Date on which the fluorinated GHGs and nitrous oxide were exported from the U.S. or its territories (40 CFR part 98, subpart OO and proposed subpart QQ, 75 FR 18652, April 12, 2010).
- Port from which the fluorinated GHGs and nitrous oxide were exported from the U.S. or its territories (40 CFR part 98, subpart OO and proposed subpart QQ, 75 FR 18652, April 12, 2010).
- Percent of a captured CO_2 stream that is biomass-based (40 CFR part 98, subpart PP).
- Source of the CO_2 received (*e.g.,* CO_2 production wells, electric generating unit, ethanol plant, pulp and paper mill, natural gas processing, other anthropogenic source) (proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010).
- Underground injection control permit class (proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010).

Rationale for the Proposed Determination. EPA proposes to determine that the estimated percent transformation efficiency of each production process for the fluorinated GHG produced, as required under 40 CFR part 98, subpart OO, are CBI under CAA section 114(c). Disclosing this data element, which pertains to a facility's operating efficiency (amount of product produced per unit of raw material consumed), could allow a facility's competitors to infer production costs and pricing structures, and develop more competitive pricing and marketing strategies. It may also reveal proprietary information about the actual transformation process that a facility is using. Therefore, disclosure of this data element is likely to cause substantial harm to the reporting business's competitive position.

EPA proposes to determine that the destruction efficiency of each fluorinated GHG destruction unit, as well as the chemical identity of the fluorinated GHG(s) used in the performance test conducted to determine the destruction efficiency under 40 CFR part 98, subpart OO, are not CBI. The destruction efficiency is determined by performance test and is used in Equation OO–4 of 40 CFR part 98, subpart OO to calculate the mass of fluorinated GHGs destroyed. The fluorinated GHG(s) used in the performance test to determine the destruction efficiency are usually stable compounds that are used as surrogates for a broad class of other fluorinated compounds. Disclosing the chemical identity of the fluorinated GHGs used in the performance test and the destruction efficiency determined by the performance test do not reveal sensitive business information about the process, such as the amount of a specific product that is destroyed or supplied by a facility. Nor do they reveal the actual technology used for fluorinated GHG destruction, or the operating conditions for a particular technology. Therefore, disclosing this information would not likely cause substantial harm to a supplier reporter's competitive position.

The remaining data elements in this category are the dates and ports of shipments of industrial GHGs (40 CFR part 98, subpart OO and proposed subpart QQ (75 FR 18652, April 12, 2010)), the percentage of a captured CO_2 stream that is derived from biomass (40 CFR part 98, subpart PP), and the source of CO_2 received by injection and geologic sequestration facilities (proposed 40 CFR part 98, subpart RR, 75 FR 18576, April 12, 2010). The dates of import and export shipments, and the ports of entry or exit under 40 CFR part 98, subpart OO and proposed subpart QQ are simply the dates and ports through which shipments occur; they do not contain information regarding the contents of the shipment. The source of CO_2 received by injection and geologic sequestration facilities identifies the type of source (*e.g.,* ethanol plant), but does not provide specific information that would identify the specific facilities or company that supplies the CO_2 to the facility or on the amount of CO_2 provided to an individual facility or company. Such information does not reveal sensitive information related to operational strengths or weaknesses, operational capacity, customer base, production amounts, or market share. Therefore, EPA proposes to determine that the date of the import or export, the port of entry or exit, and the source of CO_2 received are not CBI.

For the reporting of percent of captured CO_2 that is biomass-based under 40 CFR part 98, subpart PP, this data element is already publicly available and therefore not CBI. As discussed in the section Production/Throughput Quantities and Composition Category (*see* Section II.D.3 of this preamble), facility specific information on CO_2 production is already publicly available. Biomass-based CO_2 is generally produced as a by-product of other production processes, such as ethanol plants, where use of biomass is already commonly known.

Summary. EPA proposes to determine that the estimated percent transformation efficiency of each production process for the fluorinated GHG produced under 40 CFR part 98, subpart OO is CBI under CAA section

[13] Under 40 CFR part 98, subpart OO, suppliers must submit a one-time report that includes each of the data elements described above. However, if the efficiency of the destruction device is re-tested, the supplier must include that information in its next annual report.

