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U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

8–24–10 Tuesday
Vol. 75 No. 163 Aug. 24, 2010

Pages 51917–52210

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

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Document No.: AMS–FV–08–0098]

RIN 0581–AC92

Perishable Agricultural Commodities Act: Increase in License Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is amending the regulations issued under the Perishable Agricultural Commodities Act (PACA or Act) to increase license fees. Specifically, annual license fees of $550 are increased to $995. Fees for branch locations are increased from $200 for branch locations in excess of nine, to $600 for each branch location. The maximum amount a licensee will pay per year has increased from $4,000 to $8,000. Additionally, the regulations have been amended to remove the provisions to phase out license fees by retailers and grocery wholesalers and the provisions to phase in triennial license renewal for retailers and grocery wholesalers as these processes have been completed. Finally, the regulations have been amended to eliminate the multi-year license renewal option for commission merchants, brokers, and dealers.

DATES: *Effective Date:* This rule is effective September 23, 2010, except for the amendment to § 46.6(b), which is effective on October 1, 2010.

FOR FURTHER INFORMATION CONTACT: Jeffrey F. Davis, Office of the Chief, PACA Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Ave., SW., Room 2098–A South Bldg., Washington, DC 20250–0242. (202) 205–7847. E-mail—*jeffrey.davis4@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under authority of section 15 of the PACA (7 U.S.C. 499o).

The Perishable Agricultural Commodities Act (PACA or Act) of 1930 establishes a code of fair trade practices covering the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce. The PACA protects growers, shippers, distributors, and retailers dealing in those commodities by prohibiting unfair and fraudulent trade practices. In this way, the law fosters an efficient nationwide distribution system for fresh and frozen fruits and vegetables, benefiting the whole marketing chain from farmer to consumer. USDA's Agricultural Marketing Service (AMS) administers and enforces the PACA.

The PACA Branch proactively works for the fruit and vegetable industry promoting interstate and foreign commerce through dispute resolution, licensing, and outreach programs facilitating fair trade practices. The PACA enforces federal regulations outside the civil court system by upholding contract requirements. The PACA also mandates full and prompt payment, removes unscrupulous individuals from the trade when needed, and provides expert advice on trust protection.

The PACA Amendments of 1995 [1] increased the annual license fee from $400 to $550 (up to a maximum annual fee of $4,000) for all licensees except retailers and grocery wholesalers.[2] The 1995 Amendments granted USDA the authority to increase fees through rulemaking after November 14, 1998, provided that the PACA program's operating reserves fall below 25 percent of PACA's projected annual program costs.[3] Because of the loss of revenue to the Agency caused by the amendment's requirement that fees for retailers and grocery wholesalers be phased out, PACA program budget projections for FY 2000 and 2001 indicated the program's assets would have fallen below the required 25 percent of projected expenditures in FY 2001. However, on June 20, 2000, President Clinton signed Public Law 106–224 which included $30.45 million to be deposited into USDA's PACA reserve fund on October 1, 2000, in order to maintain PACA license and complaint filing fees at their 1995 levels.[4] The one-time appropriation (expected to last a few years) has lasted almost 11 years through concentrated cost-cutting measures, including office restructuring and staff reductions. In FY 2006, the PACA Branch restructured its regional offices and consolidated nationwide licensing functions into one office, resulting in over $1 million in annual savings. In January 2000, the PACA Branch operated with 116 employees. As a result of gains in technology and office consolidations this program now employs approximately 80 full time staff members in three regional offices and Washington, DC. The 2007 U.S. Department of Commerce Bureau of Economic Analysis report indicates the total retail value of fruits and vegetables for at-home and away-from-home consumption was $80–$95 billion. The PACA Branch operating expenses in FY 2008 were $10.6 million, constituting a sound value in cost-efficiency and productivity dedicated to the service of the fruit and vegetable industry.

During the first quarter of FY 2011, the PACA Branch operating fund will fall below 25 percent of projected annual program costs. Without a fee increase in FY 2011, the program will exhaust its reserves by the second quarter of FY 2011, and would soon need to begin reducing its level of services to the industry. Therefore, USDA is increasing the current base annual license fee for commission merchants, brokers, and dealers from $550 to $995. USDA is also increasing the current $200 additional fee for branch locations in excess of nine, to $600 for each branch location starting from the first branch. USDA is also increasing the current aggregate fee maximum from $4,000 to $8,000. The new fees are effective October 1, 2010. The license fee increase will allow the PACA Branch to maintain its current level of services through FY 2015.

USDA is also amending the regulations by removing sections of 46.6(a) and 46.9(1) of the regulations (7 CFR 46.6 and 46.9(1)) that phased out license fees for retailers and grocery wholesalers and that phased in triennial

[1] Public Law 104–48, 109 Stat. 427(1995).
[2] 7 U.S.C. 499c(b)(2).
[3] *Id.*
[4] Sec. 203, Pub. L. 106–224.

license renewal for retailers and grocery wholesalers. And USDA is removing the multi-year license renewal option for commission merchants, dealers, and brokers in section 46.9(k) of the regulations (7 CFR 46.9(k)).

Comments

A proposed rule to amend PACA regulations was published in the **Federal Register** on March 11, 2010 (75 FR 11472). The proposal sought to amend Title 7, Part 46 to increase license fees. The comment period closed on May 10, 2010. We received timely comments from Western Growers Association (WGA), Newport Beach, California; Produce Marketing Association (PMA), Newark, Delaware; Washington State Potato Commission (WSPC), Moses Lake, Washington; and three individuals.

The WGA and PMA strongly supported the PACA Branch and the proposal. The PMA and the 3,000 companies it represents—from grower-shippers and supermarket retailers to foodservice operators and importers—supports the proposed fee increases as outlined in the proposed rule. The WGA and its 2,500 members strongly support the proposed fee increase, but requested branch fees be waived on the first and second branch locations. The WGA felt reducing the current exemption from nine branches down to zero was too dramatic a change.

In its unfavorable comment, Matt Harris, Director of Trade for the WSPC requested further economic analysis to identify the true impact to small business. The WPSC feels an 81% increase in fees is uncalled for. The WPSC cited 45 potato handlers in Washington State who need up to 12 different licenses and audits totaling $9,125 yearly already; adding an additional $450 in PACA fees understates the incremental impact this federal increase means to the small business owner. In response, the PACA Branch has not raised license fees since 1995. The 1995 amendments preclude PACA from increasing fees until the funds on hand as of the end of the fiscal year in which the increase will take effect will be less than 25 percent of the projected budget. The PACA Branch achieved tremendous success over the past fifteen years minimizing costs and improving service to the fruit and vegetable industry. Through the PACA Branch's use of improved technology, strong centralized management, and aggressive cost-cutting methods (including the closing of two regional offices and consolidation of licensing functions), the one-time congressional appropriation of $30.45 million expected to last a few years has lasted for over ten years. These efforts delayed the need to request a license fee increase without curtailing services, another benefit to the fruit and vegetable industry. The criteria set forth in the statute have now been met, authorizing the fee increase. The amount of the increase is necessary to permit PACA to continue to provide services to the industry at current levels. Given the above discussion, the USDA is making no change to the final rule based on this comment.

In his unfavorable comment, one commenter indicated he feels the fee increase is unfair, discriminately excessive, and monopolistically disproportionate. He feels the fee increase should have been proposed gradually over ten years. The commenter also feels licensees who use PACA services should bear more of the financial burden to pay for the fee increase. As outlined previously, PACA may only by law, institute a fee increase under certain circumstances. By being PACA licensed, all PACA licensees enjoy the same benefit of the federal protection of the Act. Since 2001, over 20% of all licensees have filed an action with the PACA. Since 2004, PACA has resolved 7,660 complaints involving claims of over $155 million within four months 91% of the time. Currently 14,508 PACA licensees have a total of 5,365 branch locations. The increased branch fees will affect 1,102 licensees; 10.6% of the largest firms will bear the greatest burden of the fee increase. Based on this discussion, the USDA will be making no changes to the final rule based on this comment.

Another commenter requested that the fee remain the same for small entities. Small agricultural business firms are defined by the Small Business Administration (SBA) (13 CFR 121.601) as those whose annual receipts are less than $7,000,000. The majority of PACA licensees fall within this classification. The fee structure is designed so most firms would only see the annual license fee increase from $550 to $995. This $445 fee increase is believed to be a minor increase to operating costs for firms of all sizes. The USDA will be making no changes to the final rule based on this comment.

Another commenter suggested the license fees are passed on to the consumer, the cost of commodities are too expensive now, and PACA is a burden to the people. No direct complaint against the proposed rule was provided, so the USDA will be making no changes to the final rule based on this comment.

No comments were received on our proposal to remove sections of 46.6(a) of the regulations (7 CFR 46.6) that phased out license fees for retailers and grocery wholesalers, to remove section 46.9(1) (7 CFR 46.9(1)) that phased out triennial license renewal for retailers and grocery wholesalers, or to remove the multi-year license renewal option for commission merchants, dealers, and brokers in section 46.9(k) of the regulations (7 CFR 46.9(k)). Therefore, these changes are finalized as proposed.

Executive Orders 12866 and 12988

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform, and is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Effects on Small Businesses

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000. The PACA is enforced through a licensing system and is user-fee financed primarily through a license fee. USDA's Agricultural Marketing Service administers and enforces the PACA.

As of May 21, 2010 there were 14,508 PACA licensees, a majority of which may be classified as small entities. Retailers and grocery wholesalers represent 4,147 licensees. Internally, PACA refers to retailers and grocery wholesalers as "non-paying" licensees, and all other licensees as "paying." Since November, 1998 retailers and grocery wholesalers pay a $100 application processing fee. Their PACA license is effective for three years, renewed at no cost. Retailers accounted

for about 35% of program revenue before their fees were phased out by the 1995 Amendments to the Act. Today, retailers account for 28.6% of all PACA licensees. However, since only new applicants pay a processing fee, retailers contribute little to PACA's annual operating revenue. The fee increase will have no impact on operating costs of retailers and grocery wholesalers. Therefore, retailers and grocery wholesalers will not be unduly burdened by the final rule.

Wholesalers, processors, food service companies, commission merchants, dealers, brokers, and truckers are considered to be dealers and subject to license when they buy or sell more than 2,000 pounds of fresh and/or frozen fruits and vegetables in any given day. This group represents the remaining 10,361 active, "paying" PACA licensees and is the only group impacted by the fee increase.

While the annual revenues of this group of agricultural service firms is unknown, we estimated a significant percentage of these firms have annual receipts less than $7,000,000. Therefore, the businesses are "small businesses" within the meaning of that term in the RFA. A large number of these small agricultural service firms will be impacted by the PACA license fee increase. While the maximum amount of the PACA license fee is to be $8,000, this increase will impact a small number of larger firms with multiple branches. Currently, only 56 licensees (or 0.0039%) of all PACA licensees would pay the $8,000 maximum. The fee structure in the final rule was designed so most firms would only see the annual fee increase from $550 per year to $995. This $445 fee increase is believed to be a minor increase in operating costs to these firms and is more than offset by the protection provided to these firms under the PACA. Larger firms operating at multiple branch locations would face larger fee increases. As the renewal of PACA licenses has become highly automated and renewal notices are sent to all licensees well before the renewal date, elimination of the option biennial or triennial licenses should not impose a substantial burden upon small businesses holding such licenses.

All fruit and vegetable traders that handle less than 2,000 pounds of fresh and/or frozen fruits and vegetables are exempt from the PACA license requirement and would not be subject to this fee increase. These firms would be considered very small and handle a relatively minor volume of total fresh and/or frozen fruits and/or vegetables marketed.

On February 24, 2009 the USDA Fruit and Vegetable Industry Advisory Committee unanimously recommended to the Secretary of Agriculture their approval of the proposed license fee increase.

Paperwork Reduction Act

In accordance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements are currently approved under OMB number 0581–0031. The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the PACA as expressed in the order, and the rules and regulations issued under the order.

E-Government Act Compliance

AMS is committed to complying with the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. License application forms are available on our PACA Web site at *http://www.ams.usda.gov/PACA* and can be printed, completed, and faxed. Currently, forms are transmitted by fax machine and postal delivery. The PACA Branch is working towards furthering the availability of online forms.

List of Subjects in 7 CFR Part 46

Agricultural commodities, Brokers, Penalties, Reporting and recordkeeping requirements.

■ For reasons set forth in the preamble, 7 CFR part 46 is amended as follows:

PART 46—[AMENDED]

■ 1. The authority citation for part 46 is revised to read as follows:

Authority: 7 U.S.C. 499a–499t.

■ 2. In § 46.6, paragraphs (a) and (b) are revised to read as follows:

§ 46.6 License fees.

(a) Retailers and grocery wholesalers making an initial application for license shall pay a $100 administrative processing fee.

(b) For commission merchants, brokers, and dealers (other than grocery wholesalers and retailers) the annual license fee is $995 plus $600 for each branch or additional business facility. In no case shall the aggregate annual fees paid by any such applicant exceed $8,000.

* * * * *

■ 3. In § 46.9, paragraph (k) is revised and paragraph (l) is removed to read as follows:

§ 46.9 Termination, suspension, revocation, cancellation of licenses; notices; renewal.

* * * * *

(k) Only a commission merchant, broker, or dealer holding a multi-year license, prior to phase out of this option, will receive a refund if business operations cease or a change in legal status occurs that requires issuance of a new license prior to the next license renewal date. If a refund is due, it will be issued for any remaining full-year portion of advance fee paid, minus a $100 processing fee.

Dated: August 17, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–20978 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–10–0051; NOP–10–04IR]

RIN 0581–AD04

National Organic Program; Amendment to the National List of Allowed and Prohibited Substances (Livestock)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) to incorporate a recommendation submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) on April 29, 2010. Consistent with the recommendation from the NOSB, this interim rule revises the annotation of one substance on the National List, methionine, to extend its use in organic poultry production until October 1, 2012, at the following maximum levels of synthetic methionine per ton of feed: Laying chickens—4 pounds; broiler chickens—5 pounds; turkeys and all

other poultry—6 pounds. Comments are requested on this interim rule.

On April 29, 2010, the NOSB also recommended to extend the allowance for synthetic methionine beyond October 1, 2012, to October 1, 2015, and decrease the maximum level of synthetic methionine permitted per ton of feed ration to the following levels: 2 pounds for laying and broiler chickens, and 3 pounds for turkeys and all other poultry. The NOSB further recommended that consideration of synthetic methionine after its anticipated October 1, 2015 expiration should take place through the Board's sunset review process rather than through the petition process. The Secretary intends to incorporate the NOSB's recommended reductions in allowable levels in a subsequent rulemaking to address the allowance for synthetic methionine for the period between October 1, 2012, and October 15, 2015.

DATES: *Effective Date:* This interim rule becomes effective October 1, 2010. All comments received by October 25, 2010 will be considered prior to the issuance of a final rule. The agency will publish the final rule no later than March 2011.

ADDRESSES: Interested persons may submit written comments on this interim rule using the following addresses:

- *Internet: http://www.regulations.gov.*
- *Mail:* Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646–So., Ag Stop 0268, Washington, DC 20250.

Written comments responding to this interim rule should be identified with the docket number AMS–NOP–10–0051; NOP–10–04. You should clearly state whether you support the amendment of the annotation for the continued allowance of synthetic methionine in poultry production until October 1, 2012, at the maximum levels per ton of synthetic methionine in the feed ration, with clearly indicated reason(s) for your position. You should also offer any recommended language changes that would be appropriate for your position. Please include relevant information and data to support your position (*e.g.,* scientific, environmental, manufacturing, industry, impact information, etc.). Only relevant material supporting your position should be submitted.

It is our intention to have all comments concerning this interim rule, including names and addresses when provided, whether submitted by mail or Internet, available for viewing on the Regulations.gov (*http://www.regulations.gov*) Internet site. Comments submitted in response to this interim rule will also be available for viewing in person at USDA, AMS, National Organic Program, Room 2646–South Building, Stop 0268, 1400 Independence Ave., SW., Washington, DC 20250, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit the USDA South Building to view comments received in response to this interim rule are requested to make an appointment in advance by calling (202) 720–3252.

FOR FURTHER INFORMATION CONTACT: Melissa Bailey, Director, Standards Division, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646–So., Ag Stop 0268, Washington, DC 20250–0268. Telephone: (202) 720–3252.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Secretary established within the NOP [7 CFR part 205] the National List regulations §§ 205.600 through 205.607. The National List identifies synthetic substances that may be used in organic production and nonsynthetic (natural) substances that may not be used. The National List also identifies nonagricultural nonsynthetic, nonagricultural synthetic, and nonorganic agricultural substances that may be used in organic production and handling.

The Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501–6522), and NOP regulations § 205.105 specifically prohibit the use of any synthetic substance for organic production and handling unless provided on the National List. Section 205.105 also requires that any nonorganic agricultural or nonsynthetic nonagricultural substance used in organic handling be on the National List. Under the OFPA, the NOSB reviews exemptions for allowed synthetic substances every 5 years. If the NOSB recommends renewal, then the Secretary has authority under the OFPA to renew such exemptions. If they are not reviewed by the NOSB and renewed by the Secretary within 5 years of their inclusion on the National List, their authorized use expires.

Under the authority of the OFPA, the National List can be amended by the Secretary based on proposed amendments developed by the NOSB. Since established, the National List has been amended twelve times: October 31, 2003 (68 FR 61987); November 3, 2003 (68 FR 62215); October 21, 2005 (70 FR 61217); June 7, 2006 (71 FR 32803); September 11, 2006 (71 FR 53299); June 27, 2007 (72 FR 35137); October 16, 2007 (72 FR 58469); December 10, 2007 (72 FR 69569); December 12, 2007 (72 FR 70479); September 18, 2008 (73 FR 54057); October 9, 2008 (73 FR 59479); and July 6, 2010 (75 FR 38693). Additionally, a proposed amendment to the National List was published on June 3, 2009 (74 FR 26591).

II. Overview of Amendment

This interim rule amends the National List to reflect a recommendation adopted by the NOSB on April 29, 2010, and subsequently forwarded to the Secretary. The NOSB reviewed the use of synthetic methionine in organic poultry production using the evaluation criteria specified in OFPA (7 U.S.C. 6517–6518) and the Secretary has reviewed the NOSB's recommendation.

The current listing of synthetic methionine will expire on October 1, 2010. This rule is issued to ensure the continued use of synthetic methionine after this date and avoid any disruption to the organic poultry market. A final rule will be issued no later than March 2011. The record indicates that the provision of methionine, the use of which is currently allowed, remains an essential dietary component for poultry in organic production and issuance of this interim rule maintains its use.

Section 205.603 Synthetic Substances Allowed for Use in Organic Livestock Production

This interim rule amends § 205.603(d)(1) by changing "October 1, 2010" to "October 1, 2012" and imposing maximum levels based on each ton of feed ration. Section 205.603(d)(1) now reads as follows:

> DL—Methionine, DL—Methionine hydroxyl analog, and DL—Methionine hydroxyl analog calcium (CAS # 59–51–8; 63–68–3; 348–67–4)—for use only in organic poultry production until October 1, 2012, at the following maximum levels of synthetic methionine per ton of feed: Laying chickens—4 pounds; broiler chickens—5 pounds; turkeys and all other poultry—6 pounds.

Methionine was originally included on the National List on October 31, 2003, with an early expiration date of October 21, 2005 (the normal allowance for a substance added to the National List is five years from the listing date). It is a colorless or white crystalline powder that is soluble in water. Methionine is classified as an essential amino acid because it cannot be biologically produced by poultry and is

necessary to maintain viability. Natural feed sources with high percentages of methionine include bloodmeal, fish meal, crab meal, corn gluten meal, and sunflower seed meal. It is regulated as an animal feed nutritional supplement by the Food and Drug Administration (21 CFR 582.5475). Organic livestock producers had petitioned the substance as a part of the NOSB's initial review of synthetic amino acids. The petitioners asserted that methionine was a necessary dietary supplement for organic poultry and that there was an inadequate supply of allowable organic feeds containing sufficient concentrations of naturally occurring methionine. Petitioners suggested that synthetic methionine would be fed as a dietary supplement to organic poultry at levels ranging from 0.3 to 0.5 percent of the animal's total diet. The petitioners also asserted that a prohibition on the use of synthetic methionine would contribute to nutritional deficiencies in organic poultry thereby jeopardizing the animals' health. After reviewing a Technical Advisory Panel analysis of the evaluation criteria provided in the OFPA (7 U.S.C. 6517–6518), the NOSB determined that the use of synthetic methionine was consistent with a system of organic production. On October 16, 2001, the NOSB recommended that the Secretary include methionine on the National List of Allowed Synthetics for use in organic poultry production with an early expiration date (October 21, 2005). The NOSB recommended the early expiration date to encourage organic producers to phase out synthetic methionine as a feed additive by identifying and incorporating natural and allowable sources into poultry diets.

On January 10, 2005, two organic poultry producers petitioned the NOSB to extend the use of synthetic methionine in organic poultry production beyond October 21, 2005. The producers stated that they had been unable to develop suitable natural alternatives for synthetic methionine in organic poultry diets. The petitioners requested the extension to provide additional time for the development of these alternatives. The petition included preliminary research results on natural sources of methionine that highlighted the challenge of meeting the maintenance requirements for poultry with allowed organic and natural feed ingredients. Although inconclusive, the preliminary results demonstrated that research trials were underway to identify natural alternatives that could lead to phasing out synthetic methionine from organic poultry production. At its February 28–March 3, 2005, meeting in Washington, DC, the NOSB received public comment on the petition to extend the use of synthetic methionine in organic poultry production beyond October 21, 2005. While concluding that synthetic methionine was consistent with the evaluation criteria of 7 U.S.C. 6517 and 6518 of the OFPA, the NOSB did not recommend a full five-year allowance for the material. The Board continued to express its strong preference for the development of natural methionine sources for organic poultry production. Therefore, the NOSB recommended that synthetic methionine remain on the National List but only until October 1, 2008. In response to this recommendation, the Secretary amended § 205.603(d)(1) of the National List on October 21, 2005 (70 FR 61217), to allow the use of synthetic methionine in organic poultry production until October 1, 2008.

In December 2007, a coalition of producers identified as the Methionine Task Force (MTF) filed a petition requesting that § 205.603(d)(1) be amended by removing the expiration date of "October 1, 2008." They also requested that in the future methionine receive the standard sunset review process for materials on the National List. Their petition addressed the status of the most viable alternatives to synthetic methionine and stated that none of the alternatives were yet commercially viable. Additionally, AMS received six comments supporting the re-listing of synthetic methionine in response to the December 28, 2007 (72 FR 73667), Advanced Notice of Proposed Rulemaking announcing the 2008 Sunset Review of 12 substances on the National List. Because methionine was due to expire on October 1, 2008, as established by rulemaking, it was not included among the 12 substances in the 2008 Sunset Review.

The NOSB evaluated public comment on the petition to extend the use of synthetic methionine in organic poultry production beyond October 1, 2008, and also considered comments on the subject from its November 2007 meeting. The NOSB determined that while certain allowable organic and natural sources of methionine existed, they were not available in sufficient supplies to meet poultry producers' needs. Thus, the NOSB concluded that synthetic methionine was a necessary component of a nutritionally adequate diet for organic poultry, and, therefore, essential to organic production. The Board also concluded that terminating the allowance for its use would disrupt the well-established organic poultry market and cause substantial economic harm to organic poultry producers but did not recommend a full five-year allowance for the material. The NOSB and stakeholders including the MTF agreed that the organic feed sector would continue to research and develop sufficient supplies of allowable organic and natural sources in the interim and thus the NOSB recommended to extend the use of methionine for two more years. The Secretary concurred with the NOSB recommendation to extend the use of synthetic methionine in poultry production until October 1, 2010, and amended the regulation accordingly on September 18, 2008 (73 FR 54057).

The MTF submitted a new petition on July 31, 2009, requesting a five-year extension on the allowance for synthetic methionine. The request proposed to limit the total amount of synthetic methionine to be fed over the life of the bird calculated as the average pounds of the material per ton of feed. The MTF petition proposed these limits at 4 pounds for laying chickens, 5 pounds for broiler chickens and 6 pounds for turkeys and all other poultry per ton of feed. The petitioners stated that these levels of synthetic methionine are the amount necessary to support the animals' basic maintenance requirements and would not provide growth enhancement. In requesting the five-year allowance, the MTF cited research efforts in recent years that have attempted but failed to identify wholly natural and allowable sources of methionine capable of providing poultry's basic maintenance requirement.

The NOSB Livestock Committee reviewed the MTF petition and rejected it. The Livestock Committee stated that averaging the pounds of synthetic methionine fed over the life of the bird would result in the unacceptable outcome of even higher levels being fed at certain stages. The Livestock Committee instead pointed towards future modifications to the livestock feed and living conditions practice standards that would lead to higher levels of natural methionine in poultry feed rations. However, the Livestock Committee agreed with the MTF that wholly natural sources of methionine are not now and would not likely be widely available in the immediate future and that extending the allowance for the synthetic form was warranted.

The Livestock Committee proposed an annotation to the synthetic methionine listing that reflected their reservations about the petitioner's request, but acknowledged that an allowance for the synthetic form would be necessary

throughout the next five years. They proposed to extend the allowance for synthetic methionine in organic poultry production for five years until October 1, 2015, with a step down in the amount allowed after two years. They proposed limits per ton of feed of 4 pounds for laying chickens, 5 pounds for broiler chickens and 6 pounds for turkeys and all other poultry until October 1, 2012, followed by 2 pounds for laying and broiler chickens and 3 pounds for turkeys and all other poultry over the final three years. The Livestock Committee stated that it had consulted with a number of poultry nutritionists and feed mill operators and determined that the rates it proposed were consistent with the industry's best management practices. The Livestock Committee also recommended that the NOSB apply its sunset material review process when considering the allowance for synthetic methionine in anticipation of its proposed October 1, 2015, expiration. The NOSB approved the Livestock Committee's recommendation in its entirety on April 29, 2010.

In the final rule published on December 21, 2000 (65 FR 80570), the NOP recognized the National Research Council's (NRC) Nutrient Requirements of Domestic Animals series as the basis for the livestock feed practice standard. The applicable reference for nutritional sufficiency in poultry production is the NRC's Nutrient Requirements of Poultry, Ninth Revised Edition, published in 1994. The MTF cited this publication in its petition and stated that its proposed allowances for synthetic methionine were approximately half of the NRC recommended levels for maximum growth and production. The MTF also provided data indicating that organically produced grains provide a majority of the methionine requirement in poultry starter feeds but that supplementation with the synthetic form is still necessary to achieve a complete ration. The NOSB fundamentally agreed with this assessment when it accepted with a modest adjustment the limits that the MTF proposed for extending the allowance for synthetic methionine.