114(c). EPA proposes to determine that the destruction efficiency of each fluorinated GHG destruction unit and the chemical identity of the fluorinated GHG(s) used in the performance test conducted to determine the destruction efficiency are not CBI under CAA section 114(c). In addition, EPA proposes to determine that the date of import/export, port of entry/exit, and the percent of captured CO_2 that is biomass-based are not CBI under CAA section 114(c). EPA solicits comments on these proposed determinations, including whether the data category determinations are appropriate as well as whether the appropriate data elements were assigned to this category.

6. The Calculation, Test, and Calibration Methods for Suppliers Category

EPA proposes to determine that the emission calculation methodology and the testing and calibration methods specified in Part 98 applicable to the suppliers of fuels and industrial GHGs are not CBI under CAA section 114(c).

Description of the Data Elements. Part 98 requires suppliers to calculate potential annual mass emissions (metric tons per year) of each GHG that would be emitted if supplied fuels were completely combusted or oxidized, or supplied industrial GHGs are used (*i.e.,* 100 percent released to the atmosphere). Specific calculation and measurement methods are contained in each supplier category subpart. Data elements included in this category are the methods provided in Part 98 for use by suppliers to calculate the GHG quantities to be reported. These methods are used to sample and analyze the raw materials received and products supplied. They are also used to measure the quantity of raw materials and products. The data collected from the samples and analyses (which are not part of this data category) are used by the reporter to calculate the GHG quantities.

This data category also includes data elements submitted to EPA in BAMM extension requests. Examples of data elements in this category include the following:

- The methods used by the reporter to measure the quantity of each product or raw material used in calculating potential emissions.
- The methods used by the reporter to collect and analyze samples of raw material or product for density and carbon share.
- The methods used by the reporter to develop reporter-specific values for HHV and GHG emission factors.
- The methods used by the reporter to determine the efficiency of units used for fluorinated GHG destruction.
- The methods used by the reporter to record the mass of fluorinated GHG destroyed.
- The methods used by the reporter to measure the mass of fluorinated GHGs produced or fed into a transformation process, including the type of instrumentation used and the precision.
- The methods used by the reporter to estimate the fraction of fluorinated GHGs fed into a transformation process that is actually transformed.
- The methods used by the reporter to estimate the mass of fluorinated GHGs fed into a destruction device, to estimate the concentration of the fluorinated GHGs in the destroyed material, and the precision and accuracy of the methods.
- Identification of the parameter, subpart, and rule citation for which a BAMM extension is requested (40 CFR part 98, subpart A).

Rationale for the Proposed Determination.

EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c). EPA finds that disclosure of the information is not likely to cause substantial harm to the competitive positions of suppliers reporting this information under Part 98.

These methods, many of which are specified in Part 98, are standardized methods applicable to suppliers in a given source category. These methods do not contain facility specific or sensitive business information, nor does disclosing the use of these methods by a reporting supplier facility reveal sensitive business information regarding the facility. For example, disclosing the methods used to measure material inputs to a manufacturing process or to measure the efficiencies of transformation or destruction processes would not reveal information regarding the actual production rates or efficiencies of those processes of the reporting facility. Also, some of the methods are already public information (*e.g.,* the methods for sampling and measuring carbon content of various materials are published by the American Society for Testing and Material (ASTM), International Standards Organization (ISO), and Gas Processors Association (GPA)).

Summary. For the reasons stated above, EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

7. The Data Elements Reported for Periods of Missing Data That Are Not Related to Production/Throughput or Materials Received Category

EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c).

Description of the Data Elements. The data elements in this category include data to be reported when there is missing data (other than missing production/throughput and materials received data, the required reporting for which is addressed in Section II.D.10 of this preamble). The data elements in this category are as follows:

Under 40 CFR part 98, subpart A (general provisions), all suppliers must report the following:

- The data elements for which a substitute value was determined for missing data.
- The total number of hours in the year that a missing data procedure was used.

Under 40 CFR part 98, subpart NN, suppliers of natural gas and natural gas liquids (NGLs) must also report the number of days in the reporting year for which substitute data procedures were used to perform each of the following:

- Measure quantity of natural gas and NGLs supplied to downstream facilities.
- Develop HHVs.
- Develop emission factors.

Under 40 CFR part 98, subpart PP suppliers of carbon dioxide must also report the number of days in the reporting year for which substitute data procedures were used to perform each of the following:

- Measure the quantity of CO_2.
- Measure the concentration of CO_2 in a stream.
- Measure the density of a CO_2 stream.