The Secretary has reviewed the NOSB's recommendation and concurs that a two-year extension of the allowance for synthetic methionine in organic poultry production until October 1, 2012, is warranted. The Secretary accepts that the maximum limits recommended by the NOSB and as justified by the NOSB for the period October 1, 2010–October 1, 2012, are consistent with the industry's best management practices and would not result in significant adjustments to comply with this action. Moreover, the signatories to the MTF petition have indicated that the current non-annotated allowance for synthetic methionine has stabilized use at consistent rates.

The Secretary acknowledges the NOSB's intention to lower the allowed levels of synthetic methionine over the five-year period for which the board recommends that the material remain on the National List. The Secretary intends to incorporate the NOSB's recommended reductions in these levels through subsequent rulemaking to address the allowance for synthetic methionine for the period between October 1, 2012, and October 15, 2015. As conveyed at the NOSB meeting and documented in the transcripts, dividing the NOSB's recommendation into separate rulemakings will allow for the continued use of methionine beyond its current expiration while also providing the board with the opportunity to adjust the maximum levels for the 2012–2015 period, if needed.

III. Related Documents

Since September 2001, four notices have been published announcing meetings of the NOSB and its planned deliberations on recommendations involving the use of methionine in organic poultry production. The four notices were published in the **Federal Register** as follows: September 21, 2001 (66 FR 48654), February 11, 2005 (70 FR 7224), April 4, 2008 (73 FR 18491), and March 17, 2010 (75 FR 12723).

Methionine was first proposed for addition to the National List in the **Federal Register** on April 16, 2003 (68 FR 18556). Methionine was added to the National List by final rule in the **Federal Register** on October 31, 2003 (68 FR 61987). A proposal to amend the annotation for methionine was published in the **Federal Register** on July 29, 2005 (70 FR 43786), and the annotation was amended by final rule in the **Federal Register** on October 21, 2005 (70 FR 61217). A proposal to amend the annotation once again was published in the **Federal Register** on July 14, 2008 (73 FR 40197), and the annotation was amended by final rule on September 18, 2008 (73 FR 54057).

IV. Statutory and Regulatory Authority

The OFPA authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (January 18, 2007, 72 FR 2167) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop/Newsroom/FedReg01_18_07NationalList.pdf.*

A. Executive Order 12866

This action has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. The final rule (68 FR 61987), dated October 31, 2003, adding methionine to the National List was reviewed under this Executive Order and no additional information related to Executive Order 12988 has been obtained since then. This interim rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under the OFPA from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in § 2115(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under §§ 2104 through 2108 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to § 2108(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) be consistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to § 2120(f) of the OFPA (7 U.S.C. 6519(f)), this interim rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–695), the Poultry Products Inspections Act (21 U.S.C. 451–472), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301–397), nor the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136–1364).

Section 2121 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such persons or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, AMS performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this interim rule would not be significant. The current approval for the use of synthetic methionine in organic poultry production will expire October 1, 2010. The effect of this interim rule is to allow the continued use of synthetic methionine through October 1, 2012, at levels that are consistent with current industry practices. AMS concludes that this action would have minimal economic impact on small agricultural service firms. Accordingly, USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Based on USDA data from the Economic Research Service (ERS), the U.S. organic sector included nearly 13,000 certified organic crop and livestock operations at the end of 2008. These operations contained more than 4.8 million certified acres consisting of 2,665,382 acres of cropland and 2,160,577 acres of pasture and rangeland. The total acreage under organic management represents a twelve percent increase from 2007. Organic poultry production has steadily contributed to the overall growth in the organic food market. ERS estimated that there were 5,538,011 laying chickens and 9,015,984 broiler chickens raised under organic management in 2008. ERS estimated the number of certified organic turkeys raised in the United States in 2008 at 398,531.[1] The Nutrition Business Journal calculated the market value for organic laying chickens at $252,000,000 in 2008.[2] In addition to being sold as whole products, organic eggs and poultry by-products are used in the production of organic processed products including soups, broths, prepared meals, ice cream and egg nog. The USDA accredits certifying agents who provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP Web site, at *http://www.ams.usda.gov/nop.* AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

D. Paperwork Reduction Act

No additional collection or recordkeeping requirements are imposed on the public by this interim rule. Accordingly, OMB clearance is not required by § 350(h) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) or OMB's implementing regulations at 5 CFR part 1320.

The AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to government information and services, and for other purposes.

E. General Notice of Public Rulemaking

This interim rule reflects a recommendation submitted to the Secretary by the NOSB for extending the use of synthetic methionine in organic poultry production until October 1, 2012. The NOSB evaluated this substance using criteria in the OFPA in response to a petition from the MTF. The NOSB has determined that while wholly natural substitute products exist, they are not presently available in sufficient supplies to meet poultry producer needs. Therefore, synthetic methionine is presently a necessary component of a nutritionally adequate diet for organic poultry. However, to encourage a transition of industry practices towards decreasing dependence on synthetic sources of the amino acid, the NOSB has recommended extending the allowed use of synthetic methionine in poultry production until October 1, 2012, with maximum allowable limits. The Secretary has reviewed the recommendation from the board. Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable and contrary to the public interest to give preliminary notice prior to putting this rule into effect in order to ensure the continued use of synthetic methionine after October 1, 2010, and avoid any disruption to the organic poultry market.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

■ For the reasons set forth in the preamble, 7 CFR part 205, subpart G is amended as follows:

[1] U.S. Department of Agriculture, Economic Research Service. 2009. Data Sets: *U.S. Certified Organic Farmland Acreage, Livestock Numbers and Farm Operations,* 1992–2008. *http://www.ers.usda.gov/Data/Organic/.*

[2] *Nutrition Business Journal. 2009. U.S. Organic Food Sales by Product ($Mil) 1997–2008, 2009(e)–2014(e)—Chart 22.* Penton Media, Inc.

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

■ 2. Section 205.603(d)(1) is revised to read as follows:

§ 205.603 Synthetic substances allowed for use in organic livestock production.

* * * * *

(d) * * *

(1) DL–Methionine, DL–Methionine—hydroxy analog, and DL–Methionine—hydroxy analog calcium (CAS #–59–51–8; 63–68–3; 348–67–4)—for use only in organic poultry production until October 1, 2012, at the following maximum levels of synthetic methionine per ton of feed: laying chickens—4 pounds; broiler chickens—5 pounds; turkeys and all other poultry—6 pounds.

* * * * *

Dated: August 17, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–20977 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Doc. No. AMS–FV–10–0050; FV10–922–1 FR]

Apricots Grown in Designated Counties in Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Washington Apricot Marketing Committee (Committee) for the 2010–11 and subsequent fiscal periods from $1.00 to $1.50 per ton for Washington apricots. The Committee is responsible for local administration of the marketing order regulating the handling of apricots grown in designated counties in Washington. Assessments upon handlers of apricots are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period for the marketing order begins April 1 and ends March 31. The assessment rate would remain in effect indefinitely unless modified, suspended or terminated.

DATES: *Effective Date:* August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Robert Curry or Gary Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW. Third Avenue, Suite 385, Portland, OR 97204; Telephone: (503) 326–2724; Fax: (503) 326–7440; or E-mail: *Robert.Curry@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence, SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 690–3919; Fax: (202) 720–8938; or E-mail: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 922 (7 CFR part 922), as amended, regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

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

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

This rule increases the assessment rate established for the Committee for the 2010–11 and subsequent fiscal periods from $1.00 to $1.50 per ton for Washington apricots handled under the order.

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

For the 2009–10 and subsequent fiscal periods, the Committee recommended, and the USDA approved, an assessment rate of $1.00 per ton of apricots handled. This rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 19, 2010, and unanimously recommended 2010–11 expenditures of $8,145. In comparison, last year's budgeted expenditures were $7,843. In addition, the Committee recommended that the $1.00 per ton assessment rate be increased by $0.50 to $1.50 per ton of apricots handled. Committee members reported that apricot production this season may be lower than that of last season since portions of the Washington apricot production area experienced freezing weather in October 2009, and high winds in April of this year. As a result, the Committee has estimated that shipments of fresh apricots will approximate 5,550 tons this season—somewhat less than the 6,860 tons of fresh apricots reported last season. The Committee thus recommended that the assessment rate be increased by $0.50 to help ensure that budgeted expenses are adequately covered.

The major expenditures recommended by the Committee for the 2010–11 fiscal period include $4,800 for the management fee, $1,300 for Committee travel, $100 for compliance, $750 for the annual audit review, and $1,195 for equipment maintenance, insurance, bonds, and miscellaneous expenses. In comparison, major

expenditures for the 2009–10 fiscal period included $4,800 for the management service fee, $1,000 for travel, $100 for compliance, and $1,943 for audits, insurance and bonds, equipment maintenance and miscellaneous expenses.

The assessment rate recommended by the Committee was derived by dividing the anticipated expenses of $8,145 by the projected 2010 apricot production of 5,550 tons. Applying the $1.50 per ton recommended assessment rate to this crop estimate should provide $8,325 in assessment income. Funds in the Committee's monetary reserve are projected to be $7,854 on March 31, 2011. This is within the order's limit of approximately one fiscal period's operational expenses.

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

Although this assessment rate will be effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of the Committee's meetings are available from the Committee or USDA. The Committee's meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate the Committee's recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2010–11 budget has been reviewed and approved by USDA; those for subsequent fiscal periods would also be reviewed and, as appropriate, approved.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

There are approximately 94 apricot producers within the regulated production area and approximately 20 regulated handlers. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000.

The Washington Agricultural Statistics Service reported that the total 8,500 ton Washington apricot utilization (including both fresh and processed markets) in 2009 sold for an average of $888 per ton. The total 2009 farm-gate value was approximately $7,551,000. Based on the number of producers in the production area (94), the average annual producer revenue from the sale of apricots in 2009 can thus be estimated at approximately $80,330. In addition, based on information from the Committee and USDA's Market News Service, 2009 f.o.b. prices for WA No. 1 apricots ranged from $14.00 to $24.00 per 24-pound loose-pack container, and from $12.00 to $22.00 for 2-layer tray pack containers. The average 2009 price across all sizes and packs was $17.50, with an estimated industry gross intake of approximately $10,913,636 in f.o.b. receipts for the 2009 crop—leaving average receipts for each of the 20 handlers well below the SBA's $7,000,000 threshold for small businesses. Therefore, the majority of producers and handlers of Washington apricots may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2010–11 and subsequent fiscal periods from $1.00 to $1.50 per ton for apricots handled under the order. The Committee also unanimously recommended 2010–11 expenditures of $8,145. With a 2010–11 Washington apricot crop estimate of 5,550 fresh market tons, the Committee anticipates assessment income of about $8,325. The Committee recommended the assessment rate increase to help ensure that budgeted expenses are adequately covered.

The major expenditures recommended by the Committee for the 2010–11 fiscal period include $4,800 for the management fee, $1,300 for Committee travel, $100 for compliance, $750 for the annual audit review, and $1,195 for equipment maintenance, insurance, bonds, and miscellaneous expenses. In comparison, major expenditures for the 2009–10 fiscal period included $4,800 for the management service fee, $1,000 for travel, $100 for compliance, and $1,943 for audits, insurance and bonds, equipment maintenance and miscellaneous expenses. Funds in the Committee's monetary reserve are projected to be $7,854 on March 31, 2011. This is within the order's limit of approximately one fiscal period's operational expenses.

The Committee discussed alternatives to the assessment rate increase. Leaving the assessment rate at $1.00 per ton would have provided the Committee with about $5,550 in income, an amount considerably less than the 2010 budgeted expenditures of $8,145. The Committee felt that this would have significantly depleted its monetary reserves, and thus recommended the $.50 increase. The Committee did not consider an assessment rate greater than $1.50.

A review of historical crop and price information, as well as preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2010–11 season could average about $1,000 per ton for fresh Washington apricots. Therefore, the estimated assessment revenue for the 2010–11 fiscal period as a percentage of total producer revenue is 0.15 percent for Washington apricots.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order.

The Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend and participate in Committee deliberations on all issues. Like all Committee meetings, the May 19, 2010 meeting was a public meeting and all entities, both large and small, were able to express views on the issues.

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

AMS is committed to complying with the E-Government Act, to promote the

use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule regarding this action was published in the **Federal Register** on June 30, 2010 (FR 75 37740). Copies of the proposed rule were also made available to all apricot handlers by Committee staff. The proposal was also made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period ending July 15, 2010, was provided for interested persons to respond to the proposal. No comments were received.

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

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2010–11 fiscal period began on April 1, 2010, and the order requires that the assessment rate for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) Washington apricots are currently being harvested and shipped to market; (3) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; (4) handlers are aware of this action, which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (5) a 15-day comment period was provided in the proposed rule.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 922 is amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 922.235 is revised to read as follows:

§ 922.235 Assessment rate.

On and after April 1, 2010, an assessment rate of $1.50 per ton is established for the Washington Apricot Marketing Committee.

Dated: August 17, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–21037 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Doc. No. AMS–FV–09–0036; FV09–984–4 FR]

Walnuts Grown in California; Changes to the Quality Regulations for Shelled Walnuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the quality regulations for shelled walnuts under the Federal marketing order for California walnuts (order). The order regulates the handling of walnuts grown in California and is administered locally by the California Walnut Board (Board). This rule requires inspection and certification of shelled walnut products after manufacturing instead of before manufacturing. It also establishes a process to specify that manufactured products smaller than eight sixty-fourths of an inch in diameter are derived from walnut pieces that have been inspected and certified to U.S. Commercial grade standards. These changes will result in more efficient and cost-effective handler operations, and will certify the final Size And Grade Of All Manufactured Walnut Pieces.

DATES: *Effective Date:* August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Jeff Smutny, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Jeffrey.Smutny@ams.usda.gov* or *Kurt.Kimmel@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 984, as amended (7 CFR part 984), regulating the handling of walnuts grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866. This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect.

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

This final rule revises the quality regulations for shelled walnuts to require inspection and certification after chopping or dicing them into smaller pieces (manufacturing) instead of before manufacturing, and to establish a process for specifying that manufactured products smaller than eight sixty-fourths of an inch in diameter are derived from walnut pieces that have been inspected and certified to U.S. Commercial grade standards. This will result in more efficient and cost-effective handler operations and will certify the final size and grade of all manufactured walnut pieces. This rule

was unanimously recommended by the Board at a meeting on September 12, 2008.

Section 984.50(d) of the order provides authority for the Board to recommend to the Secretary additional grade, size, or other quality regulations for California walnuts. Section 984.52 of the order provides that handlers shall not change the form of shelled walnuts unless such walnuts have been certified as merchantable or meet quality regulations established under § 984.50(d).

Currently, all shelled walnuts are inspected and certified before manufacturing by the American Council for Food Safety & Quality (also known as DFA of California and hereinafter referred to as "DFA") to ensure the walnuts meet marketing order requirements for U.S. Commercial grade. Following inspection, walnut pieces may be further manufactured by chopping them into smaller pieces, or "end products." Pieces smaller than eight sixty-fourths of an inch that are accumulated during the manufacturing process are considered a byproduct of this process and are called "meal." Walnut meal is sold into the market for industrial use, such as in commercial bakery products.

Upon passing inspection, an inspection certificate is issued for the lot of shelled walnuts, and the certificate number follows the walnuts from that lot through the entire manufacturing process. The original inspection certificate number is noted on the certificates that accompany both the end products and the meal derived from the original lot of shelled walnuts. Providing information about the original lot of walnuts from which the end products and meal were derived assures customers that those products were derived from walnuts that meet quality standards under the order.

The inspection certificate specifies the size of the shelled walnut pieces before manufacturing. The size may be stated as "large pieces" or "halves and pieces," and that information is also noted on the certificates that accompany the end products and the meal, although it does not accurately describe the size of the manufactured end product pieces or meal. If a customer requires certification of the size of a finished end product, the handler must obtain a second inspection for that product, which may add expense to the process.

Currently, meal may be co-mingled into one output bin as it is accumulated from the manufacturing of several different lots of shelled walnuts. When this occurs, the certificate number from each original lot of shelled walnuts is transferred to the meal certificate. As a result, the certificate for one output bin of meal may include multiple certificate numbers.

Transferring the inspection certificate number from an original lot of shelled walnuts to various manufactured end products and meal is cumbersome and creates a potential for errors under the current system. Currently, all of a certified lot of shelled walnuts must be manufactured at one time to ensure the certificate number of that lot is properly transferred to the resulting end products and meal. If, at a future date, the end products from the original manufacturing run are remanufactured in order to be cut to a smaller size, the certificate numbers must be transferred from the first manufactured product to the second manufactured product. This additional process of transferring certificate numbers to and from multiple end products is cumbersome and further increases the potential for error.

The Board's Grades and Standards Committee formed a work group in May 2008 to investigate alternatives to the current inspection and certification process of manufactured shelled walnuts. The work group recommended changing the existing process to allow handlers to manufacture shelled walnuts into smaller end products without prior inspection. Instead, handlers will be required to have all end products inspected. The manufactured pieces equal to or larger than eight sixty-fourths of an inch in diameter will be inspected and certified to existing U.S. Commercial grade requirements specified in the United States Standards for Shelled Walnuts (Juglans regia). Each end product that passes inspection will be issued an inspection certificate, which will include the actual size of the end product.

The U.S. Commercial grade requirements do not include standards for walnut meal. Therefore, the meal accumulated during the manufacturing process will not be inspected. Meal collected from multiple manufacturing runs will no longer be co-mingled in one output bin but will remain segregated.

A document also referred to as a "meal certificate" will be issued for the walnut meal accumulated during each manufacturing run. Because the meal most closely resembles the color, freshness, and other characteristics of the smallest end product produced during manufacturing, the meal can be affiliated with that end product. If the end product passes inspection and is certified, the certificate number assigned to that end product will be referenced on the meal certificate. If that end product fails inspection, the meal created during the same manufacturing process will be rejected and disposed of pursuant to the requirements of § 984.64. However, the end product that failed inspection can be reconditioned, re-sampled, and presented again for inspection and certification.

These changes will improve the manufacturing process by eliminating the need for multiple inspections for the same product, and will improve handler efficiencies by eliminating duplicative inventory tracking. Consumers will be better served since each finished end product will be certified to U.S. Commercial grade requirements, and accurate size information for each end product will be provided on the individual inspection certificates. Handlers can continue to assure customers that walnut meal is derived from walnuts that have been inspected and certified. Accordingly, a new § 984.450(c) containing these regulations will be added to the order's administrative rules and regulations.

This rule also revises the first sentence in § 984.450(a) regarding the minimum kernel content requirements of inshell walnuts for reserve disposition credit. The sentence incorrectly references requirements for inshell walnuts pursuant to § 984.59(a). The correct reference is § 984.50(a). The sentence is revised accordingly.

Final Regulatory Flexibility Analysis

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

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

There are currently 58 handlers of California walnuts subject to regulation under the marketing order, and there are approximately 4,500 growers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

USDA's National Agricultural Statistics Service (NASS) reports that California walnuts were harvested from a total of 223,000 bearing acres during 2008–09. The average yield for the 2008–09 crop was 1.96 tons per acre, which is higher than the 1.56 tons per acre average for the previous five years. NASS reported the value of the 2008–09 crop at $1,210 per ton, which is lower than the previous five-year average of $1,598 per ton.

At the time of the 2007 Census of Agriculture, which is the most recent information available, approximately 89 percent of California's walnut farms were smaller than 100 acres. Fifty-four percent were between 1 and 15 acres. A 100-acre farm with an average yield of 1.96 tons per acre would have been expected to produce about 196 tons of walnuts during 2008–09. At $1,210 per ton, that farm's production would have had an approximate value of $237,000. Assuming that the majority of California's walnut farms are still smaller than 100 acres, it could be concluded that the majority of the growers had receipts of less than $237,000 in 2008–09. This is well below the SBA threshold of $750,000; thus, the majority of California's walnut growers would be considered small growers according to SBA's definition.

According to information supplied by the industry, approximately one-half of California's walnut handlers shipped merchantable walnuts valued under $7,000,000 during the 2008–09 marketing year and would therefore be considered to be small handlers according to the SBA definition. The firm that currently inspects and certifies shelled walnuts before manufacturing would likely be considered a large agricultural business firm.

This final rule amends § 984.450 of the order's administrative rules and regulations by adding a new paragraph (c) that requires inspection and certification of shelled walnuts after manufacturing instead of before manufacturing, and establishes a process for specifying that walnut meal is derived from manufactured walnut pieces that have been inspected and certified to U.S. Commercial grade standards. This results in more efficient and cost-effective handler operations, and certifies the final size and grade of all manufactured walnut pieces. Authority for these changes is provided in §§ 984.50(d) and 984.52 of the order.

Regarding the impact of the action on affected entities, this final rule should not impose any additional costs. It should reduce costs to handlers by streamlining and improving the production process. Handlers will no longer need to track lots of shelled walnuts through the manufacturing process in order to tie those original lots to the manufactured end products and meal. Handlers will be able to more easily manage inventory and production since they will no longer be required to manufacture an entire lot of shelled walnuts at one time in order to transfer the certificate number of the original lot to each end product and the meal. Since handlers will no longer be required to transfer certificate numbers from an entire lot of shelled walnuts to multiple manufactured end products, a portion of a lot could be held for manufacturing or remanufacturing at a later date.

The potential for errors will be reduced under the proposed system because fewer certificate numbers will be transferred. Each end product will have its own certificate number, and the certificate number of the smallest end product will be referenced on the meal certificate for the meal that was accumulated during the same manufacturing process.

Handler costs will also be reduced when customers require manufactured product to be certified to U.S. Commercial grade requirements since this will be automatically provided under the proposed regulations. Under the current system, if a customer requires this type of certification after manufacturing, handlers may pay additional fees if an inspector makes a special trip to perform a second inspection. If a DFA inspector is already onsite at a handler's facility, there is no additional charge for a second inspection. DFA charges $28.00 per hour with a four-hour minimum charge for a special visit to the handler's site, for a minimum total charge of $112 per visit.

While discussing this change, the Board considered lab testing the meal as an alternative to transferring the inspection certificate number of the smallest manufactured end product to the meal. There is no U.S. Commercial grade standard for meal, so it is not currently possible to inspect and certify it as meeting a standard. Quality standards for meal would need to be developed in order to pursue this alternative. In addition, lab testing the meal could increase handler costs. This alternative would also cause a delay in shipping in order to allow time for lab testing, and this could adversely impact marketing efforts. As a result, lab testing of meal was not considered a viable alternative.

This final rule will not impose any additional reporting or recordkeeping requirements on either small or large walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule.

In addition, the Board's meeting on September 12, 2008, when this action was considered, was widely publicized throughout the walnut industry. This issue was also deliberated at a Grades and Standards Committee meeting on May 20, 2008; a Board meeting on May 28, 2008; and a Grades and Standards Committee work group meeting on September 2, 2008. Like all Board meetings, these meetings were public meetings, and all interested persons were invited to attend the meetings and participate in deliberations on all issues. A proposed rule concerning this action was published in the **Federal Register** on June 21, 2010 (75 FR 34950). Copies of the rule were mailed or sent via facsimile to all Board members and walnut handlers. Finally, the rule was made available through the Internet by USDA and the Office of the **Federal Register**. A 15-day comment period ending July 6, 2010, was provided to allow interested persons to respond to the proposal.

Two comments were received during the comment period in response to the proposal. Both comments were made in support of the proposal.

Accordingly, no changes will be made to the rule as proposed, based on the comments received.

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

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because this rule should be in place for the upcoming marketing year, which begins September 1, 2010. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, 15 days were provided for comments to the proposed rule.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

■ For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 984.450 [Amended]

■ 2. Section 984.450 is amended by revising the first sentence in paragraph (a) and adding a new paragraph (c) to read as follows:

§ 984.450 Grade and size regulations.

(a) *Minimum kernel content requirements for inshell walnuts for reserve disposition credit.* For purposes of §§ 984.54 and 984.56, no lot of inshell walnuts may be held, exported, or disposed of for use by governmental agencies or charitable institutions unless it meets the minimum requirements for merchantable inshell walnuts effective pursuant to § 984.50(a). * * *

* * * * *

(c) *Inspection and certification of shelled walnuts that are manufactured into products.* For purposes of §§ 984.50(d) and 984.52(c), shelled walnuts may be cut or diced without prior inspection and certification: *Provided,* That the end product, except for walnut meal, is inspected and certified. For purposes of this section, *end product* shall be defined as walnut pieces equal to or larger than eight sixty-fourths of an inch in diameter. *Walnut meal* shall be defined as walnut pieces smaller than eight sixty-fourths of an inch in diameter.

(1) *End product.* End product must be sized, inspected and certified, and the size must be noted on the inspection certificate. The end product quality must be equal to or better than the minimum requirements of U.S. Commercial grade as defined in the United States Standards for Shelled Walnuts (Juglans regia).

(2) *Walnut meal.* Walnut meal that is accumulated during the cutting or dicing of shelled walnuts to create end product must be presented with the smallest end product from that manufacturing run that is inspected and certified. If the end product meets the applicable U.S. Commercial grade requirements, the walnut meal accumulated during the manufacture of that end product shall be identified and referenced on a separate meal certificate as "meal derived from walnut pieces that meet U.S. Commercial grade requirements." The certificate number of the smallest end product will be referenced on the meal certificate.

(3) *Failed lots.* If the end product fails to meet applicable U.S. Commercial grade requirements, the end product may be reconditioned, re-sampled, inspected again, and certified. However, the walnut meal accumulated during the manufacture of that end product shall be rejected and disposed of pursuant to the requirements of § 984.64.

Dated: August 17, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–21010 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1000

[Doc. No. AMS–DA–09–0062; AO–14–A73, *et al.;* DA–03–10]

Milk in the Northeast and Other Marketing Areas; Order Amending the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule maintains the current fluid milk product definition's compositional standard of 6.5 percent nonfat milk solids criterion and incorporates an equivalent 2.25 percent true milk protein criterion for determining if a product meets the compositional standard. This final rule also determines how milk and milk-derived ingredients should be priced under all Federal milk marketing orders when used in products meeting the fluid milk product definition. It provides exemptions for drinkable yogurt products containing at least 20 percent yogurt (by weight), kefir, and products intended to be meal replacements from the fluid milk product definition. A referendum was held and the required number of producers approved the issuance of the orders as amended.

DATES: *Effective Date:* January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Henry H. Schaefer, Economist, USDA/AMS/Dairy Programs, Upper Midwest Milk Market Administrators Office, Suite 200, 1600 West 82nd Street, Minneapolis, Minnesota 55431–1420, (952) 831–5292, e-mail address: *hschaefer@fmma30.com;* or William Francis, Associate Deputy Administrator, USDA/AMS/Dairy Programs, Order Formulation and Enforcement, Stop 0231—Room 2971–S, 1400 Independence Avenue, SW., Washington, DC 20250–0231, (202) 720–6274, e-mail address: *william.francis@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule amends the fluid milk product definition in all Federal milk marketing orders. This rulemaking action maintains the current fluid milk product definition's compositional standard of 6.5 percent nonfat milk solids and incorporates an equivalent 2.25 percent true milk protein criterion for determining if a product meets the compositional standard. This final rule also amends determining how milk and milk-derived ingredients should be priced under all Federal milk marketing orders when used in products meeting the fluid milk product definition. It exempts drinkable yogurt products containing at least 20 percent yogurt (by weight), kefir, infant formulas, dietary products (meal replacements) and other products that may contain milk-derived ingredients from the fluid milk product definition.

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

This final rule herein has been reviewed under Executive Order 12988, Civil Justice Reform. The final rule is not intended to have a retroactive effect.

The Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Department a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the

opportunity for a hearing on the petition. After a hearing, the Department would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an habitant, or has its principal place of business, has jurisdiction in equity to review the USDA's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees.

For the purposes of determining which dairy farms are "small businesses," the $750,000 per year criterion was used to establish a production guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of June 2005, the month the hearing was held, 52,425 dairy farmers were pooled on the Federal order system. Of the total, 49,160, or 94 percent were considered small businesses. During the same month, 1,530 plants were regulated by or reported their milk receipts to their respective Market Administrator. Of the total, 847, or 55 percent were considered small businesses.

The fluid milk product definition sets out the criteria for determining if the use of producer milk and milk-derived ingredients in such products should be priced at the Class I price. The established criteria for the classification of producer milk are applied in an identical fashion to both large and small businesses and will not have any different impact on those businesses producing fluid milk products thus assuring that similarly situated handlers have the same minimum price as required by section 608(c)5 of the Act. Therefore, the amendments will not have a significant economic impact on a substantial number of small entities. The impact of the proposed amendments on large and small entities would be negligible. In fact, the amendment proposing to change the classification of kefir and drinkable yogurt is estimated to affect blend prices by no more than $0.0026 per cwt based on record evidence.

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

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). It was determined that these amendments would have no impact on reporting, recordkeeping, or other compliance requirements because they would remain identical to the current requirements. No new forms are proposed and no additional reporting requirements are necessary.

This notice does not require additional information collection that needs clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the forms are routinely used in most business transactions. The forms require only a minimal amount of information that can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

Prior Documents in This Proceeding

Notice of Hearing: Issued April 6, 2005; published April 12, 2005 (70 FR 19012).

Recommended Decision: Issued May 12, 2006; published May 17, 2006 (71 FR 28590).

Final Decision: Issued May 21, 2010; published June 14, 2010 (75 FR 33534).

Technical Correction: Issued June 18, 2010; published June 24, 2010 (75 FR 36015).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the Northeast and other marketing orders:

(a) Findings Upon the Basis of the Hearing Record

A public hearing was held with regard to certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Northeast and other marketing areas. The hearing was held pursuant to the provisions of the AMAA and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the AMAA;

(2) The parity prices of milk, as determined pursuant to section 2 of the AMAA, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas. The minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said orders, as hereby amended, regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreements upon which a hearing has been held; and

(4) All milk and milk products handled by handlers, as defined in the tentative marketing agreements and the orders as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(b) Determinations

It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the AMAA) of more than 50 percent of the milk, which is marketed within the specified marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the AMAA;

(2) The issuance of this order amending the Northeast and other orders is the only practical means pursuant to the declared policy of the AMAA of advancing the interests of producers as defined in the orders as hereby amended; and

(3) The issuance of this order amending the Northeast and other orders is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the respective marketing areas.

List of Subjects in 7 CFR Part 1000

Milk marketing orders.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Northeast and other marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

■ For reasons set forth in the preamble, 7 CFR part 1000 is amended as follows:

PART 1000—GENERAL PROVISIONS OF FEDERAL MILK MARKETING ORDERS

■ 1. The authority citation for 7 CFR part 1000 continues to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

■ 2. In § 1000.15, paragraphs (a) and (b)(1) are revised to read as follows:

§ 1000.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, *fluid milk product* shall mean any milk products in fluid or frozen form that are intended to be used as beverages containing less than 9 percent butterfat and 6.5 percent or more nonfat solids or 2.25 percent or more true milk protein. Sources of such nonfat solids/protein include but are not limited to: Casein, whey protein concentrate, milk protein concentrate, dry whey, caseinates, lactose, and any similar dairy derived ingredient. Such products include, but are not limited to: Milk, fat-free milk, lowfat milk, light milk, reduced fat milk, milk drinks, eggnog and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added or reduced nonfat solids, sterilized, concentrated, or reconstituted. As used in this part, the term concentrated milk means milk that contains not less than 25.5 percent, and not more than 50 percent, total milk solids.

(b) * * *

(1) Any product that contains less than 6.5 percent nonfat milk solids and contains less than 2.25 percent true milk protein; whey; plain or sweetened evaporated milk/skim milk; sweetened condensed milk/skim milk; yogurt containing beverages with 20 or more percent yogurt by weight and kefir; products especially prepared for infant feeding or dietary use (meal replacement) that are packaged in hermetically sealed containers; and products that meet the compositional standards specified in paragraph (a) of this section but contain no fluid milk products included in paragraph (a) of this section.

* * * * *

■ 3. In § 1000.40, paragraph (b)(2)(iii) and (b)(2)(vi) are revised to read as follows:

§ 1000.40 Classes of utilization.

* * * * *

(b) * * *

(2) * * *

(iii) Aerated cream, frozen cream, sour cream, sour half-and-half, sour cream mixtures containing non-milk items; yogurt, including yogurt containing beverages with 20 percent or more yogurt by weight and kefir, and any other semi-solid product resembling a Class II product;

* * * * *

(vi) Products especially prepared for infant feeding or dietary use (meal replacements) that are packaged in hermetically sealed containers and products that meet the compositional standards of § 1000.15(a) but contain no fluid milk products included in § 1000.15(a).

* * * * *

■ 4. In § 1000.43, paragraph (c) is revised to read as follows:

§ 1000.43 General classification rules.

* * * * *

(c) If any of the water but none of the nonfat solids contained in the milk from which a product is made is removed before the product is utilized or disposed of by the handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids. If any of the nonfat solids contained in the milk from which a product is made are removed before the product is utilized or disposed of by the handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water and nonfat solids originally associated with such solids determined on a protein equivalent basis.

* * * * *

Dated: August 17, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–20972 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0800; Directorate Identifier 2010–NM–162–AD; Amendment 39–16416; AD 2010–18–03]

RIN 2120–AA64

Airworthiness Directives; Dassault-Aviation Model FALCON 7X Airplanes

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

ACTION: Final rule; request for comments.

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

Several in service events related to various electrical systems, have led to the discovery of a common root cause: A leakage failure mode of Transient Voltage Suppressor (TVS) diodes used on Power Distribution Control Units (PDCU) cards or Generator Control Unit (GCU) cards in the Primary Power Distribution Boxes (PPDB). Due to such TVS diode failure mode, operation of some electrical circuits is degraded and some control signals are set at unexpected levels. Further analysis indicated that combination of a TVS diode failure with other systems failures could significantly reduce flight safety.

* * * * *

The unsafe condition is a leakage failure mode of TVS diodes used on PDCU cards or GCU cards in the PPDB, which in combination with other system failures could lead to loss of controllability of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective September 8, 2010.

We must receive comments on this AD by October 8, 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.

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

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 2010–0073, dated April 15, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Several in service events related to various electrical systems, have led to the discovery of a common root cause: A leakage failure mode of Transient Voltage Suppressor (TVS) diodes used on Power Distribution Control Units (PDCU) cards or Generator Control Unit (GCU) cards in the Primary Power Distribution Boxes (PPDB). Due to such TVS diode failure mode, operation of some electrical circuits is degraded and some control signals are set at unexpected levels. Further analysis indicated that combination of a TVS diode failure with other systems failures could significantly reduce flight safety.
>
> To prevent and correct this condition, some Airplane Flight Manual (AFM) procedures have been modified to reduce the time of exposure to further failures whenever a TVS diode failure occurs. Additionally, a field tester has been developed to test all TVS diodes installed on the PDCU and GCU cards for the detection of components beyond acceptable tolerances. The criteria for PDCU or GCU card replacement in case of detection of faulty components have been identified.
>
> This AD requires the accomplishment of the revised AFM procedures, the testing and, as necessary, the replacement of the affected PDCU and GCU cards.
>
> Meanwhile, Dassault Aviation is developing a modification (M724), to improve PDCU and GCU cards, with TVS diodes having reduced susceptibility to the leakage failure mode.

The unsafe condition is a leakage failure mode of TVS diodes used on PDCU cards or GCU cards in the PPDB, which in combination with other system failures could lead to loss of controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Interim Action

This AD does not require the inspection of and on-condition replacement of the PDCU and GCU cards in paragraph (3) of EASA AD 2010–0073, dated April 15, 2010, and this AD does not provide credit for accomplishment of certain service bulletins in paragraph (4) of EASA AD 2010–0073, dated April 15, 2010. The planned compliance time for the inspection of and on-condition replacement of the PDCU and GCU cards in paragraph (3) of EASA AD 2010–0073, dated April 15, 2010, would allow enough time to provide notice and opportunity for prior public comment on the merits of those actions. Therefore, we are considering further rulemaking to address this issue.

FAA's Determination and Requirements of This 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 issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a leakage failure mode of TVS diodes used on PDCU cards or GCU cards in the PPDB, combined with other possible systems failures, could lead to loss of control of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0800; Directorate Identifier 2010–NM–162–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2010–18–03 Dassault-Aviation: Amendment 39–16416. Docket No. FAA–2010–0800; Directorate Identifier 2010–NM–162–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective September 8, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Dassault-Aviation Model FALCON 7X airplanes, certificated in any category, all serial numbers except those on which Dassault-Aviation Modification M724 is embodied.

Subject

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

Reason

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

"Several in service events related to various electrical systems, have led to the discovery of a common root cause: a leakage failure mode of Transient Voltage Suppressor (TVS) diodes used on Power Distribution Control Units (PDCU) cards or Generator Control Unit (GCU) cards in the Primary Power Distribution Boxes (PPDB). Due to such TVS diode failure mode, operation of some electrical circuits is degraded and some control signals are set at unexpected levels. Further analysis indicated that combination of a TVS diode failure with other systems failures could significantly reduce flight safety."

* * * * *

The unsafe condition is a leakage failure mode of TVS diodes used on PDCU cards or GCU cards in the PPDB, which in combination with other system failures could lead to loss of controllability 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.

Actions

(g) Within 30 days after the effective date of this AD, revise the Abnormal Procedures and Limitations sections of the Dassault F7X Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting copies of this AD into the AFM Limitations section and Abnormal Procedures section.

"Upon display of ELEC:BUS MISCONFIG TIED in Crew Alerting System (Abnormal procedure 3–190–20), land at nearest suitable airport

Upon display of ELEC:LH ESS PWR LO or ELEC:LH ESS NO PWR (Abnormal procedure 3–190–40), land at nearest suitable airport

Upon display of ELEC:RH ESS PWR LO and ELEC:RH ESS NO PWR (Abnormal procedure 3–190–45), land at nearest suitable airport

Upon display of HYD:BACKUP PUMP HI TEMP (Abnormal procedure 3–250–15), set off the pump and if the backup pump is still rotating (green) in hydraulic synoptic, descend to a safe altitude or below 15,000 ft

Caution: These temporary amendments take precedence over the same procedures displayed through the Electronic Check List (ECL) in the aeroplane."

Note 1: When a statement identical to that in paragraph (g) of this AD has been included in the Limitations section and Abnormal Procedures section in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows:

(1) While the European Aviation Safety Agency (EASA) AD 2010–0073, dated April 15, 2010, has a compliance time of "after the effective date of this AD," this AD requires that the actions be done within 30 days after the effective date of this AD.

(2) This AD does not require the inspection of and on-condition replacement of the PDCU and GCU cards in paragraph (3) of EASA AD 2010–0073, dated April 15, 2010, and this AD does not provide credit for accomplishment of certain service bulletins in paragraph (4) of EASA AD 2010–0073, dated April 15, 2010.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(i) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2010–0073, dated April 15, 2010, for related information.

Material Incorporated by Reference

(j) None.

Issued in Renton, Washington, on August 11, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–20839 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 310

Telemarketing Sales Rule

AGENCY: Federal Trade Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Trade Commission ("Commission") published a final rule on August 10, 2010, adopting amendments to the Telemarketing Sales Rule that address the telemarketing of debt relief services. This document makes technical corrections to that final rule.

DATES: *Effective Date:* September 27, 2010.

FOR FURTHER INFORMATION CONTACT: Allison Brown, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580 (202–326–3224).

SUPPLEMENTARY INFORMATION: In FR Doc. 2010–19412 appearing on page 48458 in the **Federal Register** of Tuesday, August 10, 2010, the following corrections are made:

§ 310.8 [Corrected]

■ 1. On page 48523, in the first column, in § 310.8 (c), "$54" is corrected to read "$55" and, "$14,580" is corrected to read "$15,058".

§ 310.8 [Corrected]

■ 2. On the same page, in the second column, in § 310.8 (d), in the fourth line, "$54" is corrected to read "$55".

Donald S. Clark,

Secretary.

[FR Doc. 2010–20680 Filed 8–23–10; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9499]

RIN 1545–BF65

Clarification to Section 6411 Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations amending existing regulations under section 6411 of the Internal Revenue Code (Code) relating to the computation and allowance of the tentative carryback adjustment. These regulations adopt without change the rules of the temporary regulations, which clarify that, for purposes of allowing a tentative adjustment, the IRS may credit or reduce the tentative adjustment by both assessed and certain unassessed tax liabilities. These final regulations affect taxpayers that file an application for a tentative carryback allowance.

DATES: *Effective Date:* These regulations are effective on August 24, 2010.

Applicability Date: These regulations apply with respect to applications for tentative refund filed on or after August 24, 2010.

FOR FURTHER INFORMATION CONTACT: Contact Elizabeth Mezheritsky at (202) 622–3600 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Revisions

This document contains final regulations amending the Income Tax Regulations (26 CFR part 1) under section 6411 relating to the computation and allowance of the tentative carryback adjustment.

On August 24, 2007, temporary regulations (TD 9355), 2007–37 IRB 577 (72 FR 48933) and a notice of proposed rulemaking by cross-reference to temporary regulations (REG–118886–06), 2007–37 IRB 591 (72 FR 48952) were published in the **Federal Register**. On October 4, 2007, corrections to the temporary regulations were published in the **Federal Register** (72 FR 56619). Only one set of written comments responding to the notice of proposed rulemaking was received, and the same commenter was the sole speaker at a public hearing on the notice of proposed rulemaking, which was held on February 5, 2008. After consideration of the comments, the temporary regulations are adopted without change by this Treasury decision. The comments are discussed in the preamble.

Explanation of Provisions and Summary of Comments

In general, section 6411(a) provides that, in the case of certain loss or credit carrybacks, a taxpayer may file an application for a tentative carryback adjustment of the tax for a prior taxable year. Under section 6411(b), any resulting decrease in tax attributable to the carryback must be credited against any tax or installment "then due" from the taxpayer, or refunded to the taxpayer. Existing regulations at section 1.6411–3(d)(1)(iii) further provide that the decrease in tax is first applied against any unpaid amount of tax that is "due and payable" on the date the decrease is allowed.

These regulations amend existing regulations under section 6411 to clarify the computation and allowance of the tentative carryback adjustment. The tentative allowance is computed pursuant to § 1.6411–2 but applied pursuant to § 1.6411–3. The regulations provide that, for purposes of computing the tentative allowance under section 6411, the Commissioner will not consider amounts to which the taxpayer and the Commissioner are in disagreement. For purposes of applying the tentative allowance, however, the regulations provide that the Commissioner may credit or reduce the tentative adjustment by any assessed tax liabilities, unassessed liabilities determined in a statutory notice of deficiency, unassessed liabilities identified in a proof of claim filed in a bankruptcy proceeding, and other unassessed liabilities in rare and unusual circumstances. Regarding unassessed liabilities determined in a statutory notice of deficiency, *see* Rev. Rul. 2007–51. Regarding unassessed liabilities identified in a proof of claim filed in a bankruptcy proceeding, *see* Rev. Rul. 2007–52. *See also* § 601.601(d)(2).

The sole commenter asserted that the IRS lacks the authority to credit a tax decrease due to a tentative carryback adjustment against a tax liability unless the liability has been assessed against the taxpayer. According to the commenter, an assessed liability is the only proper interpretation of the terms "due and payable" and "then due" for purposes of section 6411(b). The Treasury Department and the IRS disagree with this position. The general authority to apply credits is provided by section 6402, which permits the IRS to credit the amount of any overpayment, including interest, against any tax liability of the person who made the overpayment. Nothing in section 6402 or the applicable regulations specifies when a liability arises for purposes of crediting overpayments. The Treasury Department and IRS have determined that both assessed and certain unassessed liabilities are appropriately considered "then due" for purposes of section 6411. Accordingly, the

temporary regulations are adopted as final regulations without change.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these final regulations and because these final regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact on small businesses and no comments were received.

Drafting Information

The principal author of these final regulations is Elizabeth K. Mezheritsky, Office of the Associate Chief Counsel (Procedure and Administration).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.6411–2 is amended by:
■ 1. Revising paragraph (a).
■ 2. Revising paragraph (b).
The revisions read as follows:

§ 1.6411–2 Computation of tentative carryback adjustment.

(a) *Tax previously determined.* The taxpayer is to determine the amount of decrease, attributable to the carryback, in tax previously determined for each taxable year before the taxable year of the net operating loss, net capital loss, or unused investment credit. The tax previously determined is to be ascertained in accordance with the method prescribed in section 1314(a). Thus, the tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment) as deficiencies before the date of the filing of the application for a tentative carryback adjustment, and decreased by any amounts abated, credited, refunded, or otherwise repaid prior to that date. Any items as to which the Commissioner and the taxpayer are in disagreement at the time of the filing of the application shall, for purposes of § 1.6411–2, be taken into account in ascertaining the tax previously determined only if, and to the extent that, they were reported on the return, or were reflected in any amounts assessed (or collected without assessment) as deficiencies, or in any amounts abated, credited, refunded, or otherwise repaid, before the date of filing the application. The tax previously determined, therefore, will reflect the foreign tax credit and the credit for tax withheld at source provided in section 33.

(b) *Decrease attributable to carryback.* After ascertaining the tax previously determined in the manner described in paragraph (a) of this section, the taxpayer shall determine the decrease in tax previously determined attributable to the carryback and any related adjustments on the basis of the items of tax taken into account in computing the tax previously determined. In determining any decrease attributable to the carryback or any related adjustment, items shall be taken into account under this subsection only to the extent that they were reported on the return, or were reflected in amounts assessed (or collected without assessment) as deficiencies, or in amounts abated, credited, refunded, or otherwise repaid, before the date of filing the application for a tentative carryback adjustment. If the Commissioner and the taxpayer are in disagreement as to the proper treatment of any item, it shall be assumed, for purposes of determining the decrease in the tax previously determined, that the item was reported correctly by the taxpayer unless, and to the extent that, the disagreement has resulted in the assessment of a deficiency (or the collection of an amount without an assessment), or the allowing or making of an abatement, credit, refund, or other repayment, before the date of filing the application. Thus, if the taxpayer claimed a deduction on its return of $50,000 for salaries paid its officers but the Commissioner proposes that the deduction should not exceed $20,000, and the Commissioner and the taxpayer have not agreed on the amount properly deductible before the date the application for a tentative carryback adjustment is filed, $50,000 shall be considered as the amount properly deductible for purposes of determining the decrease in tax previously determined in respect of the application for a tentative carryback adjustment. In determining the decrease in tax previously determined, any items that are affected by the carryback must be adjusted to reflect the carryback. Thus, unless otherwise provided, any deduction limited, for example, by adjusted gross income, such as the deduction for medical, dental, etc., expenses, is to be recomputed on the basis of the adjusted gross income as affected by the carryback. See § 1.6411–3(d) for rules on the application of the decrease in tax to any tax liability.

* * * * *

§ 1.6411–2T [Removed]

■ **Par. 3.** Section 1.6411–2T is removed.
■ **Par. 4.** Section 1.6411–3 is amended by:
■ 1. Revising paragraph (b).
■ 2. Revising paragraph (c).
■ 3. Revising paragraph (d)(1) introductory text.
■ 4. Revising paragraph (d)(1)(ii).
■ 5. Revising paragraph (d)(1)(iii).
■ 6. Revising paragraph (d)(2).
■ 7. Revising paragraph (d)(3).
The revisions read as follows:

§ 1.6411–3 Allowance of adjustments.

* * * * *

(b) *Examination.* Within the 90-day period described in paragraph (a) of this section, the Commissioner shall make, to the extent deemed practicable within this period, an examination of the application to discover omissions and errors of computation. The Commissioner shall determine within this period the decrease in tax previously determined, affected by the carryback or any related adjustments, upon the basis of the application and examination. The decrease shall be determined in the same manner as that provided in section 1314(a) for the determination by the taxpayer of the decrease in taxes previously determined, which must be set forth in the application for a tentative carryback adjustment. The Commissioner may correct any errors of computation or omissions discovered upon examination of the application. In determining the decrease in tax previously determined which is affected by the carryback or any related adjustment, the Commissioner may correct any mathematical error appearing on the application and may correct any modification required by the law and incorrectly made by the taxpayer in computing the net operating loss, net capital loss, or unused investment

credit, the resulting carrybacks, or the net operating loss deduction, capital loss deduction, or investment credit allowable. If the required modification has not been made by the taxpayer and the Commissioner has the necessary information to make the modification within the 90-day period, the Commissioner may, in the Commissioner's discretion, make the modification. In determining the decrease, the Commissioner will not, for example, change the amount claimed on the return as a deduction for depreciation because the Commissioner believes that the taxpayer has claimed an excessive amount; and the Commissioner will not include in gross income any amount not so included by the taxpayer, even though the Commissioner believes that the amount is subject to tax and properly should be included in gross income.

(c) *Disallowance in whole or in part.* If the Commissioner finds that an application for a tentative carryback adjustment contains material omissions or errors of computation, the Commissioner may disallow the application in whole or in part without further action. If the Commissioner deems that any error of computation can be corrected within the 90-day period, the Commissioner may do so and allow the application in whole or in part. The Commissioner's determination as to whether the Commissioner can correct any error of computation within the 90-day period shall be conclusive. The Commissioner's action in disallowing, in whole or in part, any application for a tentative carryback adjustment shall be final and may not be challenged in any proceeding. The taxpayer may, however, file a claim for credit or refund under section 6402, and may maintain a suit based on the claim if the claim is disallowed or if the Commissioner does not act upon the claim within 6 months from the date it is filed.

(d) *Application of decrease.* (1) Each decrease determined by the Commissioner in any previously determined tax that is affected by the carryback or any related adjustments shall first be applied against any unpaid amount of the tax with respect to which such decrease was determined. The unpaid amount of tax may include one or more of the following:

* * * * *

(ii) An amount the time for payment of which has been extended under section 6164 and which is due and payable on or after the date of the allowance of the decrease.

(iii) An amount (not including an amount the time for payment of which has been extended under section 6164) which is due and payable on or after the date of the allowance of the decrease, including any assessed liabilities, unassessed liabilities determined in a statutory notice of deficiency, unassessed liabilities identified in a proof of claim filed in a bankruptcy proceeding, and other unassessed liabilities in rare and unusual circumstances.

(2) If the unpaid amount of tax includes more than one unpaid amount, the Commissioner may determine against which amount or amounts, and in what proportion, the decrease is to be applied. In general, however, the decrease will be applied against any amounts described in paragraphs (d)(1)(i) through (iii) of this section in the order named. If there are several amounts of the type described in paragraph (d)(1)(iii) of this section, any amount of the decrease that is to be applied against the amount will be applied by assuming that the tax previously determined minus the amount of the decrease to be so applied is "the tax" and that the taxpayer had elected to pay the tax in installments. The unpaid amount of tax against which a decrease may be applied under paragraph (d)(1) of this section may not include any amount of tax for any taxable year other than the year of the decrease. After making the application, the Commissioner will credit any remainder of the decrease against any unsatisfied amount of any tax for the taxable year immediately preceding the taxable year of the net operating loss, capital loss, or unused investment credit, the time for payment of which has been extended under section 6164.

(3) Any remainder of the decrease after the application and credits may, within the 90-day period, in the discretion of the Commissioner, be credited against any tax liability or installment thereof then due from the taxpayer (including assessed liabilities, unassessed liabilities determined in a statutory notice of deficiency, unassessed liabilities identified in a proof of claim filed in a bankruptcy proceeding, and other unassessed liabilities in rare and unusual circumstances), and, if not so credited, shall be refunded to the taxpayer within the 90-day period.

* * * * *

§ 1.6411–3T [Removed]

■ **Par. 5.** Section 1.6411–3T is removed.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: August 11, 2010.

Michael Mundaca,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2010–20916 Filed 8–23–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2010–0756]

RIN 1625–AA08

Special Local Regulation for Marine Events; Roanoke River, Plymouth, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations during the "East Coast Drag Boat Association Race", a power boat race to be held on the waters of the Roanoke River near Plymouth, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Roanoke River adjacent to Plymouth, North Carolina during the power boat race.

DATES: This rule is effective from 8 a.m. August 28, 2010 through 9 p.m. August 29, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0756 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0756 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Petty Officer Kevin Ouyoumjian, Prevention Department, Coast Guard Sector North Carolina; telephone (252) 247–4528, e-mail *Kevin.J.Ouyoumjian@uscg.mil.* If you

have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to minimize potential danger to the public during the event. The necessary information to determine whether the marine event poses a threat to persons and vessels was not provided with sufficient time to publish an NPRM. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, spectator craft and other vessels transiting the event area. The danger posed by drag boat racing makes special local regulations necessary to provide for the safety of spectator craft and other vessels transiting the event area. For these reasons, it is in the public interest to have these regulations in effect during the event. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

For the same reasons, the Coast Guard also finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Basis and Purpose

On August 28 and 29, 2010 the East Coast Drag Boat Association will sponsor the "U.S. Grand Nationals Drag Boat Races" on the waters of the Roanoke River near Plymouth, North Carolina. The event will consist of approximately 50 drag boats racing in heats along a quarter mile course at a high rate of speed. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Rule

The Coast Guard is establishing special local regulations on specified waters of the Roanoke River adjacent to Plymouth, North Carolina. The regulated area will cover a section of the Roanoke River bounded in width by each shoreline and approximately one mile long between approximate positions 35°52′27″ N latitude, 076°44′39″ W longitude and 35°51′55″ N latitude, 076°45′27″ W longitude. The rule will be enforced from 8 a.m. until 9 p.m. on August 28 and 29, 2010, and would restrict general navigation in the regulated area during the drag boat race. The Coast Guard, in its discretion and when practical, would allow the passage of vessels when races are not taking place. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel would be allowed to enter or remain in the regulated area during the enforcement period. These regulations are needed to control vessel traffic during the events to protect participants, spectators and transiting vessels.