Under proposed 40 CFR part 98, subpart RR (75 FR 18576, April 12, 2010), facilities report the number of times missing data procedures were used. For 40 CFR part 98, subparts LL, MM, and OO, suppliers report only the data elements listed for the Missing Data Category under 40 CFR part 98, subpart A.

Rationale for the Proposed Determination. These data elements provide information to identify those data elements for which missing data procedures were used and the duration of the period for which missing data procedures were used. They are important because from these reported data elements, EPA and others using the reported data can judge the quality of the GHG data collected and reported by a supplier.

EPA proposes that the data elements in this category are not CBI because their disclosure would not likely cause substantial harm to the competitive positions of reporting businesses. The data elements in this category do not include the actual values that would be used as substitutes for missing data. Rather, these missing data elements relate only to the purpose (*i.e.,* which data is missing) and duration of the use of the substitute data procedures listed in Part 98. Such information cannot be used to determine the amount or composition of a specific product being supplied or a specific material received, details about the specific production processes used, or any other information that would be considered sensitive by businesses. For example, the total number of hours during which substitute data was used instead of the measured CO_2 concentration values required by Part 98, subpart PP, does not disclose the CO_2 concentration of stream, the flow rate, or any other data that could be used to reveal sensitive information about a production process.

Summary. For the reasons stated above, EPA proposes to determine that the data elements in this category are not CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

8. The Emission Factors Category

EPA proposes to determine that the data elements in this category are CBI under CAA section 114(c) because their release is likely to cause substantial harm to the competitive positions of the suppliers reporting these data.

Description of Data Elements. Part 98 requires suppliers subject to 40 CFR part 98, subparts LL, MM, and NN to use emission factors to calculate the CO_2e emissions that would result from the complete combustion or oxidation of the products they supply. These suppliers have the option to develop product- or feedstock-specific emission factors. This category contains the calculated emissions factors that suppliers choose to develop. The data elements in this category are the following:

- Calculated CO_2 emission factors for each feedstock received and product produced, imported, or exported (40 CFR part 98, subparts LL and MM).
- Calculated CO_2 emission factors for natural gas and each NGL product (40 CFR part 98, subpart NN).

These emission factor data are used to calculate the GHG quantities that are reported by suppliers under 40 CFR part 98, subparts LL, MM, and NN. Suppliers report the GHG quantities (in CO_2) that would ultimately be emitted (throughout the economy) from complete combustion or oxidation of each fuel product supplied. Therefore, these emission factors are critical for calculating the CO_2 and CO_2e quantities reported by suppliers.

Rationale for the Proposed Determination. EPA proposes to determine that the data elements in this category are CBI because their release is likely to cause substantial harm to the competitive positions of supplier businesses reporting under Part 98. Disclosing emission factors could harm the competitive advantage of firms because the emission factors can be used to back-calculate the carbon share of the supplier's products and raw materials. Revealing carbon share information on products or raw materials could give competitors insights concerning product make-up, production processes used, the markets and types of customers a facility supplies, who they obtain raw materials from, and other process-specific information. Such information could allow a competitor to devise strategies to capture market share from specific firms, compete for raw material resources, and otherwise put the reporting suppliers at a disadvantage. *See* the "Production/Throughput Quantities and Composition" and the "Amount and Composition of Materials Received" categories for suppliers in Sections II.D.3 and II.D.9 of this preamble for further rationale as to why EPA has concluded that information that could reveal production and raw materials information is entitled to confidential treatment.

The following is an example of how release of emission factors could allow calculation of carbon share for suppliers subject to 40 CFR part 98, subparts LL, MM, and NN. The 40 CFR part 98, subpart MM site-specific emission factors are calculated as the carbon share of the product (percent carbon in the material) multiplied by the density. The density of many products is known (particularly for solid products, which are given a default value of "1") or can be inferred given that many products have densities that fall within a limited range. Therefore, if site-specific emission factors were released, and density is known or can be inferred, competitors could closely estimate the carbon share of a product or feedstock. Public disclosure of emission factors could therefore enable competitors to back-calculate carbon share and gain insight into the composition of products and feedstocks.