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.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the affected segment of the Roanoke River during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a short period, from 8 a.m. to 9 p.m., each day, on August 28 and 29, 2010. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

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)(h.), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area.

Under figure 2–1, paragraph (34)(h.), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add temporary § 100.35–T05–0756 to read as follows:

§ 100.35–T05–0756 Roanoke River, Plymouth, North Carolina.

(a) *Regulated area.* The following is a regulated area: All waters of the Roanoke River, from surface to bottom, encompassed by lines commencing at the north river bank at latitude 35°52′27″ N, longitude 076°44′39″ W, thence 180 degrees due south across the river to the shoreline, thence west along the shoreline to a position located at latitude 35°51′55″ N, longitude 076°45′27″ W, thence 000 degrees due north across the river to the shoreline, thence east along the shoreline to the point of origin. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations:* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any official patrol.

(d) *Enforcement period.* This section will be enforced from 8 a.m. to 9 p.m. each day on August 28 and 29, 2010.

Dated: August 9, 2010.

Anthony Popiel,

Captain, U.S. Coast Guard, Captain of the Port North Carolina.

[FR Doc. 2010–20920 Filed 8–23–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0234]

RIN 1625–AA09

Drawbridge Operation Regulation; Taunton River, Fall River and Somerset, MA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the drawbridge operation regulations

that govern the operation of the Brightman Street (Rt–6) Bridge at mile 1.8, across the Taunton River between Fall River and Somerset, Massachusetts. This final rule will help relieve the bridge owner from the burden of crewing the bridge at times when there have been few requests to open the bridge. In addition, we are also removing some obsolete language from the regulations, the operation regulations for the Bristol County Bridge at mile 10.3, because that bridge has subsequently been replaced with a fixed highway bridge.

DATES: This rule is effective September 23, 2010.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0234 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0234 in the "Keyword" box, and then clicking "Search." This material is 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 rule, call or e-mail Mr. John W. McDonald, Project Officer, First Coast Guard District Bridge Branch, 617–223–8364, *john.w.mcdonald@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 8, 2010, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations Taunton River in the **Federal Register** (75 FR 32351). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Basis and Purpose

The Brightman Street (Rt–6) Bridge at mile 1.8, across the Taunton River between Fall River and Somerset, Massachusetts, has a vertical clearance in the closed position of 27 feet at mean high water and 31 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.619.

The bridge is required under the existing regulations to open on signal as follows:

At all times from April 1 through May 31 and from September 1 through November 1.

From June 1 through August 31, the draw need not open for pleasure craft from 7 a.m. to 9:30 a.m. and 4 p.m. through 6:30 p.m., Monday through Friday, except holidays. The draw is required to open on signal for commercial vessels at any time during the June 1 through August 31 time period.

From November 1 through March 31, the bridge is required to open on signal 6 a.m. through 6 p.m. and from 6 p.m. through 6 a.m. the bridge shall open after a one-hour advance notice is given.

The owner of the bridge, Massachusetts Department of Transportation, has been crewing the bridge in excess of the time required in the existing regulations during the winter months, November 1 through March 31. They have been crewing the bridge from 5 a.m. through 9 p.m. with a one-hour advance notice required from 9 p.m. through 5 a.m. This allows the bridge owner to crew the bridge in two eight-hour shifts rather than one eight-hour shift plus four hours of overtime.

The bridge owner has subsequently requested a change to the regulations to allow them to crew the bridge year round from 5 a.m. through 9 p.m., daily, with a one-hour advance notice from 9 p.m. through 5 a.m.

The bridge owner provided bridge logs which indicated few requests to open the draw after 9 p.m. In addition, the NRG power plant (Montop Electric) which formerly operated upstream from the bridge has closed permanently which will eliminate most, if not all, commercial vessel transits.

The bridge opening logs for the past three years, 2007, 2008, and 2009, indicated few requests to open the bridge after 9 p.m. year round for vessel traffic.

There were 11 requests to open the bridge after 9 p.m. in 2009, 9 requests to open after 9 p.m. in 2008, and 14 requests to open after 9 p.m. in 2007.

Under this proposed rule the bridge would open on signal year round from 5 a.m. to 9 p.m. and between 9 p.m. and 5 a.m., after a one-hour advance notice is given by calling the number posted at the bridge.

The Coast Guard believes this proposed rule is reasonable, and if implemented, should continue to meet the present and future needs of navigation.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule.

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 conclusion is based upon the fact that this final rule expands the time period the bridge is crewed in the winter months and extends the winter schedule to year round based on historic infrequent use between 9 p.m. and 5 a.m.

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 conclusion is based upon the fact that the vessel operators that normally frequent this waterway will still be able to obtain bridge openings after 9 p.m. by simply providing a one-hour advance notice by calling the number posted at the bridge.

Assistance for Small Entities

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

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 would not create an environmental risk to health or risk to safety that might 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 guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that 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 (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 117.619 is revised to read as follows:

§ 117.619 Taunton River.

(a) The Brightman Street (Route-6) Bridge at mile 1.8, between Fall River and Somerset, shall operate as follows:

(b) The draw shall open on signal between 5 a.m. and 9 p.m., daily. From 9 p.m. through 5 a.m. the draw shall open on signal after at least a one-hour advance notice is given by calling the number posted at the bridge.

(c) From June 1 through August 31, the draw need not open for the passage of pleasure craft from 7 a.m. to 9:30 a.m. and from 4 p.m. to 6:30 p.m., Monday through Friday, except holidays. The draw shall open for commercial vessels at all times.

(d) From 6 p.m. on December 24 to midnight on December 25, and from 6 p.m. on December 31 to midnight on January 1, the draw shall open on signal if at least a two-hour advance notice is given by calling the number posted at the bridge.

(e) The owner of the bridge shall provide and keep in good legible condition clearance gauges located on both upstream and downstream sides of the draw with figures not less than twelve inches in height, designed, installed and maintained according to the provisions of § 118.160 of this chapter.

Dated: August 10, 2010.

Daniel A. Neptun,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2010–20922 Filed 8–23–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0200]

RIN 1625–AA09

Drawbridge Operation Regulation; Passaic River, Clifton, NJ

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard has changed the drawbridge operation regulations

that govern the operation of the Route 3 Bridge, mile 11.8, across the Passaic River at Clifton, New Jersey. This final rule will allow the bridge to remain in the closed position. The purpose of this rule is to facilitate the installation of a utility cable at the bridge. The Route 3 Bridge has not received a request to open since 1998.

DATES: This rule is effective September 23, 2010.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0200 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0200 in the "Keyword" box, and then clicking "Search." This material is 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 rule, call or e-mail Mr. John W. McDonald, Project Officer, First Coast Guard District Bridge Branch, 617–223–8364, *john.w.mcdonald@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 24, 2010, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations Passaic River in the **Federal Register** (75 FR 28766). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Basis and Purpose

The Route 3 Bridge has a vertical clearance of 35 feet at mean high water, and 40 feet at mean low water in the closed position. The existing drawbridge operating regulations listed at 33 CFR 117.739(n), require the bridge to open on signal after at least a 24-hour advance notice is given by calling the number posted at the bridge.

The existing Route 3 Bridge will soon be replaced with a new fixed highway bridge on a different alignment because it is in poor condition and must be replaced as soon as possible. A submarine utility communication cable is presently located on the proposed alignment of the new replacement bridge and will need to be temporarily relocated during the construction of the new Route 3 highway bridge.

The best alternative and least disruptive impact to the environment is to temporarily relocate the communication cable to the underside of the existing Route 3 Bridge. As a result of that temporary installation of the communication cable, the existing Route 3 Bridge will not be able to be opened for vessel traffic.

The Route 3 Bridge has not received a request to open since 1998.

On September 10, 2009, the bridge owner, New Jersey Department of Transportation (NJDOT), requested a change to the drawbridge operation regulations to allow the existing Route 3 Bridge to need not open for the passage of vessel traffic in order to facilitate the temporary installation of the communication cable and permit the new bridge construction to commence.

Once the new bridge construction is completed and the new bridge is opened for vehicular traffic, the old existing Route 3 Bridge will be removed.

Discussion of Comments and Changes

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule.

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 conclusion is based upon the fact that the Route 3 Bridge has not received a request to open since 1998.

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 conclusion is based upon the fact that the Route 3 Bridge has not received a request to open since 1998.

Assistance for Small Entities

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

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 would not create an environmental risk to health or risk to safety that might 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 guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that 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 (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 117.739 is amended by revising paragraph (n) to read as follows:

§ 117.739 Passaic River.

* * * * *

(n) The draw of the Route 3 Bridge, mile 11.8, need not be opened for the passage of vessel traffic.

* * * * *

Dated: August 12, 2010.

Daniel A. Neptun,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2010–20926 Filed 8–23–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0778]

Drawbridge Operation Regulation; Atchafalaya River, Melville, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Union Pacific Railroad vertical lift bridge across the Atchafalaya River, mile 107.4, at Melville, St. Landry and Point Coupee Parishes, Louisiana. The deviation is necessary to perform asbestos abatement work to the draw tender's house. This deviation allows the bridge to open on signal if at least a three hour advance notice is given from September 9, 2010 through October 9, 2010.

DATES: This deviation is effective from 6 a.m. on Thursday, September 9, 2010 through 6 p.m. on Saturday, October 9, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2010–0778 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0687 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 rule, call or e-mail David Frank, Bridge Administration Branch, Coast Guard; telephone 504–671–2128, e-mail *Kay.B.Wade@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad has requested a temporary deviation from the operating schedule for the vertical lift span bridge across the Atchafalaya River, mile 107.4, at Melville, St. Landry and Point Coupee Parishes, Louisiana. The bridge has a vertical clearance of 4 feet above mean high water in the closed-to-navigation position and 54 feet above mean high water in the open-to-navigation position.

In accordance with 33 CFR 117.5, the bridge currently opens on signal for the passage of vessels. This deviation allows the vertical lift span of the bridge to open on signal if at least a three hour advanced notice is given from 6 a.m. Thursday, September 9, 2010 through 6 p.m. on Saturday, October 9, 2010.

The closure is necessary in order to conduct asbestos abatement work on the draw tender's house. This maintenance is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast

via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway consists of commercial tugs with tows. There is an alternate waterway route available via the Gulf Intracoastal Waterway (Morgan City to Port Allen Alternate Route). Based on experience and coordination with waterway users, it has been determined that this closure will not have a significant effect on vessels that use the waterway.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 11, 2010.

David M. Frank,

Bridge Administrator.

[FR Doc. 2010–20925 Filed 8–23–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket No. USCG–2010–0448]

RIN 1625–AA00

Safety Zone; DEEPWATER HORIZON at Mississippi Canyon 252 Outer Continental Shelf MODU in the Gulf of Mexico

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change of effective period.

SUMMARY: The Coast Guard is extending the effective period for the temporary safety zone around the riser for the DEEPWATER HORIZON, a Mobile Offshore Drilling Unit (MODU), at Mississippi Canyon 252, in the Outer Continental Shelf. The safety zone in place at 33 CFR 147.T08–849 terminates on August 26, 2010. Extending the effective period for this safety zone provides continued and uninterrupted protection of personnel involved in ongoing response efforts. Continuing the safety zone around the riser will significantly reduce the threat of collisions, oil spills, and releases of natural gas, and thereby protect the safety of life, property, and the environment. Response efforts continue at the water's surface and subsurface.

DATES: 33 CFR 147.T08–849 temporarily added at 75 FR 32273, June 8, 2010, effective from June 8, 2010 to August 26, 2010, will continue in effect through November 26, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0448 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0448 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 about this notice, call or e-mail Dr. Madeleine McNamara, U.S. Coast Guard, District Eight Waterways Management Coordinator; telephone 504–671–2103, *madeleine.w.mcnamara@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule extends the existing temporary safety zone around the riser for the DEEPWATER HORIZON, a Mobile Offshore Drilling Unit (MODU), which is currently set to expire on August 26, 2010. This extension is necessary to continue protecting the responders and to prevent entry into the area where both response and relief efforts are still ongoing and are expected to continue after the spill is stopped. Failing to delay the effective day of this extension pending completion of notice and comment rulemaking is impracticable and contrary to the public interest because it would cause a gap in the ability to enforce the needed safety zone for protection of all responders, the response efforts, and the environment.

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

The safety zone in place pursuant to the Temporary Final Rule at docket USCG–2010–0448 extended the safety zone initially enforced for the DEEPWATER HORIZON riser from April 26, 2010 through May 26, 2010. The safety zone was enforced through actual notice from May 26, 2010 until June 8, 2010 to ensure seamless protection of those involved in the response efforts. On June 8, 2010, the Coast Guard established a safety zone in the deepwater area of the Gulf of Mexico in response to the sinking of the DEEPWATER HORIZON, a Mobile Offshore Drilling Unit (MODU), near Mississippi Canyon 252 with a center point at 28–44–18N and 088–21–54W. See 75 FR 32273. This temporary safety zone is set to expire on August 26, 2010. The temporary safety zone created by this rule ensures that there is no gap in authority to protect all responders, the response efforts, and the environment.

Discussion of Rule

The Coast Guard is extending the effective date of a safety zone encompassing all areas within 500 meters around the position 28–44–18N latitude and 088–21–54W longitude.

Regulatory Analyses

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

Regulatory Planning and Review

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

This rule is not a significant regulatory action due to the location of the riser for the MODU DEEPWATER HORIZON—on the Outer Continental Shelf—and its distance from both land and safety fairways. Vessels traversing waters near the proposed safety zone will be able to safely travel around the zone without incurring additional costs.

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 might be small entities: The owners or operators of vessels intending to transit or anchor in Mississippi Canyon block 252.

This safety zone will not have a significant economic impact or a substantial number of small entities for the following reasons: This rule will enforce a safety zone around a MODU that is in an area of the Gulf of Mexico not frequented by vessel traffic and is not in close proximity to a safety fairway. Further, vessel traffic can pass safely around the safety zone without incurring additional costs.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation since implementation of this action will not result in any significant cumulative impacts on the human environment; does not involve a substantial change to existing environmental conditions; and is consistent with Federal, State, and/or local laws or administrative determinations relating to the environment. This rule involves establishing a safety zone.

Pursuant to paragraph (34)(g) of the Instruction, an environmental checklist and a categorical exclusion checklist are available in the docket indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 147.T08–849 temporarily added at 75 FR 32273, June 8, 2010, effective from June 8, 2010 to August 26, 2010, will continue in effect through November 26, 2010.

Dated: August 16, 2010.

M.E. Landry,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 2010–20921 Filed 8–23–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0719]

RIN 1625–AA00

Safety Zone; Potomac River, St. Mary's River, St. Inigoes, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone upon specified waters of the St. Mary's River, a tributary of the Potomac River. This action is necessary to provide for the safety of life on navigable waters during military pyrotechnic flare exercises launched from a U.S. Navy helicopter located near St. Inigoes, Maryland. This safety zone is intended to protect the maritime public in a portion of the St. Mary's River.

DATES: This rule is effective from August 24, 2010 through August 27, 2010. This rule may be enforced with actual notice starting on August 16, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0719 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0719 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Mr. Ronald L. Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410–576–2674, e-mail *Ronald.L.Houck@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is contrary to public interest to delay the effective date of this rule. Delaying the effective date by first publishing an NPRM would be contrary to the safety zone's intended objectives because immediate action is needed to protect persons and vessels against the hazards associated with a military pyrotechnic flare exercise over navigable waters. Such hazards include premature detonations, dangerous projectiles and falling or burning debris.

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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

Basis and Purpose

Military pyrotechnic flare exercises are necessary to provide testing and demonstration of countermeasures designed for military aircraft survivability and protection. These exercises are sometimes held at locations above or near the navigable waters of the United States. The potential hazards associated with pyrotechnic flares are a safety concern during such exercises. The purpose of this rule is to promote public and maritime safety during a military pyrotechnic flare exercise, and to protect mariners transiting the area from the potential hazards associated with a pyrotechnic flare exercise, such as the accidental discharge of flares, dangerous projectiles, and falling hot embers or other debris. This rule is needed to ensure safety on the waterway during the scheduled event.

Discussion of Rule

The Naval Air Warfare Center Aircraft Division, at U.S. Naval Air Station Patuxent River, Maryland, will conduct a pyrotechnic flare exercise from an airborne CH–53D Sea Stallion helicopter hovering at a minimum of 1,000 feet above the surface of the St. Mary's River, near St. Inigoes, Maryland. The activity is scheduled for a two hour period on a single day during the week of August 16, 2010, and if necessary due to inclement weather or availability of aircraft, for a two hour period on a single day during the week of August 23, 2010. Due to many limiting factors, including when such flights are identified by the Navy during weekly requests, the Coast Guard can only be provided a 96-hour notification of approved flare-dispensing missions.

The Coast Guard is establishing a temporary safety zone on certain waters of the St. Mary's River, near its confluence with the Potomac River, within a one nautical mile radius of an airborne CH–53D Sea Stallion helicopter in approximate position latitude 38°06′49″ N., longitude 76°26′35″ W., located approximately 2,300 yards west-northwest of Sage Point, Maryland (NAD 1983). The temporary safety zone will be enforced for a two hour period on a single day during the week of August 16, 2010, and if necessary due to inclement or availability of aircraft, for a two hour period on a single day during the week of August 23, 2010. The effect of this temporary safety zone will be to restrict navigation in the regulated area during the pyrotechnic flare exercise. No person or vessel may enter or remain in the safety zone. Vessels will be allowed to transit the waters of the St. Mary's River outside the safety zone. Notification of the temporary safety zone will be provided to the public via marine information broadcasts.

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. Although this safety zone will restrict vessel traffic, there is little vessel traffic associated with commercial fishing, and recreational boating in the area. In addition, the effect of this rule will not be significant because the safety zone is of limited duration and size. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

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 operate, transit, or anchor in a portion of the St. Mary's River, near its confluence with the Potomac River, located near St. Inigoes, Maryland, for a two hour period on a single day during the week of August 16, 2010, and if necessary due to inclement weather or availability of aircraft, for a two hour period on a single day during the week of August 23, 2010. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone is of limited size and duration. In addition, before the effective periods, the Coast Guard will issue maritime advisories widely available to users of the waterway to allow mariners to make alternative plans for transiting the affected area.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and 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, 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.T05–0719 to read as follows:

§ 165.T05–0719 Safety Zone; Potomac River, St. Mary's River, St. Inigoes, MD.

(a) *Regulated Area.* The following area is a safety zone: All waters in the St. Mary's River, near its confluence with the Potomac River, within a one nautical mile radius of an airborne CH–53D Sea Stallion helicopter in approximate position latitude 38°06′′49″ N, longitude 76°26′35″ W, located approximately 2,300 yards west-northwest of Sage Point, Maryland (NAD 1983).

(b) *Regulations.* The general safety zone regulations found in § 165.23 apply to the safety zone created by this temporary section, § 165.T05–0719.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port Baltimore.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port Baltimore or his designated representative by telephone at 410–576–2693 or on VHF–FM marine band radio channel 16.

(3) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(c) *Definitions. Captain of the Port Baltimore* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port Baltimore to act on his behalf.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and enforcement of the zone.

(e) *Enforcement period.* This section will be enforced for a two-hour period on a single day during the week of August 16, 2010, and if necessary due to inclement weather or availability of aircraft, for a two-hour period on a single day during the week of August 23, 2010.

Dated: August 5, 2010.

Mark P. O'Malley,

Captain, U.S. Coast Guard, Captain of the Port Baltimore, Maryland.

[FR Doc. 2010–20919 Filed 8–23–10; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Mailing of Cigarettes and Smokeless Tobacco Products to APO/FPO/DPO Destination Addresses

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) 503.9 and 601.11 to permit the mailing of cigarettes and smokeless tobacco to APO/FPO/DPO destination addresses via Express Mail® Military Service or Priority Mail® service with Delivery Confirmation™.

DATES: *Effective Date:* August 27, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Collins, 202–268–5440, Anthony Alverno, 202–268–2997 or Jeff Burger, 202–268–7251.

SUPPLEMENTARY INFORMATION: On May 5, 2010, the Postal Service published a proposed rule in the **Federal Register** (75 FR 24534–24541) to implement the Prevent All Cigarette Trafficking (PACT) Act of 2009, Public Law 111–154. After solicitation and consideration of the comments received in response to the proposed rule, the Postal Service published a **Federal Register** final rule on May 27, 2010 (75 FR 29662–29671) to implement the PACT Act effective June 29, 2010.

The final rule established eligibility requirements under which shipments of cigarettes and smokeless tobacco could be sent via U.S. mail under the PACT Act. One of the exceptions in the PACT Act allows for gift shipments sent by certain individuals. The Postal Service implemented this requirement in the final rule by providing that shipments sent by individuals in non-commercial transactions must be sent by Express Mail with Hold for Pickup for domestic shipments. With respect to shipments to Air Force/Army Post Offices (APOs), Fleet Post Offices (FPOs), or Diplomatic Post Offices (DPOs) destination addresses, the standards in DMM section 601.11.6.2 provided that shipments of cigarettes and smokeless tobacco must be sent via Express Mail. This is consistent with the PACT Act requirement that shipments by certain individuals must be sent using "the systems of the Postal Service that provide for the tracking and confirmation of delivery." 18 U.S.C. 1716E(b)(4)(ii)(IV). Express Mail service offers both tracking and confirmation of delivery and was accordingly required for shipments to APO/FPO/DPO destination addresses.

No comments were received in response to the Postal Service's solicitation for comments on the proposed rule in connection with shipments to APO/FPO/DPO addressees. Subsequent to the publication of the final rule, however, the Postal Service received inquiries from customers concerning the requirement to use Express Mail service for shipments to APO/FPO/DPO destination addresses in Iraq and Afghanistan. In particular, customers advised that Express Mail service is not offered to APO/FPO/DPO destination addresses in certain places where large

numbers of troops are located, particularly Iraq and Afghanistan. As a result, the Postal Service undertook to investigate whether there are alternative mailing options for military families sending packages containing cigarettes and smokeless tobacco that would satisfy the requirements of the PACT Act.

To accommodate the needs of military families that ship to these destinations, the USPS® has identified alternative mailing options for mailpieces containing cigarettes and smokeless tobacco sent as gifts between individual adults to APO/FPO/DPO destinations. With this change, mailings of cigarettes and smokeless tobacco will be permitted to APO/FPO/DPO destination addresses when using Priority Mail® with Delivery Confirmation Service, when not otherwise restricted in accordance with the requirements of the host country. This measure should expand mailing options to accommodate the needs of military families. Mailers should be advised, however, that packages containing mailable cigarettes or smokeless tobacco are still subject to all other requirements in DMM 601.11.6, including marking requirements, a weight limitation of 10 ounces per package, as well as frequency limitations of no more than 10 shipments per 30 day period. The revised frequently asked question below explains the requirement in more detail:

Q: May individual customers in the United States send cigarettes and smokeless tobacco as gifts in overseas military mail?

A. That depends. Some overseas host countries do not allow cigarettes and tobacco items in military mail, and such gifts may be prohibited, so first check the *Postal Bulletin,* or the link at *http://postcalc.usps.gov/Restrictions.aspx,* for cigarette/tobacco restrictions based on the ZIP Code of the APO/FPO/DPO installation. If cigarettes and smokeless tobacco items are permitted, customers must use Express Mail Military Service (EMMS) or Priority Mail with Delivery Confirmation for shipping these items to APO/FPO/DPO destination addresses. For Express Mail shipments, Hold for Pickup service is not required. Regardless of the mail service used, however, the package must weigh 10 ounces or less and bear the complete name and address of the sender and addressee, along with the marking "PERMITTED TOBACCO MAILING — DELIVER ONLY TO AGE–VERIFIED ADULT OF LEGAL AGE." The sender must show photo identification establishing that he or she is at least 18 years old or the minimum age for purchase of tobacco where the package is entered, whichever is higher. Furthermore, at the time of the transaction, the sender must orally affirm that the addressee is at least 18 years old or the minimum age for purchase of tobacco where the package is being delivered, whichever is higher. No more than 10 such mailings may be sent by a single individual in a 30-day period.

In conjunction with this change, we are also clarifying the product description for Delivery Confirmation when used with products sent to APO/FPO/DPO destination addresses. Specifically, DMM section 503.9.2.1 is clarified to specify that for APO/FPO/DPO shipments, Delivery Confirmation service may not always provide the mailer with online information regarding the date and time of an event scan.

The applicable standards contained in this final rule will be incorporated into the DMM monthly update on October 4, 2010.

The Postal Service hereby adopts the following changes to the *Mailing Standards for the United States Postal Service,* Domestic Mail Manual (DMM), which is incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

***Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM)**

* * * * *

500 Additional Mailing Services

503 Extra Services

* * * * *

9.0 Delivery Confirmation

* * * * *

9.2. Basic Information

9.2.1 Description

[Revise 9.2.1 by adding a new last sentence as follows:]

* * * For mailings to APO/FPO/DPO destination addresses, Delivery Confirmation service may not always provide the mailer with online information regarding the date and time of an event scan.

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

* * * * *

11. 0 Cigarettes and Smokeless Tobacco

* * * * *

11.3 Mailability Exceptions

* * * These exceptions do not apply to the following:

* * * * *

[Revise text in item11.3 c as follows*:]*

c. mail presented at APO, FPO, or DPO installations destined to addresses in the United States.

* * * * *

11.6 Exception for Certain Individuals

* * * * *

11.6.2 Mailing

* * * Each mailing under the certain individuals exception must:

[Revise text in item "a" as follows and delete items "e" through "g" in their entirety.]

a. be entered as Express Mail with Hold for Pickup service (waiver of signature and pickup services not permitted); unless shipped to APO/FPO/DPO addresses under 11.6.4.

* * * * *

11.6.3 Mailing

Delivery under the certain individuals exception is made under the following conditions:

[Revise text in items "a" and "c" as follows:]

a. The recipient receiving or signing for the article must be an adult of at least the minimum age for the legal sale or purchase of tobacco products at the place of delivery. * * *

c. For Express Mail articles, once age is established, the recipient must sign PS Form 3849 in the appropriate signature block.

* * * * *

[Add new item 11.6.4 as follows:]

11.6.4 Tobacco Product Shipments to APO/FPO/DPO

Shipments of cigarettes and smokeless tobacco may not be sent to APO/FPO/DPO destination addresses to which the mailing of tobacco is restricted (see 703.2.3.1). To the extent cigarettes or smokeless tobacco are permitted to be mailed to an APO/FPO/DPO destination addresses, such mailings under the certain individuals exception must comply with all of the requirements of 11.6, with the exception that mailings may be entered as either Express Mail Military Service (EMMS) or Priority Mail service with Delivery Confirmation. Regardless of the service elected, the mailing must bear the full name and mailing address of the sender and recipient.

* * * * *

We will publish an amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2010–20835 Filed 8–23–10; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0043–201024; FRL–9192–6]

Approval and Promulgation of Air Quality Implementation Plans; North Carolina and South Carolina; Charlotte-Gastonia-Rock Hill, North Carolina–South Carolina; Notice of Completeness Determination for the Purpose of Stopping Sanctions Clock

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Letter to Governor Regarding Completeness and Stopping of Sanctions Clock.

SUMMARY: EPA is now giving notice of an action that EPA has already taken to find two State Implementation Plan (SIP) revisions complete and stop sanctions clocks associated with the Charlotte-Gastonia-Rock Hill North Carolina, South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the "bi-state Charlotte Area"). Pursuant to the Clean Air Act (CAA) and its implementing regulations, EPA has made an affirmative determination of completeness for the attainment demonstrations submitted by the States of North Carolina and South Carolina the bi-state Charlotte Area. On May 27, 2010, letters announcing this determination were sent to the Governors of North Carolina and South Carolina, effectively stopping the sanctions clock started on May 8, 2009, by a finding of failure to submit the attainment demonstrations. This notice is simply an announcement of a determination that EPA has already made.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2009–0043. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9140. Ms. Ward can also be reached via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION: Effective June 15, 2004, the bi-state Charlotte Area was designated nonattainment for the 8-hour ozone national ambient air quality standards (NAAQS) with a moderate classification. The bi-state Charlotte Area is comprised of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell (Davidson and Coddle Creek Townships) Counties in North Carolina; and a portion of York County, South Carolina. For the 1997 8-hour ozone NAAQS, States were required to submit an attainment demonstration, reasonable further progress plan, and reasonable available control technology submittals (for areas classified as moderate or above) by June 15, 2007. EPA received the required submittals from North Carolina on June 15, 2007, and South Carolina on August 31, 2007.

On December 19, 2008, and December 22, 2008, the States of North Carolina and South Carolina, respectively, submitted letters to EPA withdrawing their attainment demonstrations for the bi-state Charlotte Area. On May 8, 2009, EPA published a finding of failure to submit final rulemaking for North Carolina and South Carolina for these required SIPs. 74 FR 21550.

On November 12, 2009, and April 5, 2010, North Carolina submitted all components of the North Carolina attainment demonstration SIP for North Carolina's portion of the bi-state Charlotte Area. On November 13, 2009, and April 29, 2010, South Carolina submitted all components of the attainment demonstration SIP for South Carolina's portion of the bi-state Charlotte Area. EPA has done a completeness review, in accordance with Section 2.0 "Criteria" of Appendix V of 40 CFR Part 51—Criteria for Determining the Completeness of Plan Submissions, to ensure that the States have submitted all of the required information for the SIP submissions.

As explained in the letters sent by EPA to the Governors of North and South Carolina, on May 27, 2010,[1] EPA has determined that the States have corrected the deficiency identified in EPA's promulgated finding of failure to submit the required attainment demonstration SIPs for the bi-state Charlotte Area. Specifically, EPA has determined that both North Carolina and South Carolina have submitted complete SIP submittals for the bi-state Charlotte Area to meet the CAA requirement for attainment demonstrations for moderate nonattainment areas under the 1997 8-hour ozone NAAQS. EPA will make a determination on the approvability of these attainment demonstration SIPs for the bi-state Charlotte Area in a separate action. This announcement only relates to a completeness determination for the attainment demonstration SIPs for the bi-state Charlotte Area, and is separate from EPA's determination of approvability of these attainment demonstrations. This action is simply a notice of a determination that EPA already made through correspondence

[1] In the May 27, 2010, letters, EPA inadvertently identified incorrect submittal dates for North Carolina and South Carolina's SIP submissions. On June 18, 2010, EPA sent letters to North Carolina and South Carolina to correct the dates of the SIP submissions.

with the Governors of North and South Carolina.

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

Dated: August 11, 2010.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2010–20989 Filed 8–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R01–OAR–2010–0442; A–1–FRL–9167–7]

Outer Continental Shelf Air Regulations Consistency Update for Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving an update to a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by the Clean Air Act ("the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the Commonwealth of Massachusetts. The intended effect of approving the OCS requirements for the Commonwealth of Massachusetts is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below is incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: This direct final rule will be effective October 25, 2010, unless EPA receives adverse comments by September 23, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of October 25, 2010.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2010–0442 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mcdonnell.ida@epa.gov.*
3. *Fax:* (617) 918–0653.
4. *Mail:* "Docket Identification Number EPA–R01–OAR–2010–0442", Ida McDonnell, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics and Indoor Air Unit, 5 Post Office Square—Suite 100, (Mail Code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Ida McDonnell, Manager, Air Permits, Toxics and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2010–0442. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov*, or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ida E. McDonnell, Air Permits, Toxics and Indoor Air Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1653, fax number (617) 918–0653, e-mail *mcdonnell.ida@epa.gov.*

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

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. EPA's Evaluation
III. EPA's Action
IV. Statutory and Executive Order Reviews

I. Background and Purpose

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from Outer Continental Shelf (OCS) sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

the Act requires that for such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the corresponding onshore area (COA). Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken as a result of EPA's annual review of the Commonwealth of Massachusetts regulations.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan ("SIP") guidance or certain requirements of the Act.

Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

On September 17, 2008 (73 FR 53718), EPA finalized a consistency update of the OCS regulations pertaining to the requirements of the OCS sources in the Commonwealth of Massachusetts.[2] After EPA's September 17, 2008 updates to 40 CFR part 55, the Commonwealth of Massachusetts adopted regulation changes to 310 Code of Massachusetts Regulations (CMR) 4.00: Timely Action Schedule and Fee Provisions, 310 CMR 6.00: Ambient Air Quality Standards for the Commonwealth of Massachusetts, 310 CMR 7.00: Air Pollution Control, and 310 CMR 8:00: The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies.

II. EPA's Evaluation

In updating 40 CFR part 55, EPA reviewed the state rules for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules,[3] and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

III. EPA's Action

EPA is taking direct final action to incorporate applicable provisions of 310 Code of Massachusetts Regulations (CMR) 4.00: Timely Action Schedule and Fee Provisions, 310 CMR 6.00: Ambient Air Quality Standards for the Commonwealth of Massachusetts, 310 CMR 7.00: Air Pollution Control, and 310 CMR 8:00: The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies, as amended through May 20, 2010.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to update the OCS regulations should relevant adverse comments be filed. This rule will be effective October 25, 2010 without further notice unless the Agency receives relevant adverse comments by September 23, 2010.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 25, 2010 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore air control requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the Clean Air Act. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by EPA. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

[2] The reader may refer to the preamble to that final consistency update and to the preamble to the February 27, 2008 proposed consistency update (73 FR 10406) for background, including EPA's interpretation of certain Massachusetts regulations as applied to OCS sources. Those interpretations continue to apply.

[3] Each COA that has been delegated the authority to implement and enforce part 55 will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, as in Massachusetts, EPA will use its own administrative and procedural requirements to implement the substantive requirements. See 40 CFR 55.14(c)(4). Regarding fees, see 40 CFR 55.10.

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because 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, nor does it impose substantial direct compliance costs on tribal governments, nor preempt tribal law.

Under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in 40 CFR part 55 and, by extension, this update to the rules, and has assigned OMB control number 2060–0249. Notice of OMB's approval of EPA Information Collection Request ("ICR") No. 1601.07 was published in the **Federal Register** on February 17, 2009 (74 FR 7432). The approval expires January 31, 2012. As EPA previously indicated (70 FR 65897–65898 (November 1, 2005)), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 hours per response using the definition of burden provided in 44 U.S.C. 3502(2).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedure, Air pollution control, Continental Shelf, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 8, 2010.

H. Curtis Spalding,

Regional Administrator, EPA New England.

■ Title 40, chapter I of the Code of Federal Regulations, is amended as follows:

PART 55—[AMENDED]

■ 1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Act (42 U.S.C. 7401, et seq.) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by revising paragraphs (e) introductory text and (e)(11)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States' seaward boundaries, by State.

* * * * *

(e) *State and local requirements.* State and local requirements promulgated by EPA as applicable to OCS sources located within 25 miles of States' seaward boundaries have been compiled into separate documents organized by State and local areas of jurisdiction. These documents, set forth below, are incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register Office in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be inspected at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Copies of rules pertaining to particular states or local areas may be inspected or obtained from the EPA Docket Center—Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004 or the appropriate EPA regional offices: U.S.EPA, Region 1 (Massachusetts) 5 Post Office Square, Boston, MA 02109–3912 ; U.S. EPA, Region 2 (New Jersey and New York), 290 Broadway, New York, NY 10007–1866; U.S. EPA, Region III (Delaware), 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5000; U.S. EPA, Region 4 (Florida and North Carolina), 61 Forsyth Street, Atlanta, GA 30303; U.S. EPA, Region 9 (California), 75 Hawthorne Street, San Francisco, CA 94105; and U.S. EPA, Region 10 (Alaska), 1200 Sixth Avenue, Seattle, WA 98101. For an informational listing of the State and local requirements incorporated into this part, which are applicable to sources of air pollution located on the OCS, see appendix A to this part.

* * * * *

(11) * * *

(i) * * *

(A) Commonwealth of Massachusetts Requirements Applicable to OCS Sources, May 20, 2010.

* * * * *

■ 3. Appendix A to Part 55 is amended under "Massachusetts" by revising paragraph (a)(1) to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, By State

* * * * *

Massachusetts

(a) * * *

(1) The following Commonwealth of Massachusetts requirements are applicable to OCS Sources, May 20, 2010, Commonwealth of Massachusetts—Department of Environmental Protection.

The following sections of 310 CMR 4.00, 310 CMR 6.00, 310 CMR 7.00 and 310 CMR 8.00:

310 CMR 4.00: Timely Action Schedule and Fee Provisions

Section 4.01: Purpose, Authority and General Provisions (Effective 9/4/2009)

Section 4.02: Definitions (Effective 9/4/2009)

Section 4.03: Annual Compliance Assurance Fee (Effective 9/4/2009)

Section 4.04: Permit Application Schedules and Fee (Effective 9/4/2009)

Section 4.10: Appendix: Schedules for Timely Action and Permit Application Fees (Effective 9/4/2009)

310 CMR 6.00: Ambient Air Quality Standards for the Commonwealth of Massachusetts

Section 6.01: Definitions (Effective 4/2/2010)
Section 6.02: Scope (Effective 4/2/2010)
Section 6.03: Reference Conditions (Effective 4/2/2010)
Section 6.04: Standards (Effective 4/2/2010)

310 CMR 7.00: Air Pollution Control

Section 7.00: Statutory Authority; Legend; Preamble; Definitions (Effective 4/2/2010)
Section 7.01: General Regulations to Prevent Air Pollution (Effective 4/2/2010)
Section 7.02: U Plan Approval and Emission Limitations (Effective 4/2/2010)
Section 7.03: U Plan Approval Exemptions: Construction Requirements (Effective 4/2/2010)
Section 7.04: U Fossil Fuel Utilization Facilities (Effective 4/2/2010)
Section 7.05: U Fuels All Districts (Effective 4/2/2010)
Section 7.06: U Visible Emissions (Effective 4/2/2010)
Section 7.07: U Open Burning (Effective 4/2/2010)
Section 7.08: U Incinerators (Effective 4/2/2010)
Section 7.09: U Dust, Odor, Construction and Demolition (Effective 4/2/2010)
Section 7.11: U Transportation Media (Effective 4/2/2010)
Section 7.12: U Source Registration (Effective 4/2/2010)
Section 7.13: U Stack Testing (Effective 4/2/2010)
Section 7.14: U Monitoring Devices and Reports (Effective 4/2/2010)
Section 7.15: U Asbestos (Effective 4/2/2010)
Section 7.18: U Volatile and Halogenated Organic Compounds (Effective 4/2/2010)
Section 7.19: U Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO_X) (Effective 4/2/2010)
Section 7.21: Sulfur Dioxide Emissions Limitations (Effective 4/2/2010)
Section 7.22: Sulfur Dioxide Emissions Reductions for the Purpose of Reducing Acid Rain (Effective 4/2/2010)
Section 7.24: U Organic Material Storage and Distribution (Effective 4/2/2010)
Section 7.25: U Best Available Controls for Consumer and Commercial Products (Effective 4/2/2010)
Section 7.26: Industry Performance Standards (Effective 4/2/2010)
Section 7.32: Massachusetts Clean Air Interstate Rule (Mass CAIR) (Effective 4/2/2010)
Section 7.60: U Severability (Effective 4/2/2010)
Section 7.70: Massachusetts CO2 Budget Trading Program (Effective 4/2/2010)
Section 7.71: Reporting of Greenhouse Gas Emissions (Effective 4/2/2010)
Section 7.00: Appendix A (Effective 4/2/2010)
Section 7.00: Appendix B (Effective 4/2/2010)
Section 7.00: Appendix C (Effective 4/2/2010)

310 CMR 8.00: The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies

Section 8.01: Introduction (Effective 4/2/2010)
Section 8.02: Definitions (Effective 4/2/2010)
Section 8.03: Air Pollution Episode Criteria (Effective 4/2/2010)
Section 8.04: Air Pollution Episode Potential Advisories (Effective 4/2/2010)
Section 8.05: Declaration of Air Pollution Episodes and Incidents (Effective 4/2/2010)
Section 8.06: Termination of Air Pollution Episodes and Incident Emergencies (Effective 4/2/2010)
Section 8.07: Emission Reductions Strategies (Effective 4/2/2010)
Section 8.08: Emission Reduction Plans (Effective 4/2/2010)
Section 8.15: Air Pollution Incident Emergency (Effective 4/2/2010)
Section 8.30: Severability (Effective 4/2/2010)

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[FR Doc. 2010–20710 Filed 8–23–10; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Final rule.

SUMMARY: The NTSB is amending its regulations on the notification and reporting of aircraft accidents or incidents by adding a definition of "unmanned aircraft accident" and requiring that operators notify the NTSB of accidents involving such aircraft. (Unmanned aircraft are often also called remotely piloted vehicles.)

DATES: This final rule will become effective October 25, 2010.

ADDRESSES: A copy of the notice of proposed rulemaking (NPRM), published in the **Federal Register** (FR), is available for inspection and copying in the NTSB's public reading room, located at 490 L'Enfant Plaza, SW., Washington, DC 20594–2000. Alternatively, a copy of the NPRM is available on the NTSB's Web site at *http://www.ntsb.gov* and at the government-wide Web site on regulations at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: William English, Office of Aviation Safety, (202) 314–6686.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 31, 2008, the NTSB published an NPRM entitled, "Notification and Reporting of Aircraft Accidents or Incidents and Overdue Aircraft, and Preservation of Aircraft Wreckage, Mail, Cargo, and Records," in the **Federal Register** (73 FR 16826). This NPRM proposed the addition of a new definition of "unmanned aircraft accident" to the section of the NTSB's regulations concerning notification of aircraft accidents and incidents (49 CFR 830.2) to clarify the applicability of these regulations to unmanned aircraft systems (UAS). The proposed definition stated, "*Unmanned aircraft accident* means an occurrence associated with the operation of a public or civil unmanned aircraft that takes place between the time that the aircraft is activated with the purpose of flight and the time that the aircraft is deactivated at the conclusion of its mission, in which any person suffers death or serious injury, or in which the aircraft receives substantial damage." The NPRM also proposed the addition of the following sentence to the NTSB's existing definition of aircraft accident: "For purposes of this part, the definition of 'aircraft accident' includes 'unmanned aircraft accident,' as defined herein." Together, these proposed additions would require that the NTSB be notified of unmanned aircraft accidents as defined in the NPRM. The NTSB requested comments on the NPRM by June 30, 2008, but subsequently reopened the comment period for the NPRM and accepted all comments submitted by September 30, 2008.

The NTSB analyzed the potential application of the Regulatory Flexibility Act (5 United States Code [U.S.C.] 601–612) to this rule. Before publishing the NPRM, the NTSB considered whether this rule would have a significant economic impact on a substantial number of small entities, and it certified under 5 U.S.C. 605(b) that this rule would not have such an impact. The NTSB notes that this rule will require affected persons to notify the NTSB of applicable UAS accidents by the most expeditious means available as described in 49 CFR 830.5 and, in some cases, to complete NTSB Form 6120.1, "Pilot/Operator Accident/Incident Report," as described in 49 CFR 830.15, within 10 days after an applicable UAS accident. Any cost for an individual to

notify the NTSB and/or complete the form would be minimal. (An electronic version of Form 6120.1 is available at *http://www.ntsb.gov.*) Therefore, the NTSB verifies that its certification under 5 U.S.C. 605(b) is valid.

In response to the publication of this NPRM, the NTSB received 13 comments, all of which it carefully considered. The NTSB did not receive any requests for a public meeting and already possessed the information needed to develop the rule and verify the rule's 5 U.S.C. 605(b) certification; therefore, the NTSB did not hold a public meeting about the NPRM. Below is a summary of, and response to, each concern of the commenters.

Discussion of Comments and Changes

Of the 13 comments that the NTSB received, 4 were from individuals, 4 were from manufacturers, and 5 were from unions and industry organizations. Several commenters raised concerns that the rule, as originally proposed, could require the reporting of accidents involving very small aircraft. The NTSB agrees that the airborne components of UASs may include very small, lightweight vehicles, which pose little threat to transportation safety because of their size and the FAA-imposed constraints on UAS's exposure to people and property on the ground. Therefore, the NTSB has modified 49 CFR 830.2 to specify the size of airborne components subject to the rule. However, the NTSB also acknowledges that, given the evolving nature of UAS technologies and operations, the criteria for determining which accidents must be reported might need to be updated as technologies mature and UAS operations expand.

The NTSB's final rule will require reporting of unmanned aircraft accidents in which: (a) Any person suffers death or serious injury; or (b) the aircraft has a maximum gross takeoff weight [MGTOW] of 300 pounds or greater and sustains substantial damage.

The cited MGTOW of 300 pounds is similar to the maximum weight of a powered ultralight vehicle, as described in 14 CFR 103.1(e). That regulation sets a maximum weight for a fully fueled powered ultralight vehicle as about 288 pounds. Although 14 CFR part 103 applies only to manned aircraft, the NTSB considered that a similar maximum weight for unmanned aircraft is logical, captures those aircraft that pose a threat to safety, and results in a reporting requirement similar to that which applies to manned small aircraft. Moreover, this weight equates to a vehicle about the size of the RQ–7 Shadow, which most of the public would identify as an aircraft and not a toy or model. The 300-pound MGTOW is also similar to the European Organization for Civil Aviation Equipment Working Group 73 definition of a small UAS as less than 150 kilograms (330 pounds).

The NTSB acknowledges that the defined cutoff weight in this rule is larger than the 55-pound MGTOW that the FAA small UAS (sUAS) Aviation Rulemaking Committee used for its definition of an sUAS. The NTSB is also aware that the International Civil Aviation Organization (ICAO) amendment 13 to Annex 13, Aircraft Accident and Incident Investigation, defines unmanned aircraft accident without size or weight criteria. However, the NTSB's reporting requirement, which will capture only accidents that involve aircraft weighing over 300 pounds unless serious injuries or fatalities result, will allow the agency to focus on events involving the most significant risks to public safety. If the NTSB implemented the ICAO standard, it would likely receive many reports that would not be useful to fulfilling its statutory purpose of improving public safety through accident investigations and safety recommendations. In addition, the proposed ICAO standard would not address the concerns of the NPRM commenters. As stated previously, the NTSB may consider revising the UAS accident threshold weight in the future as UAS technology and the UAS accident knowledge base increases. The NTSB also notes that UAS accidents involving a serious injury or death, including those associated with the ground control station or other non-airborne components of the system, are not exempt under this rule, regardless of the airborne component's weight.

The NTSB maintains that the change in the proposed regulatory language regarding the weight of the airborne component is a logical outgrowth of the proposed rule and of due consideration of public comments regarding the proposed rule. Therefore, this change complies with the rulemaking requirements of the Administrative Procedure Act.

Other commenters stated that, under this rule, duplicate reports may be necessary because operators are already required to submit a report of an accident involving a UAS to the FAA, pursuant to the provisions of each FAA Certificate of Authorization (COA). *See* 72 FR 6689 (Feb. 13, 2007). The FAA COA Guidance Manual 08–01 notes that reports of events involving the UAS will be required per the COA approval, but these reports are not necessarily for the purposes of accident investigation. Some commenters suggested that the NTSB receive notifications directly from the FAA, in lieu of UAS operators directly notifying the NTSB. The NTSB rejects this idea because the NTSB needs immediate notification of UAS accidents so that it can determine the appropriate response, which might include immediately dispatching investigators to the scene. Relying on notifications from a third party such as the FAA would create an unacceptable delay in notification to and response by the NTSB. When notification is delayed, critical evidence can be lost, hampering the investigation. Further, the FAA has acknowledged that its current system of approving operation of these aircraft under COAs and special airworthiness certificates in the experimental category may not be permanent; thus, the NTSB must have regulations in place that require that it receive reports of UAS accidents independent of the FAA. The NTSB notes that operators of manned aircraft also are required to make separate reports to both the FAA and NTSB under certain circumstances, given the agencies' different missions.

The NTSB believes that providing the weight exemptions previously described here and adding no UAS-specific reportable incident types at this time to 49 CFR 830.5 will minimize any burden that requiring duplicative reports might cause.

Some commenters expressed concern about the NTSB accident definition for UASs with frangible components. The commenters considered that the separation of a frangible component is similar to "normal wear and tear" or use of consumables. The NTSB agrees that separation of a frangible component would not likely require a "major repair" or equivalent. Thus, the existing definition is sufficient to exclude most cases of frangible component separation.

Commenters also discussed incident-reporting requirements and described the use of UASs in military operations. The NTSB is not proposing any additional incident reporting requirements at this time because it is likely that existing required reports, including near-midair collision reports, hazardous air traffic reports, and traffic alert and collision avoidance system events, capture most safety-related events that are likely to be associated with UAS operations. Further, the NTSB intends its inclusion of the phrase "public or civil" in the amended rule to exclude military UASs, model aircraft, and commercial spacecraft operating under FAA waivers.

List of Subjects in 49 CFR Part 830

Aircraft accidents, Aircraft incidents, Aviation safety, Overdue aircraft notification and reporting, Reporting and recordkeeping requirements.

■ In conclusion, for the reasons discussed in the preamble, the NTSB amends 49 CFR part 830 as follows:

■ 1. The authority citation for 49 CFR part 830 continues to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101–1155); Federal Aviation Act of 1958, Pub. L. 85–726, 72 Stat. 731 (codified as amended at 49 U.S.C. 40101).

■ 2. Amend § 830.2 to add the following sentence at the end of the definition of "*Aircraft accident*" and to add a new definition of "*Unmanned aircraft accident*" to read as follows:

§ 830.2 Definitions

* * * * *

Aircraft accident * * * For purposes of this part, the definition of "aircraft accident" includes "unmanned aircraft accident," as defined herein.

* * * * *

Unmanned aircraft accident means an occurrence associated with the operation of any public or civil unmanned aircraft system that takes place between the time that the system is activated with the purpose of flight and the time that the system is deactivated at the conclusion of its mission, in which:

(1) Any person suffers death or serious injury; or

(2) The aircraft has a maximum gross takeoff weight of 300 pounds or greater and sustains substantial damage.

Dated: August 17, 2010.

Deborah A.P. Hersman,

Chairman.

[FR Doc. 2010–20864 Filed 8–23–10; 8:45 am]

BILLING CODE 7533–01–P

Proposed Rules

Federal Register
Vol. 75, No. 163
Tuesday, August 24, 2010

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Doc. No. AMS–FV–10–0057; FV10–993–1 PR]

Dried Prunes Produced in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Prune Marketing Committee (Committee) for the 2010–11 and subsequent crop years from $0.16 to $0.27 per ton of salable dried prunes handled. The Committee locally administers the marketing order which regulates the handling of dried prunes grown in California. Assessments upon dried prune handlers are used by the Committee to fund reasonable and necessary expenses of the program. The crop year begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by September 23, 2010.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; *Fax:* (202) 720–8938; or *Internet: http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the Internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Andrea Ricci, Marketing Specialist, or Kurt Kimmel, Regional Manager, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA; *Telephone:* (559) 487–5901, *Fax:* (559) 487–5906, or *E-mail: Andrea.Ricci@ams.usda.gov* or *Kurt.Kimmel@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 110 and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, hereinafter referred to as the "*order.*" The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "*Act.*"

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable dried prunes beginning on August 1, 2010, and continue until amended, suspended, or terminated.

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

This rule would increase the assessment rate established for the Committee for the 2010–11 and subsequent crop years from $0.16 to $0.27 per ton of salable dried prunes handled.

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

For the 2009–10 and subsequent crop years, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from crop year to crop year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on June 24, 2010, and unanimously recommended 2010–11 expenditures of $58,353 and an assessment rate of $0.27 per ton of salable dried prunes. In comparison, last year's budgeted expenditures, as amended in March of 2010, were $57,756. The assessment rate of $0.27 is $0.11 higher than the rate currently in effect.

The Committee recommended the higher assessment rate based on a production estimate of 150,000 tons of salable dried prunes for this year, which is substantially less than the 165,488 tons produced last year. At the proposed assessment rate the assessment income for the 2010–11 crop year would be $40,500. The Committee's proposed

budget of expenses of $58,353 includes a twenty percent increase in personnel expenses, and a nine percent decrease in operating expenses. Combined personnel and operational expenses are about eleven percent higher than last year, or about $42,511. The Committee also included $15,842 for contingencies, which is substantially less than the $19,526 included for last year's budget. Most of the Committee's expenses reflect its portion of the joint administration costs of the Committee and the California Dried Plum Board (CDPB). Based on the Committee's reduced activities in recent years, it is funding only five percent of the shared expenses of the two programs. This funding level is similar to that of last year. The Committee believes that extra assessment income carried in from the 2009 crop year, plus interest income and 2009 assessment income, would be adequate to cover its estimated expenses of $58,353.

The major expenditures recommended by the Committee for the 2010–11 year include $31,781 for salaries and benefits, $10,730 for operating expenses, and $15,842 for contingencies. Budgeted expenses for these items in 2009–10 were $26,450, $11,780, and $19,526, respectively.