Summary. For the reasons stated above, EPA is proposing to determine that the data elements in this category are CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

9. The Amount and Composition of Materials Received Category

EPA proposes to determine that the data elements in this category are CBI under CAA section 114(c) because release of such data is likely to cause substantial harm to the competitive position of suppliers reporting these data under Part 98.

Description of Data Elements. Data elements included in this category are the quantities and compositions of raw materials and other materials received by suppliers who are subject to reporting under 40 CFR part 98, subparts LL, MM, NN, and OO. Some of the materials received are raw materials that the reporter uses to produce the fuel products or industrial gases they supply into the economy (*e.g.,* sell or distribute). Others are materials that are received and not used as raw materials but are instead distributed by the reporting supplier to other facilities that either use them as raw materials or fuels (*e.g.,* a LDC receives natural gas and NGLs and blends and distributes them to customers rather than using them as a raw material to produce other products). This category also includes 40 CFR part 98, subpart OO data elements for quantities of materials that are produced on site in one production process, and then consumed on site by another production process.

The data elements in this data category vary by supplier source category. The following list provides examples of the types of data included in this category:

- Annual quantity of each product in Table MM–1 of 40 CFR part 98, subpart MM entering the coal-to-liquid facility for further processing or other uses onsite (40 CFR part 98, subpart LL).
- Annual quantity of each type of biomass that is to be co-processed with fossil fuel-based feedstock (40 CFR part 98, subpart LL).
- Carbon share and density of feedstocks consumed (40 CFR part 98, subpart LL).
- Annual quantity of petroleum products or natural gas liquids (NGL) entering the refinery for further refining or for other uses onsite (40 CFR part 98, subpart MM).

• Annual quantity of each type of biomass that is to be co-processed with petroleum feedstocks to produce a petroleum product (40 CFR part 98, subpart MM).

• Quantity of bulk NGLs received for processing during the reporting year (40 CFR part 98, subpart MM).

• Carbon share and density of feedstocks consumed (40 CFR part 98, subpart MM).

• Annual quantities of ethane, propane, normal butane, isobutane, and "pentanes plus" products received from other NGL fractionators (40 CFR part 98, subpart NN).

• Annual volume of natural gas received by the LDC at its city gate stations for redelivery on the LDC's distribution system, including for use by the LDC (40 CFR part 98, subpart NN).

• Total mass of each reactant fed into the fluorinated GHG or nitrous oxide production process, by process (Reactants include raw materials received) (40 CFR part 98, subpart OO).

• Mass of N_2O and each fluorinated GHG fed into a transformation process transformed at the facility, by process. This includes quantities of N_2O and fluorinated GHGs that were produced at the facility and then consumed by a separate transformation process (*i.e.,* a separate process that uses and entirely consumes these gases to manufacture other chemicals for commercial purposes) (40 CFR part 98, subpart OO).

Rationale for the Proposed Determination. EPA proposes to determine that the data elements in this data category are CBI because their disclosure is likely to cause substantial harm to the reporting suppliers' competitive positions. Disclosing information about a facility's annual amount and composition of materials received could harm the competitive advantage of firms in the following ways:

• The disclosure of the amount and composition of materials received and fed into production processes at a facility could provide insight into sensitive details like the compositional characteristics of a product. Competitors could use this information to determine the chemical ratios and the material quantities incorporated in a product. Public disclosure may also reveal when a reporting supplier switches to a different material resource, potentially indicating to competitors that the reporting supplier has discovered a way to produce the same product at a lower cost. Competitors could harm the competitive position of the reporting party by applying the same strategy and/or attempt to drive up the costs of the material resource.

• Information about the quantities and composition of materials received could expose a firm's competitive and growth strategies. For example, a record showing a significant increase in consumption of a particular material resource may indicate to competitors that a firm is seeking entry into a new market.

• Information about raw material quantities and composition could reveal information related to a firm's suppliers. For example, Firm A depends heavily on one supplier for a particular resource. A competing firm, Firm B, could deduce this relationship knowing that no other major suppliers can provide that particular resource at the quantity demanded by Firm A. Firm B could use this information to create new strategies to compete for that resource. If Firm B is also more efficient and able to absorb higher costs than Firm A, Firm B could intentionally drive up resource costs and push Firm A out of business.