The assessment rate recommended by the Committee was derived by considering the handler assessment revenue needed to meet anticipated expenses, the estimated salable tons of California dried prunes, excess funds carried forward into the 2010–11 crop year, and estimated interest income. As mentioned earlier, dried prune production for the year is estimated at 150,000 salable tons, which should provide $40,500 in assessment income. Income derived from handler assessments, plus interest income, and excess funds from the 2009–10 crop year would be adequate to cover budgeted expenses. The Committee is authorized under § 993.81(c) of the order to use excess assessment funds from the 2009–10 crop year (currently estimated at $17,847) for up to 5 months beyond the end of the crop year to meet the 2010–11 crop year expenses. At the end of the 5 months, the Committee either refunds or credits excess funds to handlers.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2010–11 budget and those for subsequent crop year would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 900 producers of dried prunes in the California area and approximately 21 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000.

Committee data indicates that about 64 percent of the handlers ship under $7,000,000 worth of dried prunes. Dividing the average prune crop value for 2009 reported by the National Agricultural Statistics Service (NASS) of $188,400,000 by the number of producers (900) yields an average annual producer revenue estimate of about $209,333. Based on the foregoing, the majority of handlers and dried prune producers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2010–11 and subsequent crop year from $0.16 to $0.27 per ton of salable dried prunes. The Committee unanimously recommended 2010–11 expenditures of $58,353 and an assessment rate of $0.27 per ton of salable dried prunes. The proposed assessment rate of $0.27 is $0.11 higher than the 2009–10 rate. The quantity of assessable dried prunes for the 2010–11 year is estimated at 150,000 tons. Thus, the $0.27 rate should provide $40,500 in assessment income. The Committee believes that extra assessment income carried in for the 2009 crop year, plus interest income and 2010 assessment income, would be adequate to cover its estimated expenses of $58,353.

The major expenditures recommended by the Committee for the 2010–11 year include $31,781 for salaries and benefits, $10,730 for operating expenses, and $15,842 for contingencies. Budgeted expenses for these items in 2009–10 were $26,450, $11,780, and $19,526, respectively.

The Committee recommended the higher assessment rate based on a production estimate of 150,000 tons of salable dried prunes for this year, which is substantially less than the 165,488 tons produced last year. At the proposed assessment rate the assessment income for the 2010–11 crop year would be $40,500. The Committee's proposed budget of expenses of $58,353 includes a twenty percent increase in personnel expenses, and a nine percent decrease in operating expenses. Combined personnel and operational expenses are about eleven percent higher than last year, or about $42,511. The Committee also included $15,842 for contingencies, which is substantially less than the $19,526 included for last year's budget. Most of the Committee's expenses reflect its portion of the joint administration costs of the Committee and the California Dried Plum Board (CDPB). Based on the Committee's reduced activities in recent years, it is funding only five percent of the shared expenses of the two programs. This funding level is similar to that of last year. The Committee believes that extra assessment income from the 2009 crop year, plus interest income and 2010 assessment income, would be adequate to cover its estimated expenses of $58,353.

The Committee reviewed and unanimously recommended 2010–11 expenditures of $58,353, which includes an increase in personnel expenses and a decrease in operational expenses. Prior to arriving at its budget of $58,353, the Committee considered information from various sources, including the Committee's Executive Subcommittee to include the

administrative expenses shared between the Committee and the CDPB in recent years. The assessment rate of $0.27 per ton of salable dried prunes was derived by considering the handler assessment revenue needed to meet anticipated expenses, the estimated salable tons of California dried prunes, excess funds carried forward into the 2010–11 crop year, and estimated interest income. An alternative to this action would to be to continue with the $0.16 per ton assessment rate. However, an assessment rate of $0.27 per ton of salable dried prunes, along with excess funds from the 2009–10 crop year, is needed to provide enough income to fund the Committee's operations.

A review of historical and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 2008–09 crop year was $1,500 per ton, that the grower price for the 2009–10 crop year was $1,200 per ton, and that the grower price for the 2010–11 crop year could range between $1,000 and $1,100 per ton of salable dried prunes. Based on an estimated 150,000 salable tons of dried prunes, assessment revenue as a percentage of producer prices during the 2010–2011 crop year is expected to range between .027 and .025 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California dried prune industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 24, 2010, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2010–11 crop begins on August 1, 2010, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dried prunes handled during such crop year; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 993

Marketing agreements, Plum, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is proposed to be amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 993.347 is revised to read as follows:

§ 993.347 Assessment rate.

On and after August 1, 2010, an assessment rate of $0.27 per ton of salable dried prunes is established for California dried prunes.

Dated: August 17, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2010–20981 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 26

[Docket No. PRM–26–4; NRC–2010–0269]

California Association of Marriage and Family Therapists; Notice of Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking dated March 24, 2010, and supplemented on July 12, 2010, filed by the California Association of Marriage and Family Therapists (CAMFT) (petitioner). The petition was docketed by the NRC and has been assigned Docket No. PRM–26–4. The petitioner requests that the NRC amend its regulations to add marriage and family therapists (MFT) as substance abuse experts (SAEs).

DATES: Submit comments by November 8, 2010. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2010–0269 in the subject line of your comments. For instructions on submitting comments and accessing documents related to this action, see "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods.

Federal Rulemaking Web Site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0269. Address questions about NRC dockets to Carol Gallagher, telephone 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1966.

Hand Deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852 between 7:30 a.m. and 4:15 p.m. during Federal workdays (Telephone 301–415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

For a copy of the petition, write to Betty Golden, Rules, Announcements, and Directives Branch (MS TWB–5 B1M), Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone 301–492–3667, toll free 800–368–5642, *Cindy.Bladey@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document, including the following documents, using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov.* The ADAMS accession numbers for the petition are ML102030370 (March 24, 2010 letter) and ML102000432 (July 12, 2010 letter).

Federal Rulemaking Web Site: Public comments and supporting materials related to this action, including the petition for rulemaking, can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2010–0269.

Background

On March 24, 2010, the NRC received a request submitted by CAMFT for the NRC to amend its regulations at 10 CFR 26.187(b) to add marriage and family therapists (MFTs) as substance abuse experts (SAE). The NRC requested additional information on the petitioner's request. The petitioner provided this supplementary information to the NRC in a letter dated July 12, 2010, and the request has been docketed as a petition for rulemaking and assigned Docket No. PRM–26–4. The petitioner states that its interest in the requested action is to pursue changes in law, whether statutory or regulatory, that increase professional opportunities for MFTs, and that treat the profession on par with the other mental health disciplines.

The Petition

The petitioner states that MFTs should be included as SAEs for the following reasons:

(1) The petitioner believes that this amendment would enable MFTs who are qualified to address substance abuse issues by virtue of their education, training, and experience to evaluate individuals who have violated the NRC's fitness for duty policies. The petitioner states that these MFTs would also be able to make recommendations concerning education, treatment, return to duty, follow-up drug and alcohol testing, and aftercare. The petitioner states that many MFTs in California perform this work on a daily basis, both in inpatient and outpatient treatment settings. The petitioner states that "qualified" means that the MFT providing these services would meet the "basic knowledge" requirement presented in 10 CFR 26.187(c) (*i.e.,* demonstrated knowledge of and clinical experience in the diagnosis and treatment of alcohol and substance abuse disorders), and would comply with any continuing education requirements. The petitioner states that, in California, MFTs receive the same amount of required instruction in substance abuse issues that psychologists receive. MFTs also receive the same amount of required instruction that licensed clinical social workers receive.

(2) The petitioner believes that the role of a SAE should be open to any mental health professional, regardless of licensure, who can demonstrate that he or she is qualified to be a SAE. The petitioner states that in the NRC's response to Industry Comment 2 (in the 10 CFR Part 26 proposed rule, "Fitness for Duty Programs," published on August 26, 2005; 70 FR 50441), the NRC addressed the question of whether only licensed physicians could be SAEs. The petitioner states that the NRC concluded that the "SAE need not be a licensed physician, but would be required to have extensive expertise, such as a licensed or certified social worker, psychologist, or others listed in § 26.187(b), and additional qualifications specifically related to substance abuse disorders." Consequently, the petitioner believes that under the NRC's own rationale for the position of SAE, the emphasis is not on a particular license designation. Rather, the emphasis is on whether the individual licensee has "extensive expertise" in diagnosing and treating alcohol and substance abuse issues. The petitioner states that MFTs should be included in the list of credentialed professionals because they are recognized by the Department of Health and Human Services, along with psychiatry, psychology, clinical social work and psychiatric nursing as one of the five core mental health disciplines in the United States, and they are trained to assess and treat substance abuse issues.

(3) The petitioner states that California law allows MFTs and licensed clinical social workers to diagnose and treat mental disorders. The petitioner believes that if licensed clinical social workers are included on the list of professionals to diagnose and treat mental disorders, then MFTs should also be included. The petitioner states that in California there is much overlap of the professional duties and responsibilities of marriage and family therapists, psychologists, and clinical social workers, especially in the area of alcohol and substance abuse counseling. The petitioner believes that all of these professions have licensees who, by virtue of their education, training, and experience, have "extensive expertise" in diagnosing and treating alcohol and substance abuse issues. The petitioner believes that, if the NRC allows licensed or certified social workers and licensed or certified psychologists to be SAEs, it should also allow MFTs to be SAEs.

(4) The petitioner believes that the trend of the Federal Government is to include MFTs as providers of substance abuse services within government programs. The petitioner states that the Department of Transportation recently amended its regulations to allow MFTs

to be "substance abuse professionals" and to perform counseling services with its employees, and the Federal Health Resources Services Administration has included MFTs on its list of five core mental health disciplines.

(5) The petitioner states that the licensing and regulation of MFTs is done by all fifty states. The petitioner states that although licensing is conducted by individual states, the vast majority of states require candidates to pass the national MFT examination, which is administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). The National MFT examination tests prospective MFTs on their knowledge of substance abuse issues and treatment. The petitioner states that in terms of substance abuse issues, the AMFTRB tests prospective MFTs on their knowledge of how substance abuse and dependency affect the individual and the functioning of his or her family; the effects of addictive behavior on the individual and the family system; and addiction treatment modalities.

The petitioner provided the following documents as attachments to its petition for rulemaking. These documents are not included in this publication. (See the **ADDRESSES** section of this document for instructions on accessing a copy of the petition for rulemaking.)

- California Business & Professions Code § 498.36, § 1887.3, § 29, § 2914, § 1382.3, and § 4996.2;
- Yale School of Medicine Bulletin;
- NAADAC Guide to Certification; and
- Employee Assistance Professionals Association, "How to Become a CEAP".

In summary, the petitioner believes that MFTs should be included in the list of credentialed professionals presented in 10 CFR 26.187(b). The petitioner states that it realizes the importance of the role SAEs play in safeguarding the United States and its citizens, and believes that the members of CAMFT who are qualified to be SAEs would be a credit to the NRC.

Dated at Rockville, Maryland, this 18th day of August 2010.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2010–21022 Filed 8–23–10; 8:45 am]

BILLING CODE 7590–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2008–0462, FRL–9192–7]

RIN 2060–AP30

Proposed Rule To Implement the 1997 8-Hour Ozone National Ambient Air Quality Standard: New Source Review Anti-Backsliding Provisions for Former 1-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed action would clarify the obligation to retain 1-hour nonattainment new source review (NSR) program requirements for certain areas designated nonattainment for the 1997 8-hour ozone national ambient air quality standard (NAAQS). The EPA proposes to revise the rule for implementing the 1997 8-hour ozone NAAQS to address how NSR requirements that applied by virtue of the area's 1-hour ozone NAAQS classification should apply under the anti-backsliding provisions of the 1997 8-hour implementation rule. This proposed rule responds to the ruling by the U.S. Court of Appeals for the District of Columbia Circuit that the 1-hour major NSR program, as it applies to areas that were designated 1-hour nonattainment on the date of designation for the 1997 8-hour NAAQS, is a required control to prevent backsliding. EPA has separately proposed to remove the vacated provisions of the rule that allowed States to remove (or not include, if not yet adopted) 1-hour major NSR for nonattainment areas from their State implementation plans (SIPs).

DATES: *Comments.* Comments must be received on or before September 23, 2010.

Public Hearing. If anyone contacts us requesting a public hearing by September 3, 2010, we will hold a public hearing approximately 30 days after publication of this proposal in the **Federal Register**. Additional information about the hearing would be published in a subsequent **Federal Register** notice.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2008–0462, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Air and Radiation Docket and Information Center, Attention Docket ID No. EPA–HQ–OAR–2008–0462, Environmental Protection Agency, 1301 Constitution Ave., NW., Washington, DC 20460. Mail Code: 2822T. Please include two copies if possible.
- *Hand Delivery:* Air and Radiation Docket and Information Center, Attention Docket ID No. EPA–HQ–OAR–2008–0462, Environmental Protection Agency in the EPA Headquarters Library, Room Number 3334 in the EPA West Building, located at 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation will be 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, Air and Radiation Docket and Information Center.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0462. The EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov,* or e-mail. The *http://www.regulations.gov* Web Site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334 in the EPA West Building, located at 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744.

Public Hearing: If a hearing is held, it will be held at the U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: For information on 1-hour major NSR, contact: Mr. David Painter, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency (C504–03), Research Triangle Park, NC 27711, telephone number (919) 541–5515, fax number (919) 541–5509 or by e-mail at *painter.david@epa.gov.*

To request a public hearing, contact Mrs. Pamela Long, Office of Air Quality Planning and Standards (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0641 or by e-mail at *long.pam@epa.gov,* fax number (919) 541–5509.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected directly by this action include certain State and Tribal governments that manage air quality for areas designated nonattainment for the 1997 ozone NAAQS. *See* Table 1 in this notice for a list of potentially affected areas.

B. What should I consider as I prepare my comments for EPA?

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

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this notice is also available on the World Wide Web. A copy of this notice will be posted at *http://www.epa.gov/nsr.*

D. How can I find information about a possible public hearing?

To request a public hearing or information pertaining to a public hearing on this document, contact Mrs. Pamela Long at (919) 541–0641 before 5 p.m. on September 3, 2010. Persons interested in presenting oral testimony should contact Mrs. Pamela Long at (919) 541–0641. Any person who plans to attend the hearing should also contact Mrs. Pamela Long at (919) 541–0641 or visit the EPA's Web Sites at *http://www.epa.gov/nsr* to learn if a hearing will be held.

E. How is this notice organized?

The information presented in this notice is organized as follows:

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D. How can I find information about a possible public hearing?
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II. Background for This Proposal

A. Anti-Backsliding Provisions

The EPA codified the anti-backsliding provisions governing the transition from the revoked 1-hour ozone NAAQS to the 1997 8-hour ozone NAAQS in 40 CFR 51.905(a) (part of the "Phase 1 Rule"). These provisions, as promulgated, retained 13 requirements specified under section 182 of the Clean Air Act (CAA or Act), as those requirements applied for the 1-hour ozone standard.[1] These 13 requirements were identified as "applicable requirements" in the regulation. 40 CFR 51.900(f). The applicable requirements include: (1) Reasonably available control technology (RACT) for major stationary sources; (2) vehicle inspection and maintenance (I/M) programs; (3) major source applicability thresholds for purposes of RACT; (4) rate of progress reductions; (5) stage II gasoline vehicle refueling vapor recovery; (6) clean fuels fleet program under section 183(c)(4) of the CAA; (7) clean fuels for boilers under

[1] *See* Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard-Phase 1 (69 FR 23951, April 30, 2004).

section 182(e)(3) of the CAA; (8) transportation control measures; (9) enhanced (ambient) monitoring; (10) transportation controls under section 182(c)(5); (11) vehicle miles traveled provisions; (12) NO_X requirements under section 182(f) of the CAA; and (13) attainment demonstrations. Under the Phase 1 Rule, these requirements continue to apply to an area after revocation of the 1-hour NAAQS if the requirements were applied in the area based on the area's 1-hour ozone designation and classification as of the effective date of its 1997 8-hour designation (for most areas the effective date of the 1997 8-hour designation was June 15, 2004). 40 CFR 51.900(h).

The rule further provides that an area remains subject to these applicable requirements until the area attains the 1997 8-hour NAAQS. 40 CFR 51.905(b). Additionally, such obligations cannot be removed from a SIP, even if we redesignate the area to attainment for the 8-hour NAAQS. However, upon redesignation to attainment of the 8-hour ozone standard, a State could request that such requirements be moved to the contingency measures portion of the SIP (40 CFR 51.905(b)).

In the Phase 1 Rule and in two subsequent reconsideration rules (which are described below), EPA explicitly excluded 1-hour major NSR from the list of retained applicable requirements (§ 51.905(e)).[2] The Phase 1 Rule provided at § 51.905(e)(4)(i) that when we revoked the 1-hour standard, the State would no longer be required to retain the major NSR provisions associated with the 1-hour NAAQS in its SIP for areas that were designated nonattainment for the 1-hour ozone standard. Instead, the State could revise its SIP to replace the 1-hour NSR requirements with those specific to its new 8-hour ozone designation and classification status. In many cases, this would allow an area to adopt higher major NSR source applicability thresholds and lower offset ratios associated with the area's lower 8-hour classification. This would have the effect of reducing the number of sources subject to major NSR source requirements, including more stringent emission limitations and offsets.

The Phase 1 Rule also contained a provision directed specifically at areas that were designated 8-hour attainment and 1-hour nonattainment. That provision addressed the applicable requirements listed in § 51.900(f) as well as 1-hour NSR requirements. With respect to the 1-hour NSR requirement, § 51.905(a)(3) stated: "For such areas, the state may request that the nonattainment NSR provisions be removed from the SIP on or after the date of revocation of the 1-hour NAAQS and need not be shifted to contingency measures subject to paragraph (e)(4) of this section."

B. Reconsideration of Certain Provisions of the Phase 1 Rule

Following publication of the Phase 1 Rule, the Administrator received three petitions pursuant to section 307(b)(7)(B) of the CAA requesting reconsideration of several aspects of the final rule.[3] EPA addressed certain issues raised in these petitions in two rulemakings. In the first reconsideration rulemaking, EPA further clarified the implementation rule in two respects: (a) CAA section 185 penalty fees under the 1-hour standard would no longer be applicable after revocation of the 1-hour standard, and (b) the effective date of designations under the 1997 8-hour standard (*i.e.,* for almost all areas, June 15, 2004) is the date for determining which 1-hour control measures continue to apply in an area once the 1-hour standard is revoked.[4] Additionally, EPA clarified that the requirement to retain 1-hour contingency measures for failure to make progress or failure to attain would no longer apply once we revoked the 1-hour standard.

In the second reconsideration rulemaking, we proposed and took comment on the issue of whether we should interpret the Act to require 8-hour ozone nonattainment areas to retain major NSR requirements that applied on the basis of the areas' 1-hour ozone nonattainment classification (70 FR 17018, April 4, 2005). We took final action on this NSR issue on June 30, 2005 (70 FR 39413, July 8, 2005), determining not to require States to retain major NSR under the 1-hour standard once it was revoked.

C. South Coast Decision

In *South Coast Air Quality Management District, et al.,* v. *EPA,* 472 F.3d 882 (DC Cir. 2006) *(South Coast),* the Court vacated EPA's waiver of 1-hour major nonattainment NSR requirements as they apply to the 1-hour standard and stated that removing them from a SIP "would constitute impermissible backsliding." The decision was based on challenges by several parties to EPA's Phase 1 Rule and the two reconsideration rules. The Court upheld certain challenges and rejected others, but purported to vacate the Phase 1 Rule in its entirety. *South Coast Air Quality Management District, et al.,* v. *EPA,* 472 F.3d 882 (DC Cir. 2006). The EPA requested rehearing and clarification of the ruling, and, on June 8, 2007, the Court clarified that it vacated the rule only to the extent that it had upheld the petitioners' challenges. *South Coast Air Quality Management District, et al.,* v. *EPA,* 2007 U.S. App. LEXIS 13303 (DC Cir. 2007). Thus, the Court vacated the provisions that waived obligations as they applied under the revoked 1-hour standard for major nonattainment NSR, CAA section 185 penalty fees, and contingency measures for failure to attain or to make reasonable progress toward attainment.

We have separately proposed to remove these provisions from the regulations at 40 CFR part 51 in order to ensure that the published regulatory text is consistent with the Court's vacatur. 74 FR 2936 (January 16, 2009). With regard to NSR, the *South Coast* decision means that the 1-hour major NSR thresholds and offsets remain applicable to those areas that had not been redesignated to 1-hour attainment by the date of designation for the 8-hour ozone NAAQS (except where the area has since been redesignated to attainment for the 8-hour standard). As previously stated in the October 3, 2007, memo from Robert J. Meyers to the Regional Administrators, States are to comply with the *South Coast* decision as quickly as possible. States should take appropriate steps to implement the 1-hour major NSR requirements in accordance with the *South Coast* decision without waiting for completion of this rulemaking.

III. This Action

This action proposes regulatory language to clarify the obligation to retain 1-hour major nonattainment NSR requirements and proposes when States can request that these requirements be removed from their SIPs.

This proposal focuses on the nonattainment NSR aspects of the *South Coast* decision that can be clarified through additions of new rule language. In a separate action, we have proposed to remove the vacated regulatory

[2] Note that if the area is nonattainment for the 1997 8-hour standard, the CAA requires that nonattainment NSR would apply to the area based on its classification for the 1997 8-hour standard.

[3] Petitions for reconsideration of the Phase 1 Rule were filed by: (1) Earthjustice on behalf of the American Lung Association, Environmental Defense Fund, Natural Resources Defense Council, Sierra Club, Clean Air Task Force, Conservation Law Foundation, and Southern Alliance for Clean Energy; (2) the National Petrochemical and Refiners Association and the National Association of Manufacturers; and (3) the American Petroleum Institute, American Chemistry Council, American Iron and Steel Institute, National Association of Manufacturers and the U.S. Chamber of Commerce.

[4] 70 FR 30592 (May 26, 2005).

provisions in § 51.905(e)(4) which waived the requirement to retain 1-hour requirements for nonattainment NSR in SIPs.[5] Also, EPA is proposing to amend § 51.905(a)(3), which details how areas transition from 1-hour NAAQS to 8-hour NAAQS, and to remove the phrase "subject to paragraph (e)(4) of this section" because paragraph (e)(4) was vacated.

A. Applicability of 1-Hour NSR Requirements

In *South Coast,* the Court concluded that the 1-hour major NSR requirements are controls, and that withdrawing them from the 8-hour nonattainment NSR SIP "would constitute impermissible backsliding." 472 F.3d. 882, 900. The Court vacated the provision of the Phase 1 Rule that allowed States, regardless of the 8-hour designation for an area, to request that the SIP be revised to remove 1-hour major NSR requirements upon revocation of the 1-hour standard.[6] As noted above, we have previously proposed to remove that vacated provision. 74 FR 2936 (January 16, 2009). In this action, we are proposing to add new regulatory text to make it clear that any 8-hour nonattainment area designated as 1-hour nonattainment as of the date of 1997 8-hour NAAQS designation must continue to apply NSR requirements consistent with that area's 1-hour classification.[7] Such areas cannot remove 1-hour major NSR requirements from their SIPs based solely on revocation of the 1-hour standard. The implications for areas that are designated attainment for the 1997 8-hour standard, or have been redesignated to attainment for that standard, and that were designated nonattainment for the 1-hour standard at the time of designation for the 1997 8-hour standard are discussed in section III.B.1. of this preamble.

The areas for which anti-backsliding requirements would have applied as of June 15, 2004, are listed in Table 1. The areas in Table 1 had a 1-hour NAAQS nonattainment classification with more stringent NSR program requirements than the classification under the 1997 8-hour standard on the date of designation under the 8-hour standard, June 15, 2004. Some areas potentially affected have been redesignated to attainment for the 1997 ozone NAAQS since June 15, 2004, and would be treated as described in section III.B.

TABLE 1—OZONE NONATTAINMENT AREAS POTENTIALLY AFFECTED BY THIS RULE

State	Part 81, 1997 8-hour NAA		Part 81, 1-Hour, NAA	
	Area	Classification	Area	Classification
AZ	Phoenix-Mesa, AZ	Subpart 1	Phoenix, AZ	Serious.
CA	Los Angeles South Coast Air Basin, CA	Severe-17	Los Angeles South Coast Air Basin, CA	Extreme.
CA	Los Angeles-San Bernardino Cos (West Mojave), CA.	Moderate	Southeast Desert Modified AQMA, CA	Severe-17.
CA	Riverside (Coachella Valley), CA	Serious	Southeast Desert Modified AQMA, CA	Severe-17.
CA	Sacramento Metro, CA	Serious	Sacramento Metro, CA	Severe-15.
CA	San Joaquin Valley, CA	Serious	San Joaquin Valley, CA	Extreme.
CA	Ventura Co, CA	Moderate	Ventura Co, CA	Severe-15.
CT	Greater Connecticut, CT	Moderate	Greater Connecticut, CT	Serious.
DC-MD-VA	Washington DC-MD-VA	Moderate	Washington DC-MD-VA	Severe-15.
GA	Atlanta, GA	Marginal	Atlanta, GA	Severe-15.
IL-IN	Chicago-Gary-Lake County, IL-IN	Moderate	Chicago-Gary-Lake County, IL-IN	Severe-17.
LA	Baton Rouge, LA	Marginal	Baton Rouge, LA	Severe-15.
MA	Boston-Lawrence-Worcester (E. MA), MA	Moderate	Boston-Lawrence-Worcester (E. Mass), MA-NH.	Serious.
MA	Springfield (Western MA), MA	Moderate	Springfield (Western MA), MA	Serious.
MD	Baltimore, MD	Moderate	Baltimore, MD	Severe-15.
NH	Boston-Manchester-Portsmouth (SE), NH	Moderate	Boston-Lawrence-Worcester, NH	Serious.
NH	Boston-Manchester-Portsmouth (SE), NH (Portsmouth-Dover-Rochester, NH part).	Moderate	Portsmouth-Dover-Rochester, NH	Serious.
NY	Albany-Schenectady-Troy, NY	Subpart 1	Albany-Schenectady-Troy, NY	Marginal.
NY	Buffalo-Niagara Falls, NY*	Subpart 1	Buffalo-Niagara Falls, NY.	Marginal
NY	Essex Co, NY*	Subpart 1	Essex Co, NY	Marginal.
NY-NJ-CT	New York-N. New Jersey-Long Island, NY-NJ-CT.	Moderate	New York-N. New Jersey-Long Island, NY-NJ-CT.	Severe-17.
PA	Allentown-Bethlehem-Easton, PA*	Subpart 1	Allentown-Bethlehem-Easton, PA-NJ	Marginal.
PA	Altoona, PA*	Subpart 1	Altoona, PA	Marginal.
PA	Erie, PA*	Subpart 1	Erie, PA	Marginal.
PA	Harrisburg-Lebanon-Carlisle, PA*	Subpart 1	Harrisburg-Lebanon-Carlisle, PA	Marginal.
PA	Johnstown, PA*	Subpart 1	Johnstown, PA	Marginal.
PA	York, PA*	Subpart 1	York, PA	Marginal.
RI	Providence, RI (All counties in RI)	Moderate	Providence, RI (All counties in RI)	Serious.
TX	Beaumont-Port Arthur, TX	Marginal	Beaumont-Port Arthur, TX	Serious.
TX	Dallas-Fort Worth, TX	Moderate	Dallas-Fort Work, TX	Serious.
TX	Houston-Galveston-Brazoria, TX	Moderate	Houston-Galveston-Brazoria, TX	Severe-17.
WI	Milwaukee-Racine, WI	Moderate	Milwaukee-Racine, WI	Severe-17.