• Disclosure of facility-level data on the quantity and composition of raw materials received could give competitors insight into a business's local and regional market conditions and expansion plans, enabling competitors to devise strategies to prevent expansion and to steel market share in specific locations. In general, competitors do not currently have access to actual facility-level data on the quantity and composition of raw materials or other day (*e.g.,* financial statements) that could allow them to assess competitive market conditions in regional detail, because publicly available financial and economic information is released at the corporate level, rather than the facility-level.

• Information about the quantities and composition of materials received for processing may enable competitors to determine the type of manufacturing processes used since processes vary by the quantity and composition of materials used. This information may also allow competitors to reasonably infer production quantities of each product and the product mix of a facility. If in addition to raw materials received, production quantities data reported under Part 98 are also released, competitors could use the combination of production and feedstock consumption data to expose sensitive information such as operating efficiencies (amount of product produced per unit of raw material consumed) and allow competitors to infer production costs and pricing structures.

Summary. For the reasons stated above, EPA proposes to determine that the data elements in this category are CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

10. The Data Elements Reported for Periods of Missing Data That Are Related to Production/Throughput or Materials Received Category

40 CFR part 98, subpart OO requires suppliers of industrial GHGs (N_2O and fluorinated GHGs) who are subject to 40 CFR part 98, subpart OO to report numerical substitute values for production/throughput and materials received quantities and composition during missing data periods as well as other background information related to missing data. EPA is proposing to determine that the substitute values used to estimate such information during missing data periods and the related background information are CBI under CAA section 114(c).

Description of Data Elements. Data elements in this category, which are required only in 40 CFR part 98, subpart OO, include the substitute values (*i.e.,* the actual numerical values used in the calculation), the methods used to generate the substitute values, and other related information, for estimating production/throughput and materials received quantities and compositions. A complete list of the data elements in this category is as follows:

• Reason the data were missing.

• Length of time the data were missing.

• Method used to estimate the missing data.

• Estimates of the missing production/throughput or materials received data (*i.e.,* the mass of each fluorinated GHG that is produced at the facility by process, fed into the production process, fed into the transformation process, fed into destruction devices, and sent to another facility for transformation or destruction).

Rationale for the Proposed Determination. EPA proposes to determine that the data elements in this category are CBI under CAA section 114(c) because their disclosure is likely to cause substantial harm to suppliers reporting these data under Part 98. The data elements in this category are data needed to generate substitute values for missing production/throughput data (*e.g.,* the amount of a fluorinated gas produced at a facility during a specified missing data time period) or raw materials consumed data (*e.g.,* the amount of a gas fed into the production process during a specified missing data time period). Accordingly, these data elements are themselves production data and materials received data for the missing data period and their disclosure could divulge sensitive details about operational capabilities, marketing strategies, market share, and product chemistries. For a detailed explanation, *see* the "Production/Throughput Quantities and Composition" and the "Amount and Composition of Materials Received" categories for suppliers in Sections II.D.3 and II.D.9 of this preamble.

Summary. For the reasons stated above, EPA proposes to determine that the data elements in this category are CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

11. The Supplier Customer and Vendor Information Category

EPA proposes to determine that information on customers and vendors associated with fuel and industrial GHG suppliers are CBI under CAA section 114(c).

Description of the Data Elements. Data elements included in this category are information on individual customers that receive fossil fuels or industrial GHGs from the reporting suppliers, and the facilities to which industrial GHGs are sold or transferred for transformation or destruction. Examples of data elements in this category include the following:

- 40 CFR part 98, subpart NN (Suppliers of Natural Gas and Natural Gas Liquids) requires LDCs to report the annual volume of natural gas supplied to each meter registering an annual supply equal to or greater than 460,000 Mscf per calendar year. 40 CFR part 98, Subpart NN also requires reporting the customer name, address, and meter number of each meter registering an annual supply equal to or greater than 460,000 Mscf.
- 40 CFR part 98, subpart NN also requires reporting (if known) the EIA identification number of each LDC customer.
- 40 CFR part 98, subpart OO (Suppliers of Industrial Greenhouse Gases) requires production facilities and bulk importers to report the names and addresses of facilities to which any N_2O or fluorinated GHGs were sent for transformation or destruction.
- 40 CFR part 98, subpart OO and proposed subpart QQ (75 FR 18652, April 12, 2010) require importers to report the country from which products are imported and exporters to report the country to which products were exported.