* Indicates area has been redesignated to "attainment" as of July 2010 for the 1997 8-hour ozone standard. Areas that have been redesignated to attainment are no longer required to implement nonattainment NSR, but must at a minimum implement the PSD program.

[5] In addition, that separate proposed rule addresses two other aspects of the rule vacated by the Court in *South Coast:* (1) How EPA will classify areas that it had placed under subpart 1 in the Phase 1 Rule, and (2) anti-backsliding requirements for contingency measures that apply for failure to make progress toward or to attain the 1-hour standard.

[6] These same provisions also allowed States which had not yet adopted such programs to not adopt and submit such SIPs. The Court also vacated the regulation to the extent it waived the obligation to submit such SIPs.

[7] In most areas, the date of designation was June 15, 2004.

B. Removal of 1-Hour NSR Requirements

1. Treatment of 8-Hour Attainment Areas

EPA does not interpret the *South Coast* decision as requiring that 1-hour nonattainment NSR be retained in areas designated attainment for the 1997 8-hour standard. Accordingly, in this notice EPA is clarifying that it will continue to follow the provisions of 40 CFR 51.905(a)(3) with regard to removal of 1-hour NSR requirements in 1997 8-hour ozone NAAQS attainment areas. EPA is not proposing to change its treatment of such areas. As explained previously, 51.905(a)(3) allows 1997 8-hour NAAQS attainment areas, that were designated nonattainment for the 1-hour standard at the time of their attainment designation for the 8-hour standard, to request that the 1-hour nonattainment NSR provisions be removed from the SIP. (We note that EPA's practice since the revocation of the 1-hour standard has also been to allow 1997 8-hour ozone NAAQS nonattainment areas, that were designated nonattainment for the 1-hour standard at the time of their 8-hour nonattainment designation, to request that the 1-hour nonattainment NSR requirements be removed from their SIPs upon redesignation of the area to attainment of the 1997 8-hour NAAQS.) In lieu of nonattainment NSR, these areas, with the exception of those located in the Ozone Transport Region (OTR), are subject to prevention of significant deterioration (PSD) program requirements based on their 8-hour attainment designation or redesignation. For areas that are located in the OTR, ozone nonattainment NSR requirements associated with the moderate nonattainment classification apply regardless of an area's designation.

In the *South Coast* litigation, the petitioners' briefs characterized the Phase 1 Rule as removing "requirements to control pollution from new and modified stationary *sources in nonattainment areas.*" Opening Brief of Environmental Petitioners and South Coast Air Quality Management District at 17 (emphasis added); *see also* Brief for the Commonwealth of Massachusetts *et al.* at 14. Thus, the issue before the Court was whether EPA had acted unlawfully by "permitting 8-hour nonattainment areas to only meet weaker requirements under their 8-hour classifications." Opening Brief of Environmental Petitioners and South Coast Air Quality Management District at 20. The Court distinguished the *South Coast* decision from the decision in *Greenbaum* v. *EPA,* 370 F.3d 527 (6th Cir. 2004) in part because "*Greenbaum* involved a different ultimate question, namely, whether NSR is required for *attainment* areas." 472 F.3d. at 902. As the Court noted, "NSR is a permitting process that restricts major modifications and new construction based on an area's air-quality classification * * *. As relevant, NSR requires major facilities to include technology consistent with the lowest achievable emissions rate ("LAER") and to offset any increased emissions with greater reductions elsewhere." 472 F.3d. at 900. The Court stated that "EPA decided that 1-hour NSR requirements are no longer required under the Act and that areas should be constrained only by the NSR requirements for their eight-hour classification * * *. This marked a change from its 2003 notice of proposed rulemaking, in which EPA indicated that 'the major source applicability cut-offs and offset ratios continue to apply to the extent that the area has a higher classification for the 1-hour standard than for the 8-hour standard.' " 472 F.3d. at 901. The Court stated that the result of the change from the 2003 proposal to the approach adopted in the final Phase 1 Rule was "to subject fewer areas to LAER and to offset requirements that themselves are weakened." Thus, the issue before the Court involved the substitution of one set of nonattainment NSR requirements for another, and not the replacement of nonattainment NSR with a PSD program in areas attaining the current NAAQS.

EPA has determined that 1-hour nonattainment major NSR should not apply to areas designated attainment for the 1997 8-hour standard, regardless of the area's designation for the 1-hour standard at the time of designation for the 8-hour standard. The interpretation that NSR does not apply to areas designated attainment for a NAAQS and thus is not needed in the SIP for such an area is consistent with *Greenbaum* v. *EPA,* 370 F.3rd 527, at 536 ("It would make little sense for [NSR] to be included in the post-attainment SIP, as the Clean Air Act * * * explicitly states that attainment area SIPs must include a PSD program."). As the DC Circuit held in *Alabama Power,* 636 F.3d 323, at 365 (DC Cir. 1979), the applicability of PSD is geographically limited by the language of CAA section 165(a), which states that unless specified conditions are met, "[n]o major emitting facility * * * may be constructed *in any area to which this part [Part C] applies*" (emphasis added). Thus, with respect to ozone, areas designated attainment for the 1997 8-hour standard are subject to section 165(a) but not to the section 172(c)(5) SIP requirement. For this reason, EPA is not requiring that areas designated attainment for the 1997 8-hour standard retain 1-hour NSR provisions. Instead, 8-hour attainment areas may request that 1-hour nonattainment NSR provisions be removed from their SIPs, with PSD taking the place of the nonattainment NSR program for ozone. For the same reason, as set forth below, EPA is proposing to revise the regulations to clarify that this treatment also applies to areas that are redesignated to attainment for the 1997 8-hour standard.

2. Treatment of Areas Designated Nonattainment for Both 1-Hour and 8-Hour Ozone NAAQS

Although the Court in *South Coast* determined that 1-hour nonattainment NSR must be retained as an anti-backsliding measure in 1997 8-hour nonattainment areas that were designated nonattainment for the 1-hour standard at the time of the 8-hour designations, the Court did not specifically address how long such requirements must remain in place. In our Phase 1 Rule, we linked removal of the 1-hour requirements retained as "applicable requirements" to attainment of the 8-hour NAAQS. The rule at § 51.905(b) provides that an 8-hour nonattainment area will remain subject to the 13 applicable requirements listed in § 51.900(f) until it attains the 8-hour standard. Section 51.905(b) further provides that after an area attains the 8-hour standard, the State may request that the 1-hour obligations be shifted to contingency measures, but may not remove them completely from the SIP. The preamble to the Phase 1 Rule clarified that, "it is appropriate to maintain these mandated controls to remain as part of the implemented SIP until an area attains the 8-hour NAAQS and is redesignated to attainment." (69 FR 23983).

In deciding how to adopt regulatory text consistent with the *South Coast* decision, we do not believe it is appropriate to add the 1-hour nonattainment NSR obligation to the list of applicable requirements in § 51.900(f) because we do not believe it should remain in the SIP as a contingency measure after redesignation for the 8-hour standard. Consistent with *Greenbaum* v. *EPA,* 370 F.3rd 527, 536, nonattainment major NSR requirements are no longer a necessary SIP element once an area is redesignated to attainment for a NAAQS. Upon redesignation to attainment, the PSD program requirements would apply to

the area.[8] Therefore, nonattainment major NSR requirements may be removed from the SIP, and do not need to be retained as contingency measures for a NAAQS.

In lieu of adding 1-hour major NSR to the § 51.900(f) list of applicable requirements, we are proposing to add a new § 51.905(g) and an analogous new Section VII in Appendix S. The new sections clarify the obligation for any 1997 8-hour nonattainment area with a 1-hour nonattainment designation as of the effective date of designation for the 8-hour standard (June 15, 2004 for most areas) to continue to apply 1-hour nonattainment NSR requirements consistent with the area's 1-hour classification, as listed in 40 CFR part 81 subpart C.

Although we are not proposing to add NSR to the list of applicable requirements in 51.900(f), we are proposing that, as with those requirements, 1-hour NSR requirements continue to be required SIP elements until redesignation to attainment of the 1997 8-hour ozone NAAQS.[9] Under EPA's proposed revision set forth above, the 1-hour major NSR requirements may be removed only after an area has attained and been redesignated for the 1997 8-hour NAAQS. Under this approach, the 1-hour NSR requirements would be treated in a manner similar to the 13 applicable requirements listed at § 51.900(f), except that the State would not be required to retain the 1-hour NSR requirements as contingency measures. Instead, PSD would apply upon redesignation to attainment for the 1997 8-hour standard, and 1-hour NSR requirements could be removed entirely from the SIP.

As set forth in section III.B.2.b., we are also requesting comment on a separate and additional basis—attainment of the 1-hour ozone NAAQS (plus specified criteria)—for allowing States to remove 1-hour NSR requirements. This opportunity to remove 1-hour NSR requirements from the approved SIP would be in addition to the approach of allowing States to remove 1-hour NSR upon redesignation to attainment for the 8-hour NAAQS. Under this additional approach, where an area attains the 1-hour standard and meets certain other conditions (as determined by EPA, in a rulemaking described below) but is still violating the 8-hour standard, the State would be permitted, but not required, to remove the 1-hour nonattainment NSR requirements and apply the NSR requirements associated with the 8-hour classification.

We note that neither EPA's proposal nor the separate, additional approach to removal would have any effect on any source permit conditions established during the time period the 1-hour major NSR program applied. The NSR regulations do not provide a mechanism for major NSR permit conditions established under the 1-hour standard to be removed from a permit or modified when a SIP is later revised to remove the 1-hour NSR thresholds and offset requirements. Replacement or removal of NSR SIP provisions does not relieve sources of their obligations under previously established permit conditions.

In addition, we note that this proposal to allow removal of the 1-hour major NSR requirements after an area has attained and been redesignated for the 1997 8-hour NAAQS could be affected by the transition to a newer ozone standard.

a. Rationale for Removal of 1-Hour NSR Upon Redesignation to Attainment of 8-Hour NAAQS

We are proposing to require areas to retain 1-hour major NSR requirements until the area attains and is redesignated for the 1997 ozone 8-hour standard, regardless of when, if ever, the area attains the 1-hour standard. The rationale for this approach, as set forth in the June 2, 2003, Proposed Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard (68 FR 32824), was that the 1997 8-hour standard was the standard that EPA determined would protect public health and the environment. We adopted this approach for the 13 listed applicable requirements in § 51.900(f), as discussed in the final Phase 1 Rule (69 FR 23982–83). We believe this rationale also applies to NSR. As stated in the Phase 1 Rule, Congress contemplated that States implement certain requirements mandated under Subpart 2, including specific NSR thresholds and offsets. Once an area demonstrates that it has met and can maintain the more health protective standard (the 1997 8-hour NAAQS), it would be appropriate to remove 1-hour NSR requirements. In addition, adopting this approach for NSR would result in similar treatment of NSR and the applicable requirements in § 51.900(f), the only difference being that States would not need to include nonattainment NSR as a contingency measure. We believe it is appropriate to treat NSR in a manner consistent with the § 51.900(f) applicable requirements. While we are taking comment on the possibility of allowing States to remove NSR earlier than the other requirements in some instances (*see* discussion below on the additional basis), we do not plan to finalize that approach unless we are persuaded that NSR is sufficiently different from the applicable requirements identified in 51.900(f) to warrant different treatment.

EPA's proposed approach aligns with EPA's current practice regarding areas that were initially designated as attainment for the 1997 8-hour NAAQS or have been redesignated to attainment for the 1997 8-hour ozone NAAQS. As noted above, EPA's current practice is to allow areas to revise their SIPs to remove the 1-hour NSR requirements. This approach harmonizes the treatment of areas initially designated as 8-hour attainment and nonattainment areas that are redesignated to attainment for the 8-hour standard. In lieu of nonattainment NSR, these areas become subject to PSD programs based on their 8-hour attainment designation or redesignation.

Additionally, we propose adding language to the CFR to clarify applicability of section 181(b)(4)(B) for areas not attaining the NAAQS. Notwithstanding revocation of earlier ozone NAAQS, States with areas designated nonattainment for earlier ozone NAAQS, and classified as severe or extreme for such standards as provided in 40 CFR part 81, remain subject to the obligation to adopt programs under sections 181(b)(4) of the CAA. Section 181(b)(4)(B) specifies applicability of NSR per requirements for extreme areas for specific instances of failure to meet attainment schedules.

b. Supplemental Proposal: Removal of 1-Hour NSR Upon Attainment of 1-Hour NAAQS and Determination of Eligibility To Remove NSR Requirements

(1) Attainment of 1-Hour NAAQS and Related Criteria

We are requesting comment on an additional approach that would allow States to remove the 1-hour NSR requirements upon attainment of the 1-hour ozone NAAQS and satisfaction of other criteria discussed below in section ii. After notice and comment rulemaking, EPA would make a determination that the area has attained the 1-hour standard and met the additional requisite criteria. This would serve as a "determination of eligibility to remove 1-hour NSR requirements." An area that receives such a determination

[8] The one exception to this is that all areas located in the Ozone Transport Region, including those designated attainment, are subject to the obligation to have a nonattainment NSR program.

[9] We note that although the regulatory text provides that the requirements of section 51.900(f) apply until an area "attains" the 8-hour ozone NAAQS, the accompanying preamble text clarifies that these requirements apply until an area is redesignated as attainment for the 1997 8-hour ozone NAAQS. 69 FR 23982–83.

would still be required to implement the nonattainment NSR requirements associated with its 8-hour classification.

In our 2003 proposed rule, we took comment on the option of allowing 1-hour obligations to be removed upon attaining the level of the 1-hour standard. We noted that the rationale for allowing 1-hour obligations to be removed upon attaining the level of the 1-hour standard was that "Congress intended an area to continue to implement these obligations until it attained the 1-hour standard, at which time the area would be able to discontinue implementation upon a showing of continued maintenance" (68 FR 32824, June 2, 2003). While we did not finalize this option for the § 51.900(f) applicable requirements, we are requesting comment on whether we should adopt a variant of it for NSR, and whether doing so would be consistent with the CAA and the *South Coast* decision. In the final Phase 1 Rule, EPA decided that attaining the 1-hour standard would not be a basis for allowing States to remove from the SIP the 13 applicable requirements related to 1-hour nonattainment identified at 51.900(f). The question is whether NSR thresholds and offsets are more closely linked to a particular standard than the 13 requirements listed in 51.900(f), and thus might be removed following a determination of attainment of that standard, coupled with other safeguards.

As noted above in the discussions of 8-hour attainment areas and whether NSR requirements should become a contingency measure in a maintenance plan attainment SIP, Congress clearly intended that nonattainment major NSR was required only until the area was redesignated to attainment. After that point, nonattainment major NSR for that area would normally be superseded by the PSD program, whose purpose is "to protect public health and welfare from any actual or potential adverse effect which in the Administrator's judgment may reasonably be anticipated to occur * * * notwithstanding attainment and maintenance." 42 U.S.C. 7470. In the case of areas that remain nonattainment for the 8-hour standard after attaining the 1-hour standard, however, the 8-hour major NSR requirements would apply rather than PSD. Thus, the concern regarding the retention of nonattainment major NSR requirements in an attainment SIP is not present here.

We are interested in comments addressing whether 1-hour NSR is sufficiently different from the applicable requirements identified in the Phase 1 Rule that we should allow States to remove it from their SIPs prior to redesignation for the 1997 8-hour ozone standard.

(2). Defining "Eligibility To Remove NSR Requirements" Associated With the Revoked 1-Hour Standard

In this section, we address which requirements, in addition to attainment for the 1-hour ozone standard, the Supplemental Option would impose on an area seeking to remove from its SIP 1-hour NSR requirements prior to redesignation for the 1997 8-hour standard. In the Phase 1 Rule, we stated that upon revocation of the 1-hour standard, EPA was no longer obligated to determine whether an area had attained that standard. However, under this supplemental approach, we are proposing that a determination by EPA that an area has attained the 1-hour standard would be among the criteria for issuance of a determination of eligibility to remove 1-hour NSR obligations. Prior to the time that the 1-hour standard was revoked, a change in an ozone nonattainment area's designation status required that the area satisfy the criteria in section 107(d)(3)(E) of the CAA. These criteria include: (i) A finding of attainment of the 1-hour standard based upon the most recent three consecutive years of complete, quality assured air quality data; (ii) the applicable implementation plan for the area under section 110(k) has been fully approved by the Administrator; (iii) the improvement in air quality leading to attainment of the 1-hour NAAQS is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (v) the State containing such area has met all requirements applicable to the area under CAA section 110 and part D that pertain to the 1-hour ozone standard.

Under this alternative, additional approach, we are taking comment on which of the five criteria that would have applied for purposes of redesignating an area for the 1-hour standard should apply for declaring that an area has attained the 1-hour standard and is eligible to remove 1-hour NSR requirements.

Under EPA's supplemental option, removal of the 1-hour requirements would be permitted upon a determination of eligibility to remove NSR requirements. To remove such programs, States would need to submit a revision to their SIP, subject to the provisions of section 110(l) which states that EPA may not approve a SIP revision "if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act."

In our Phase 1 Rule, which was vacated by the Court, we concluded that a State's removal of 1-hour NSR requirements would not interfere with 8-hour attainment or reasonable further progress. However, upon additional consideration we now believe that we do not currently have adequate data on the extent to which States may be relying on particular major NSR thresholds and offset ratios for the growth projections contained in their 8-hour attainment plans. Therefore, we are not proposing an advance section 110(l) determination as part of this action. We believe a case-by-case approach to section 110(l) under the supplemental option detailed in this proposal will ensure that any SIP changes upon a determination of eligibility to remove NSR requirements for the 1-hour ozone NAAQS would not interfere with reasonable further progress towards attainment of the 8-hour ozone NAAQS.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a significant regulatory action because it raises novel legal or policy issues arising out of legal mandates. 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

This action does not impose any new information collection burden. This action sets forth EPA's proposed rule for addressing portions of the partial vacatur of EPA's Phase 1 Rule for implementation of the 1997 8-Hour ozone NAAQS. However, OMB has previously approved the information collection requirements contained in the existing Phase 1 Rule (April 30, 2004; 69 FR 23951) and the Phase 2 Rule (November 29, 2005; 70 FR 71612) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB Control Number 2060–0594. The OMB control numbers

for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) regulations at 13 CFR part 201; (2) a small government jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impact of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. Rather, we are issuing this rule to give additional clarity to States on the transition from 1-hour to 8-hour major NSR requirements. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no Federal mandate under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (URMA), 2 U.S.C. 1531–1538 for State, local, and Tribal governments and the private sector. The action imposes no enforceable duty on any State, local or Tribal governments or the private sector. Therefore, this action is subject to the requirements of section 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because is contains no regulatory requirements that might significantly or uniquely affect small governments. This action proposes to revise the rule for implementing the 1997 8-hour ozone NAAQS to address how nonattainment major NSR requirements associated with the former 1-hour ozone NAAQS should apply under the anti-backsliding provisions of the implementation rule. Also proposed is a framework for allowing States to remove and/or no longer implement the 1-hour major NSR requirements when certain prescribed conditions are met. This proposed rule responds to the ruling by the U.S. Court of Appeals for the District of Columbia Circuit that the 1-hour major NSR program, as it applies to areas that failed to attain the 1-hour standard by the required date, is a required control to prevent backsliding.

E. Executive Order 13132—Federalism

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action sets forth EPA's proposed rule for addressing portions of the partial vacatur of EPA's Phase 1 Rule for implementation of the 1997 8-Hour ozone NAAQS. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13121 and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comments on this proposed rule from State and local officials.

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

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has to develop a SIP under this proposal. Furthermore, this proposed rule does not affect the relationship or distribution of power and responsibilities between the Federal Government and Indian Tribes. The CAA and the Tribal Air Rule establish the relationship of the Federal Government and Tribes in developing plans to attain the NAAQS, and these proposed revisions to the regulations do nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

EPA specifically solicits additional comment on the proposed rule from Tribal officials.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the agency does not believe the environmental health or safety risks addressed by this action present a disproportional risk to children. This action sets forth EPA's proposed rule for addressing portions of the partial vacatur of EPA's Phase 1 Rule for implementation of the 1997 8-Hour ozone NAAQS. The public is invited to submit comments or identify peer-reviewed studies and data that assess effects of this proposed action.

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

This proposed rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (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. This action sets forth EPA's proposed rule for addressing portions of the partial vacatur of EPA's Phase 1 Rule for implementation of the 1997 8-Hour ozone NAAQS.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 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 rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

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

EPA has determined that this 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 revisions implement a previously promulgated health-based Federal standard (the 8-hour ozone NAAQS) that is designed to protect all segments of the general population. As such, they do not adversely affect the health or safety of minority or low income populations and are designed to protect and enhance the health and safety of these and other populations.

K. Determination Under Section 307(d)

Pursuant to section 307(d)(1)(V) of the CAA, the Administrator determines that this action is subject to the provisions of section 307(d). Section 307(d)(1)(V) provides that the provisions of section 307(d) apply to "such other actions as the Administrator may determine."

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Transportation, Volatile organic compounds.

Dated: August 18, 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 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

2. Section 51.905 is amended by revising paragraph (a)(3)(i), and by adding a new paragraph (g) to read as follows:

§ 51.905 How do areas transition from the 1-hour NAAQS to the 8-hour NAAQS and what are the anti-backsliding provisions?

(a) * * *

(3) * * *

(i) Obligations in an approved SIP. For an area that is designated 8-hour NAAQS attainment/1-hour NAAQS nonattainment, the State may request that obligations under the applicable requirements of § 51.900(f) be shifted to contingency measures, consistent with sections 110(l) and 193 of the CAA, after revocation of the 1-hour NAAQS; however, the State cannot remove the obligations from the SIP. For such areas, the State may request that the nonattainment major NSR provisions that applied based on the area's designation and classification under the 1-hour NAAQS be removed from the SIP on or after the date of revocation of the 1-hour NAAQS and need not be shifted to contingency measures.

* * * * *

(g) *What other requirements for the 1-hour standard apply?* (1) The requirements for nonattainment new source review that applied pursuant to sections 172(c)(5), 173, and 182 of the Clean Air Act based on the area's classification under the 1-hour NAAQS continue to be required elements of an approvable implementation plan for any ozone nonattainment area that was designated nonattainment for the 1-hour NAAQS at the time of designation as ozone nonattainment for the 8-hour NAAQS. Notwithstanding the revocation of the 1-hour NAAQS, the designation and classification of the area for the 1-hour standard as provided in 40 CFR Part 81 shall apply for determining the applicable 1-hour NSR obligation for an area. These requirements remain required elements of the implementation plan until such time as the area is redesignated to attainment for the 1997 8-hour attainment area for the ozone NAAQS pursuant to Clean Air Act section 107(d)(3)(E).

(2) Notwithstanding revocation of the 1-hour ozone NAAQS, States with areas designated nonattainment for the 1-hour ozone NAAQS and classified as severe or extreme for that standard as provided in 40 CFR Part 81 remain subject to the obligation to adopt programs under sections 181(b)(4) of the CAA for the 1-hour ozone NAAQS.

3. Section 51.914 is revised to read as follows:

§ 51.914 What new source review requirements apply for ozone nonattainment areas?

(a) The requirements for new source review for the 8-hour ozone standard are located in § 51.165.

(b) For areas designated nonattainment for the 1-hour ozone standard as of the effective date of designation for the 8-hour standard, values for applicability thresholds and offset requirements as required under § 51.165 shall be determined by the 1-hour nonattainment classifications listed for those areas in 40 CFR Part 81, Subpart C. The 1-hour applicability thresholds and offset requirements shall be retained until such time as the area is redesignated to attainment for the 1997 8-hour ozone NAAQS under section 107(d)(3)(E) of the Clean Air Act, at which point the State may request their removal.

4. Appendix S to part 51 is amended by adding section VII. to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

* * * * *

VII. Anti-Backsliding Measures

1-hour ozone NAAQS nonattainment area new source review.

Any 8-hour ozone nonattainment area that was designated nonattainment for the 1-hour ozone NAAQS at the time of designation for the 8-hour NAAQS must continue to apply new source review requirements consistent with that area's 1-hour classification, as listed in 40 CFR Part 81, Subpart C. These requirements remain applicable until such time as the 8-hour nonattainment area is redesignated to attainment for the 8-hour ozone NAAQS standard under 107(d)(3)(E) of the Clean Air Act.

[FR Doc. 2010–20992 Filed 8–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R01–OAR–2010–0442; A–1–FRL–9167–8]

Outer Continental Shelf Air Regulations Consistency Update for Massachusetts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule-consistency update.

SUMMARY: EPA is proposing to update to a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain

consistent with the requirements of the corresponding onshore area ("COA"), as mandated by the Clean Air Act ("the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the Commonwealth of Massachusetts. The intended effect of approving the OCS requirements for the Commonwealth of Massachusetts is to regulate emissions from OCS sources in accordance with the requirements onshore. The change to the existing requirements discussed below is incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before September 23, 2010.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2010–0442 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mcdonnell.ida@epa.gov.*
3. *Fax:* (617) 918–0653.
4. *Mail:* "Docket Identification Number EPA–R01–OAR–2010–0442", Ida McDonnell, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier:* Deliver your comments to: Ida McDonnell, Air Permits, Toxics and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Please see the direct final rule which is located in the Rules Section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Ida E. McDonnell, Air Permits, Toxics and Indoor Air Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square–Suite 100, (Mail Code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1653, fax number (617) 918–0653, e-mail *mcdonnell.ida@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is incorporating applicable provisions of 310 Code of Massachusetts Regulations (CMR) 4.00: Timely Action Schedule and Fee Provisions, as amended through September 4, 2009 and 310 CMR 6.00: Ambient Air Quality Standards for the Commonwealth of Massachusetts, 310 CMR 7.00: Air Pollution Control, and 310 CMR 8:00: The Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies, as amended through May 20, 2010 as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

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

Dated: June 8, 2010.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2010–20726 Filed 8–23–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R3-ES-2010-0034]
[MO 92201-0-0008]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Oklahoma Grass Pink Orchid as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90–day finding on a petition to list *Calopogon oklahomensis* (Oklahoma grass pink orchid) as endangered or threatened under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that listing the plant species, *C. oklahomensis*, as endangered or threatened may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the species to determine if listing *C. oklahomensis* as endangered or threatened is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12–month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before October 25, 2010. Please note that if you are using the Federal eRulemaking Portal (see "**ADDRESSES**" section, below), the deadline for submitting an electronic comment is midnight Eastern Standard Time on this date.