Rationale for the Proposed Determination. For the following reasons, EPA proposes to determine that information on the identities of the customers and vendors associated with fuel and industrial GHG suppliers is CBI under CAA section 114(c).

Suppliers of fuels and industrial GHGs do not release the identity of their customers to protect information on their customer base, market share, and similar data that could be utilized to deduce competitive strategies. The information is not reasonably available without the businesses consent, and businesses take steps to protect this information.

In addition, release of this information is likely to cause substantial harm to the competitive position of the supplier reporters. For example, if all suppliers of fuels and industrial GHGs under a particular subpart were required to report their associated customers and vendors, and the information were widely available, then competitors could use that information to determine the approximate market share of each reporter, based on the number and estimated size of customers. This information could be used to develop strategies to take customers from a competitor.

Likewise, if all suppliers of industrial GHGs under a particular subpart were required to report to whom they were sending GHGs for destruction, competitors could possibly determine information about the manufacturing process of the suppliers of industrial GHGs based on the nature of the services provided by the facility performing the destruction.

In addition, requiring suppliers of industrial GHGs to identify facilities that destroy GHGs could reveal proprietary information about the destruction facilities' customer base and market share, which could be used by competitors to harm the GHG destruction facilities competitive position.

Summary. For the reasons stated above, EPA proposes to determine that information on the identities of the customers and vendors associated with fuel and industrial GHG suppliers are CBI under CAA section 114(c). EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

12. The Process-Specific and Vendor Data Submitted in the BAMM Extension Request Category

EPA proposes to determine that the data elements in this category are CBI under CAA section 114(c) because the release of process-specific and vendor data submitted with the BAMM extension request is likely to cause substantial harm to competitive position of suppliers reporting these data under Part 98.

Description of data elements. The data elements in this category include certain information submitted by reporters in petitions to extend the use of BAMM. These data elements are submitted once, as part of the petition, and are not submitted on a recurring basis in the annual GHG reports. The October 2009 final rule allowed use of BAMM for the first three months of 2010. A petition process is established in 40 CFR 98.3(d)(2) allowing facilities to submit, for EPA approval, requests to extend the use of BAMM beyond March 31, 2010. Similar allowances to submit BAMM requests are included in proposed rule amendments (*see* 75 FR 18652, April 12, 2010 and 75 FR 18576, April 12, 2010). Much of the information required for BAMM requests, such as location information and planned dates by which full monitoring equipment will be installed are classified in other data categories. However, some of the petitions received contain detailed process design information, vendor and cost information that are not technically similar to other data collected through Part 98. Provided below are some examples of the data elements in this Category:

- Location where each monitor will be installed. Process diagrams may be included to show specific locations.
- Information on alternative monitoring equipment suppliers and delivery dates investigated.
- Supporting documentation demonstrating that it is not possible to isolate the equipment and install monitoring instruments without a process unit shutdown.
- Information on process unit shutdowns including frequency and dates of previous and planned shutdowns.

Rationale for Proposed Determination. EPA proposes to determine that the data elements in this data category are CBI under CAA section 114(c). We find that disclosure of these process-specific and vendor data submitted with BAMM extension requests is likely to cause substantial harm to the competitive position of businesses submitting these requests under Part 98. Disclosure could allow competitors to gain insight into the specific processes used by the facility that they could use to gain a competitive advantage. For example:

- The disclosure of process design diagrams submitted to show monitor location or to show that it is not possible to install monitoring equipment without a process unit shutdown could allow competitors to determine the type of process, specific equipment, and sequence of process steps used in the reporter's manufacturing process. Such information is often proprietary, and public disclosure could reveal trade secret or sensitive information and substantially harm a firm's competitive position. The process configuration diagrams could also be used by a competitor to gain insight into whether the facility has multiple or interconnected lines to produce products, likely bottlenecks, potential spare capacity, and flexibility to

produce alternative products. This could provide competitors with insight into a petitioner's operational strengths and weaknesses. Such process-specific information could be used to infer information on production costs, pricing structures, and the ability of a firm to respond to changing market conditions. Having such information could give competitors insights to make competitive decisions on expanding their own production rates or altering their pricing strategies to the detriment of the reporting company.

• Information provided in the petition about their communications with alternative suppliers, delivery dates, and backorder notices could reveal a variety of information that the facility submitting the BAMM requests and their suppliers consider sensitive. For example, documentation could include information on the exact equipment being ordered and/or price quotes. This information could be used by competitors of the reporter submitting the petition to infer the costs the reporter is paying to comply with mandatory reporting rule, which is sensitive information. It could also be used by competitors of the firms supplying monitoring equipment quotes to undercut prices or offer better delivery schedules and gain a competitive advantage. Documentation pertaining to the investigation and ordering of monitoring equipment could also include specific information about the process stream characteristics in the process lines being monitored. Such information might be provided to a supplier to be sure the monitoring equipment could withstand the process conditions (*e.g.,* corrosive chemicals, temperatures) that the monitoring equipment will encounter. This information could allow competitors to gain insight into the production processes used by a facility and assist them in formulating competitive strategies as described in the preceding paragraph.

• Information and frequency and schedule for process unit shutdowns could give competitors an understanding of the amount of process downtime and insight into process efficiency. It could also be used to infer if process modifications are being made (*e.g.,* if there is a long shutdown). Knowledge about periods when a process unit will be shutdown and potentially have trouble supplying demand for a product could allow competitors to develop strategies to steal customers during such periods.

Summary. For the reasons stated above, EPA proposes to determine that data elements in this category are CBI under CAA section 114. EPA solicits comments on this proposed determination, including whether the data category determination is appropriate as well as whether the appropriate data elements were assigned to this category.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), the proposed amendments to 40 CFR part 2 are a "significant regulatory action" because they raise novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The proposed amendments to 40 CFR part 2 do not impose any new information collection burden. The amendments are administrative and do not increase the recordkeeping and reporting burden associated with Part 98. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing Part 98 regulations under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0629. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

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

For purposes of assessing the impacts of the proposed amendments on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. This definition of small entity is consistent with the definition of small entity used for Part 98.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by Part 98 and affected by the proposed amendments to 40 CFR part 2 include small businesses across all sectors of the economy encompassed by Part 98, small governmental jurisdictions, and small non-profits. An analysis of impacts on small entities was conducted at promulgation of Part 98 and the results are presented in the Section VIII.C of the preamble to the final rule (74 FR 56369, October 30, 2009). That analysis found that there was not a significant impact on a substantial number of small entities. The proposed amendments to 40 CFR part 2 are administrative in nature and do not increase the costs for small entities to comply with Part 98. Therefore, the proposed amendments do not have an impact on small entities. For discussion of EPA's outreach/consultation efforts with small entities on Part 98, *see* Section VIII of the preamble to the final rule (74 FR 56369).

EPA continues to be interested in the potential impacts of the proposed rule amendments on small entities and welcomes comments on issues related to such impacts.

D. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, requires Federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments that might be significantly or uniquely affected by any regulatory requirements. The plan must enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

The proposed amendments to 40 CFR part 2 do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. The proposed amendments are administrative in nature and do not increase the costs for facilities to comply with Part 98. Thus, the proposed amendments are not subject to the requirements of sections 202 or 205 of UMRA.

In developing Part 98, EPA consulted with small governments pursuant to a plan established under section 203 of UMRA to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments. For a summary of EPA's consultations with State and/or local officials or other representatives of State and/or local governments in developing Part 98, *see* Section VIII of the preamble to the final rule (74 FR 56370).

E. Executive Order 13132: Federalism

The proposed amendments to 40 CFR part 2 do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in EO 13132. However, for a more detailed discussion about how Part 98 relates to existing State programs, please *see* Section II of the preamble to the final rule (74 FR 56266).

The proposed amendments to 40 CFR part 2 are administrative in nature and apply to data reported under Part 98. The entities affected by Part 98 are facilities that supply fuel or chemicals that when used emit GHGs or facilities that directly emit greenhouses gases. Part 98 does not apply to governmental entities unless the government entity owns a facility that directly emits GHGs above threshold levels such as a landfill or large stationary combustion source, so relatively few government facilities would be affected. The proposed amendments to 40 CFR part 2 also do not limit the power of States or localities to collect GHG data and/or regulate GHG emissions. Thus, EO 13132 does not apply to this rule.

In the spirit of EO 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comments on proposed amendments from State and local officials. For a summary of EPA's consultations with State and local organizations and representatives in developing Part 98, *see* Section VIII of the preamble to the final rule (74 FR 56370).

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

The proposed amendments to 40 CFR part 2 are not expected to have Tribal implications, as specified in EO 13175 (65 FR 67249, November 9, 2000), because they are administrative in nature. Thus, EO 13175 does not apply to the proposed amendments. For a summary of EPA's consultations with Tribal governments and representatives in developing Part 98, *see* Section VIII.F of the preamble to the final rule (74 FR 56371).

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

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not a "significant energy action" as defined in EO 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The proposed amendments to 40 CFR part 2 are administrative in nature and therefore do not affect energy supply, distribution, or use.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

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

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

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

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The proposed amendments to 40 CFR part 2 are administrative in nature and therefore do not affect the level of protection provided to human health or the environment.

IV. Next Steps

EPA will summarize and respond to public comments on this action. EPA will issue a final action that will outline which categories of data submitted under Part 98 are considered to be emission data and must be available to the public pursuant to CAA section 114(c). In addition, for categories of data that are not determined to be "emission data," the final action will outline which data categories will be released to the public because they do not meet the criteria for confidential treatment and which data categories will be treated as confidential.

List of Subjects in 40 CFR Part 2

Environmental protection, Administrative practice and procedure, Reporting and recordkeeping requirements.

Dated: June 28, 2010.

Lisa P. Jackson,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 2—[AMENDED]

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 (as amended), 553; secs. 114, 301 and 307, Clean Air Act (as amended) (42 U.S.C. 7414, 7601, 7607).

Subpart B—[Amended]

2. Section 2.301 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

§ 2.301 Special rules governing certain information obtained under the Clean Air Act.

* * * * *

(c) *Basic rules that apply without change.* Except as otherwise provided in paragraph (d) of this section, §§ 2.201 through 2.207, § 2.209, and §§ 2.211 through 2.215 apply without change to information to which this section applies.

(d) *Data submitted under 40 CFR part 98.* (1) Sections 2.201 through 2.215 do not apply to data submitted under 40 CFR part 98 that EPA has determined, pursuant to section 114(c) of the Clean Air Act and 5 U.S.C. 553(c), to be either of the following:

(i) Emission data.

(ii) Data not otherwise entitled to confidential treatment pursuant to section 114(c) of the Clean Air Act.

(2) Except as otherwise provided in paragraphs (d)(2) and (d)(4) of this section, §§ 2.201 through 2.215 do not apply to data submitted under 40 CFR part 98 data that EPA has determined, pursuant to section 114(c) of the Clean Air Act and 5 U.S.C. 553(c), to be entitled to confidential treatment. EPA shall treat that information as confidential in accordance with the provisions of § 2.211, subject to paragraph (d)(4) of this section and § 2.209.

(3) Upon receiving a request under 5 U.S.C. 552 for data submitted under 40 CFR part 98 that EPA has determined, pursuant to section 114(c) of the Clean Air Act and 5 U.S.C. 553(c), to be entitled to confidential treatment, the EPA office shall furnish the requestor a notice that the information has been determined to be entitled to confidential treatment and that the request is therefore denied. The notice shall include or cite to the appropriate EPA determination.

(4) Modification of prior confidentiality determination. A determination made pursuant to section 114(c) of the Clean Air Act and 5 U.S.C. 553(c) that information submitted under 40 CFR part 98 is entitled to confidential treatment shall continue in effect unless, subsequent to the confidentiality determination, EPA takes one of the following actions:

(i) EPA determines, pursuant to section 114(c) of the Clean Air Act and 5 U.S.C. 553(c), that the information is emission data or data not otherwise entitled to confidential treatment under section 114(c) of the Clean Air Act.

(ii) The Office of General Counsel issues a final determination, based on the criteria in § 2.208, stating that the information is no longer entitled to confidential treatment because of change in the applicable law or newly-discovered or changed facts. Prior to making such final determination, EPA shall afford the business an opportunity to submit comments on pertinent issues in the manner described by §§ 2.204(e) and 2.205(b). If, after consideration of any timely comments submitted by the business, the Office of General Counsel makes a revised final determination that the information is not entitled to confidential treatment under section 114(c) of the Clean Air Act, EPA will notify the business in accordance with the procedures described in § 2.205(f)(2).

* * * * *

[FR Doc. 2010–16317 Filed 7–6–10; 8:45 am]

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