ADDRESSES: You may submit information by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* In the box that reads "Enter Keyword or ID," enter the docket number for this finding, which is FWS-R3-ES-2010-0034. Check the box that reads "Open for Comment/Submission," and then click the Search button. You should then see an icon that reads "Submit a Comment." Please ensure that you have found the correct rulemaking before submitting your comment.
- *U.S. mail or hand-delivery*: Public Comments Processing, Attn: FWS-R3-ES-2010-0034; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the **Request for Information** section below for more details).

After the date specified above in **DATES**, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we might not be able to address or incorporate information that we receive after the date noted above.

FOR FURTHER INFORMATION CONTACT: Janice C. Engle, Field Supervisor, Chicago, Illinois Ecological Services Field Office, 1250 South Grove, Suite 103, Barrington, IL 60010, by telephone (847–381–2243), or by facsimile (847–381–2285). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on *Calopogon oklahomensis* (Oklahoma grass pink orchid) from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(3) The potential effects of climate change on this species and its habitat.

If, after the status review, we determine that listing *Calopogon oklahomensis* is warranted, we will propose critical habitat (see definition in section 3(5)(A) of the Act), in accordance with section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, within the geographical range currently occupied by *C. oklahomensis*, we request data and information on:

(1) What may constitute "physical or biological features essential to the conservation of the species";

(2) Where these features are currently found; and

(3) Whether any of these features may require special management considerations or protection, including managing for the potential effects of climate change.

In addition, we request data and information on "specific areas outside the geographical area occupied by the species" that are "essential to the conservation of the species." Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of section 4 of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your information concerning this status review by one of the methods listed in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov*, your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Information and supporting documentation that we received and used in preparing this finding will be available for you to review at *http://www.regulations.gov,* or you may make an appointment during normal business hours at the U.S. Fish and Wildlife Service, Chicago, Illinois Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on information provided in the petition, supporting information submitted with the petition, and information otherwise available in our files. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish our notice of the finding promptly in the **Federal Register**.

Our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90–day petition finding is "that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted" (50 CFR 424.14(b)). If we find that substantial scientific or commercial information was presented, we are required to promptly commence a review of the status of the species, which will be subsequently summarized in our 12–month finding.

Petition History

On May 28, 2008, we received a petition dated May 22, 2008, from Dr. Douglas Goldman of the Harvard University Herbaria requesting that *Calopogon oklahomensis* be listed as endangered or threatened under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as required by 50 CFR 424.14(a). In a September 15, 2008, letter to the petitioner, we responded that we reviewed the information presented in the petition and determined that issuing an emergency regulation temporarily listing the species as per section 4(b)(7) of the Act was not warranted because the species has extant populations in several States and most of the threats mentioned in the petition are not immediate in nature, but consist of ongoing issues (for example, fire suppression, overgrazing, and unfavorable mowing regimes) that may make areas less suitable for the species, but are not likely to cause immediate extirpation. We also stated that due to court orders and judicially approved settlement agreements for other listing determinations under the Act that required nearly all of our listing funding for fiscal year 2008, we would not be able to further address the petition at that time but would complete the action when workload and funding

allowed. On December 14, 2009, we received a 60–day notice of intent to sue for violation of sections 4(b)(3)(A and B) of the Act, relating to late petition findings for 140 species, including *C. oklahomensis*. On February 17, 2010, we received a complaint for failure to make timely petition findings on eight species, including *C. oklahomensis.* This finding addresses the petition.

Previous Federal Action

There have been no previous Federal actions concerning this species.

Species Information

Calopogon oklahomensis was described by D.H. Goldman as a new species in 1995 (Goldman 1995, p. 37). Morphological and phenological variation of the genus in the midwestern States was not previously recognized by Correll (1978) or Luer (1975) (in Goldman 1995, p. 41). However, genetic testing among the five species of the terrestrial orchid genus *Calopogon* for genetic variation indicates that *C. oklahomensis* is the most genetically distinct species out of the five species tested (Trapnell *et al.* 2004, p. 314). For this reason, we accept the characterization of *C. oklahomensis* as a distinct species of *Calopogon*, with a large geographic range, and many consistent morphological features (Goldman 1995, p. 41).

Calopogon oklahomensis has a forked corm (a modified underground stem), with the new corm at the base of the leaf and the inflorescence (a branching stem with flowers) rapidly growing distally at the time of anthesis (the period from flowering to fruiting) (Goldman 1995, p. 39). The leaf is almost always as long as or longer than the inflorescence (Goldman 1995, p. 39). The flower buds are deeply grooved longitudinally, waxy and shiny, with elongated acuminate apices (narrowing to a point at the tip). The flowers are fragrant and open in succession (Goldman 1995, p. 39). The labellum disk (portion of the lower petal that is attached to the center of the flower) is pinkish with a basal region of short to long yellow hairs, above which there is a triangular region of short, stout, pinkish hairs, which extends to the labellum apex (terminal end of the lower petal) (Goldman 1995, p. 39). The stigma (part of the female reproductive part of the flower) is flat against the column surface (Goldman 1995, p. 40).

Calopogon oklahomensis occupies moist, loamy prairies, savannas, and sandy woodlands from central Minnesota southward to Texas, including the States of Wisconsin, Iowa, Illinois, Indiana, Kansas, Missouri, Tennessee, Arkansas, Oklahoma, Mississippi, Louisiana, and Florida, with a few scattered populations further east in South Carolina, Georgia, and Alabama (Goldman 1995, p. 40; Goldman *et al.* 2004a, p. 707). *C. oklahomensis* appears to prefer moist to seasonally dry-mesic prairies, prairie-haymeadows, savannas and open woodlands, avoiding the wetter habitats preferred by other species of *Calopogon* (Goldman 1995, p. 40). This species appears to thrive under a frequent burning regime or haymeadow management where most or all of the above ground vegetation is effectively removed once every 1 to 2 years, with subsequent flowering within a year after the last burn or haymowing.

Goldman (1995, p. 41) based the range of the species on collected specimens in six States (Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas) and hypothesized that it may have occurred historically in two additional States (Iowa and Illinois). The petition states that, historically, the range covers 17 States (Alabama, Arkansas, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Louisiana, Minnesota, Missouri, Mississippi, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin) (Petition, p. 2). NatureServe identifies the range of the species in only 12 States (Arkansas, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Oklahoma, Tennessee, Texas, and Wisconsin) (NatureServe 2009).

Information on the persistence and status is lacking for many areas historically occupied by *Calopogon oklahomensis*. We are unaware of specific information on population abundance of this species. Other than the petition, we are unaware of any year-round or long-term monitoring data on *C. oklahomensis*. Throughout its range, *C. oklahomensis* specimens have historically been confused with *C. tuberosus*, due to the difficulty in distinguishing the two species (Goldman 1995, pp. 37 – 41; Goldman *et al.* 2004b, pp. 37-38). For these reasons, the status of this species remains unclear.

Evaluation of Information for This Finding

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations at 50 CFR 424 set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

In considering what factors might constitute threats, we must look beyond the exposure of the species to a factor to evaluate whether the species may respond to the factor in a way that causes actual impacts to the species. If there is exposure to a factor and the species responds negatively, the factor may be a threat and, during the subsequent status review, we attempt to determine how significant a threat it is. The threat is significant, if it drives, or contributes to, the risk of extinction of the species such that the species may warrant listing as threatened or endangered as those terms are defined in the Act. However, the identification of factors that could impact a species negatively may not be sufficient to compel a finding that the information in the petition and our files is substantial. The information must include evidence sufficient to suggest that these factors may be operative threats that act on the species to the point that the species may meet the definition of threatened or endangered under the Act.

In making this 90–day finding, we evaluate whether information regarding threats to *Calopogon oklahomensis*, as presented in the petition and other information available in our files, is substantial, thereby indicating that the petitioned action may be warranted. Our evaluation of this information is presented below.

A. The Present or Threatened Destruction, Modification, or Curtailment of the Species' Habitat or Range.

Information Provided in the Petition

The petition outlines several assertions regarding the present or threatened destruction, modification, or curtailment of *Calopogon oklahomensis* habitat or range, including:

(1)The loss of native prairie, savanna, and open woodland habitat throughout the range of the species as a result of expanding urbanization, agriculture, and forestry land use;

(2)Degradation of habitat due to fire suppression or infrequent burning; overgrazing; mowing without thatch removal, excessively frequent mowing, or mowing during the growing season before the fruit ripens; severe drainage of optimal habitat rendering mesic sites too dry to support the species; intense

soil disturbance and shading due to conversion to forestry plantations; and intensive trampling, deep local soil disturbance, and damage from vehicular traffic.

The petitioner describes the decline of *Calopogon oklahomensis* range compared to its historical range (Petition, pp. 2-4). The petition indicates that, based on 237 herbarium specimen records, the species may be extirpated from nine States of historical occurrence (Alabama, Florida, Georgia, Iowa, Indiana, Kansas, Minnesota, South Carolina, and Tennessee) (Petition, p. 2). The petition also states that these same herbarium records indicate the species is believed to be extant in eight States; Arkansas, Illinois, Louisiana, Missouri, Mississippi, Oklahoma, Texas, and Wisconsin (Petition, p. 2). However, 158 of those records date prior to 1958 (prior to 50 years ago), and 183 date prior to 1978 (prior to 30 years ago) (Petition, p. 2). According to the petition, of the 233 records that give specific localities, only 25 to 35 populations may remain (Petition, p. 2). Of the States that still contain the species, the two States suffering the greatest population losses are Illinois (one remaining population from an original 42 records) and Texas (1–3 populations from an original 27 records) (Petition, p. 2).

Evaluation of Information Provided in the Petition and Available in Service Files

We have no information in our files regarding the effects of expanding urbanization, agricultural or forestry land use, fire suppression, infrequent burning, intensive trampling, deep local soil disturbance, damage from vehicular traffic, intense soil disturbance and shading due to conversion to forestry plantations, severe drainage of optimal habitat, mowing without thatch removal, excessively frequent mowing, and mowing during the growing season before the fruit ripens, and whether the effects are destructive to *Calopogon oklahomensis* habitat.

The below information existed in the files of various Service offices throughout the country at the time the petition was received. That information was transmitted to the author of this notice, through personal communications, in 2009 and 2010. The citations reflect the date on which the information was transmitted to the author, and not the date the information was received by the Service. Information in our files indicates that Oklahoma has 45 records of this species from 15 counties dating from 1934 through 2004 (Dikeman 2009, pers. comm.). Arkansas has 18 herbarium records of this species from 7 counties, and Texas has herbarium records from 12 counties. Our files also indicate that Kansas (Freeman 2009, pers. comm.) and Tennessee each have a single record of this species, with Tennessee's occurrence last observed in 1937 (Call 2009, pers. comm.). In Wisconsin, *Calopogon oklahomensis* is identified as a species of "special concern" with historical occurrence in Wisconsin, perhaps having not been verified in the past 20 years, but suspected to still be extant (Carnes 2010, pers. comm.). We do not have information in our files regarding distribution in other States. Our files also indicate that population numbers at particular sites fluctuate from year to year with the greatest numbers found in years following prescribed burns; however, the species is difficult to find if it is not in bloom and it appears to bloom for only a few days (Witsell 2009, pers. comm.). We intend to fully assess the historic and current records of *Calopogon oklahomensis* throughout its range during the status review for the species.

According to information presented in the petition, *Calopogon oklahomensis* has undergone a sharp decline as much of its habitat has been converted to other uses. Loss of native prairie, savanna, and open woodland habitat throughout the species' range is indicated as one of the major causes of decline (Petition, pp. 2, 5). According to NatureServe (2009), *C. oklahomensis* is "possibly extirpated" in Wisconsin and Tennessee; "critically imperiled" in Illinois, Kansas, Mississippi, and Louisiana; "imperiled" in Arkansas; and not ranked in Minnesota, Iowa, Missouri, Oklahoma, or Texas. In Iowa, only historical records exist for *C. oklahomensis* with no extant sites existing (Pearson 2009, pers. comm.).

Summary of Factor A

In summary, we find that the information provided in the petition presents substantial information that listing *Calopogon oklahomensis* as endangered or threatened may be warranted due to the present or threatened destruction, modification, or curtailment of the species' habitat or range. The petition identifies numerous potential factors that may be affecting *C. oklahomensis*, including habitat loss and degradation due to expanding urbanization, agricultural or forestry land use, fire suppression, infrequent burning, intensive trampling, deep local soil disturbance, damage from vehicular traffic, intense soil disturbance and shading due to conversion to forestry plantations, severe drainage of optimal habitat, mowing without thatch removal, excessively frequent mowing, and mowing during the growing season before the fruit ripens. We had very little information in our files prior to receiving the petition; therefore, we do not have information in our files that further supports or refutes the information provided in the petition. We, therefore, conclude the petition presents substantial information to indicate that the present or threatened destruction or modification of habitat may present a threat to *C. oklahomensis.*

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes.

The petitioner provides no information addressing this factor, and we have no information in our files indicating that listing of the species due to overutilization for commercial, recreational, scientific, or educational purposes may be warranted. Based on our evaluation, we find that the petition does not present substantial information, and we do not have substantial information in our files, to indicate that listing *Calopogon oklahomensis* as endangered or threatened may be warranted due to overutilization for commercial, recreational, scientific, or educational purposes. However, we will evaluate all factors, including threats from overutilization for commercial, recreational, scientific, or educational purposes, when we conduct our status review.

C. Disease or Predation.

Information Provided in the Petition

The petitioner asserts that overgrazing, as well as, natural biological predation by insects, rodents, deer, or other herbivores, may threaten *Calopogon oklahomensis* (Petition, p. 10).

Evaluation of Information Provided in the Petition and Available in Service Files

We have no information in our files indicating whether overgrazing or natural predation by insects, rodents, deer, or other herbivores, may threaten *Calopogon oklahomensis*. The petitioners did not provide information or list disease as a threat to *C. oklahomensis*, and we do not have substantial information in our files to indicate that disease may be a threat to the species.

Based on our evaluation, we find that the petition does not present substantial information, and we do not have substantial information in our files, to

indicate that listing *Calopogon oklahomensis* as endangered or threatened may be warranted due to disease or predation. However, we will evaluate all factors, including threats from disease and predation when we conduct our status review.

D. The Inadequacy of Existing Regulatory Mechanisms.

Information Provided in the Petition

The petitioner asserts that *Calopogon oklahomensis* is not listed as endangered or threatened in the States of Alabama, Arkansas, Florida, Georgia, Iowa, Indiana, Kansas, Louisiana, Minnesota, Missouri, Oklahoma, South Carolina, Texas, and Wisconsin (Petition, pp. 5–9). The petitioner asserts that this species is State listed as endangered in Illinois and Tennessee (Petition, pp. 6, 9). The petitioner implies that the lack of State listing for *C. oklahomensis* in 14 of 16 States poses a threat to the species. However, there was no specific information provided in the petition about existing regulatory mechanisms beyond the two State listings that could protect these species.

Evaluation of Information Provided in the Petition and Available in Service Files

Calopogon oklahomensis is not listed as endangered or threatened in the States of Alabama, Arkansas, Florida, Georgia, Iowa, Indiana, Kansas, Louisiana, Minnesota, Missouri, Oklahoma, South Carolina, Texas, and Wisconsin (the States of Kansas and Louisiana do not list plant species as threatened or endangered (Mizzi 2010, pers. comm.)). Additional information in our files indicates that this species is State-listed as endangered in Illinois and Tennessee. An important provision of the Illinois Endangered Species Protection Act is the consultation provision, which requires State and municipal agencies taking actions that might affect State or federally listed species (including plants), to avoid, minimize, or mitigate impacts to the listed species (*http://dnr.state.il.us/INPC/VMG/Illinois Plant Translocation Policy.pdf* accessed on 05/12/2010). In Tennessee, the Rare Plant Protection and Conservation Act requires persons to obtain written permission from a landowner or manager before knowingly removing or destroying State-listed endangered plant species and requires nursery farmers to be licensed in order to sell State-listed endangered species (*http://www.state.tn.us/environment/na/nhp.shtmlaccessed on 05/12/2010). However, as* stated above, there was no specific information provided in the petitions about existing regulatory mechanisms beyond the two State listings that could protect these species. We are also not aware of any regulatory mechanisms that address *C. oklahomensis*.

Summary of Factor D

The petitioner did not provide any additional information about existing regulatory mechanisms other than the State listings in Illinois and Tennessee that could protect these species, and we have nothing in our files that describes any regulatory mechanisms that address *Calopogon oklahomensis*. While information presented by the petitioner indicates that threats to the petitioned species may be posed by habitat destruction and degradation due to expanding urbanization, agricultural or forestry land use, fire suppression, infrequent burning, intensive trampling, deep local soil disturbance, damage from vehicular traffic, intense soil disturbance and shading due to conversion to forestry plantations, severe drainage of optimal habitat, mowing without thatch removal, excessively frequent mowing, and mowing during the growing season before the fruit ripens, none of these threats are posed by an inadequacy of regulatory mechanisms. We, therefore, find that the petition does not present substantial information indicating that the inadequacy of existing regulatory mechanisms may present a threat to *C. oklahomensis*. However, we will further evaluate the adequacy of existing regulatory mechanisms for protecting *C. oklahomensis* and its habitat during our status review.

E. Other Natural or Manmade Factors Affecting the Species' Continued Existence.

Information Provided in the Petition

The petitioner describes *Calopogon* species as having a unique biology that makes small or widely scattered populations more vulnerable to extirpation (Petition, pp. 4–5). A *Calopogon* corm contains only two growing points compared to other vascular plants that have multiple tiny, dormant buds (Petition, pp. 4–5). Because *Calopogon* does not form new buds if one or both of these growing points are damaged or destroyed, this species has only two chances for success at perpetuating the plant through the next winter (Petition, pp. 4–5). Therefore, the species is particularly vulnerable to stochastic events, which, if they occur at a certain time (when the buds have formed or are forming), may destroy the chance for the plant to reproduce that year.

Furthermore, according to information in the petition, *Calopogon oklahomensis* is drought tolerant, but may still succumb to drought, even as dormant corms (Petition, pp. 4–5). Historically, the species relied on a widespread mosaic of large populations and abundant seed production (Petition, p. 5), and thus some populations were able to escape local or regional droughts, allowing the species to persist and recolonize the drought-affected areas. As described by the petitioner, however, this species now consists of smaller populations that are geographically disconnected from each other (Petition, p. 5). Existence in small, isolated populations can render the species highly vulnerable to local, regional, or widespread extirpation due to uncontrollable natural forces, including local or regional climate perturbation such as drought. Such an event could eliminate most or all of a small population, and, if the population is isolated from other populations of the species, a situation to which the species is not adapted, there would be little opportunity for recolonization (Petition, p. 5).

Evaluation of Information Provided in the Petition and Available in Service Files

We have no information in our files regarding the effects of the unique biology described by the petitioner for *Calopogon oklahomensis* that may make it more vulnerable to local extirpation. We do have information in our files, however, indicating that the effects of small population size may impact the viability of species populations. Species that are known from few, widely dispersed locations are inherently more vulnerable to extinction than widespread species because of the higher risks from genetic bottlenecks, random demographic fluctuations, and localized catastrophes such as hurricanes, landslides, and drought (Lande 1988, p. 1,455; Mangel and Tier 1994, p. 607; Pimm *et al.* 1988, p. 757). These problems are further magnified when populations are few and restricted to a limited geographic area, and the number of individuals is very small. Populations with these characteristics face an increased likelihood of stochastic extinction due to changes in demography, the environment, genetics, or other factors, in a process described as an "extinction vortex" by Gilpin and Soule (1986, pp. 24-25). Small, isolated populations often exhibit a reduced level of genetic variability or genetic depression due to inbreeding, which

diminishes the species' capacity to adapt and respond to environmental changes, thereby lessening the probability of long-term persistence (Soule 1987, pp. 4-7). Inbreeding depression as the result of isolated, small populations can result in death, decreased fertility, smaller body size, loss of vigor, reduced fitness, and various chromosome abnormalities (Smith 1974, p. 350).

Although changes in the environment may cause populations to fluctuate naturally, small and low-density populations are more likely to fluctuate below a minimum viable population (the minimum or threshold number of individuals needed in a population to persist in a viable state for a given interval) (Gilpin and Soule 1986, pp. 25-33; Shaffer 1981, p. 131; Shaffer and Samson 1985, pp. 148–150). The problems associated with small population size and vulnerability to random demographic fluctuations or natural catastrophes are further magnified by synergistic interactions with other threats, such as those discussed above under Factor A. Despite evolutionary adaptations for rarity, habitat loss and degradation increase a species' vulnerability to extinction (Noss and Cooperrider 1994, pp. 58–62).

Historically, *Calopogon oklahomensis* was more widespread. An important benefit of this greater historical range resulted in an advantage of redundancy: additional populations separated by some distance likely allowed some populations to be spared the impacts of localized or more discrete catastrophic events, such as drought. However, this advantage of redundancy has been lost with the great reduction in *C. oklahomensis* range. Additionally, the unique biological features of *C. oklahomensis* described by the petitioner (Petition, pp. 4–5), as illustrated above, which limit reproduction and the ability to recolonize, may make this species particularly vulnerable to the effects of small population sizes and fragmented habitats. We will further assess this potential impact during the status review for the species.

Summary of Factor E

Based on our evaluation, we find that the petition presents substantial information that listing *Calopogon oklahomensis* as a threatened or endangered species may be warranted due to other natural or manmade factors. Unique features of the species' biology increase its vulnerability to extirpation because it now exists in small, isolated populations. Specifically, because the species has only two growing points, which cannot regenerate, and thus only two chances to perpetuate the plant through the winter, this reduced reproductive capacity further exacerbates the effects and threats posed by the small population sizes and fragmented habitats in which the species now exists.

Finding

On the basis of our evaluation of the information presented under section 4(b)(3)(A) of the Act, we have determined that the petition presents substantial scientific or commercial information indicating that listing *Calopogon oklahomensis* may be warranted. This finding is based on information that indicates the continued existence of this species may be affected by destruction or modification of habitat from expanding urbanization, agricultural or forestry land use, fire suppression, infrequent burning, intensive trampling, deep local soil disturbance, damage from vehicular traffic, intense soil disturbance and shading due to conversion to forestry plantations, severe drainage of optimal habitat, mowing without thatch removal, excessively frequent mowing, and mowing during the growing season before the fruit ripens (Factor A); and other natural or manmade factors such as small population size, and the unique features of the species' biology (only two opportunities for reproduction each year) that make it particularly vulnerable to the effects of small population size (Factor E). The petitioner does not present substantial information that *C. oklahomensis* is threatened by overcollection (Factor B), disease or predation (Factor C), or the inadequacy of existing regulatory mechanisms (Factor D) currently or in the future.

Because we have found that the petition presents substantial information indicating that *Calopogon oklahomensis* may be at risk of extinction now or in the foreseeable future and therefore listing under the Act may be warranted, we are initiating a status review to determine whether listing *C. oklahomensis* under the Act is warranted. At the conclusion of the status review, we will issue a 12–month finding in accordance with section 4(b)(3)(B) of the Act, as to whether or not the Service believes a proposal to list *C. oklahomensis* is warranted. To ensure that the status review is comprehensive, we request scientific and commercial information regarding *C. oklahomensis*.

The "substantial information" standard for a 90–day finding differs from the Act's "best scientific and commercial data" standard that applies to a status review to determine whether a petitioned action is warranted. A 90–day finding does not constitute a status review under the Act. In a 12–month finding, we will determine whether a petitioned action is warranted after we have completed a thorough status review of the species, which is conducted following a substantial 90–day finding. Because the Act's standards for 90–day and 12–month findings are different, as described above, a substantial 90–day finding does not mean that the 12–month finding will result in a warranted finding.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov and upon request from the Chicago, Illinois Ecological* Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary authors of this notice are the staff members of the Chicago, Illinois Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 22, 2010

Wendi Weber,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2010–20729 Filed 8–23–10; 8:45 am]

BILLING CODE 4310–55–S

Notices

Federal Register

Vol. 75, No. 163

Tuesday, August 24, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 19, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Cooperative Agricultural Pest Survey .

OMB Control Number: 0579–0010.

Summary of Collection: The Plant Protection Act (7 U.S.C. 3301 *et seq.*) authorizes the Secretary of Agriculture, either independently or in cooperation with States, to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests and noxious weed that are new to or not yet widely distributed within the United States. The Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ) along with the States and other agencies collects and manages data on plant pest, woods, and biological control agents through the Cooperative Agricultural Pest Survey. The program allows the States and PPQ to conduct surveys to detect and measure the presence of exotic plant pests and noxious weed and to enter survey data into a national computer-based system known as the National Agricultural Plant Information System (NAPIS).

Need and use of the information: APHIS will collect information using PPQ Form 391 and other forms to predict potential plant pest and noxious weed situations and to promptly detect and respond to the occurrence of new pest and to record the location of those pest incursions that could directly hinder the export of U.S. farm commodities. If the information were not collected, it would seriously impact APHIS' ability to timely assist farmers, State personnel, and other involved in agriculture and protection of the environment in order to plan pest control measures, detect new outbreaks, and to determine the threat posed by migratory pests.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 54.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 3,465.

Animal and Plant Health Inspection Service

Title: Plum Pox Compensation.

OMB Control Number: 0579–0159.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701—*et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States; and eradicating plant pests when eradication is feasible. The regulations in 7 CFR 301.74–5 permit owners of commercial stone fruit orchards and owners of fruit tree nurseries to receive compensation under certain circumstances. Owners of commercial stone fruit orchards may receive compensation for losses associated with trees destroyed to control plum pox pursuant to an emergency action notification (EAN) issued by the Animal & Plant Health Inspection Service (APHIS). Owners of fruit tree nurseries may receive compensation for net revenue losses associated with movement or sale of nursery stock prohibited under an EAN issued by APHIS with respect to regulated articles within the nursery in order to control plum pox. Plum Pox is an extremely serious viral disease of plants that can affect many stone fruit species, including plum, peach, apricot, almond, and nectarine. APHIS will collect information using form PPQ 651 Application for Plum Pox Compensation.

Need and use of the information: APHIS will collect the owner's name and address, a description of the owner's property, and a certification statement that the trees removed from the owner's property were stone fruit trees from commercial fruit orchards or fruit tree nurseries. For claims made by owners of stone fruit orchards, the completed application must be accompanied by a copy of the EAN ordering the destruction of their trees, the notification's accompanying inventory describing the acreage and ages of trees removed and documentation verifying that the destruction of the trees have been completed and the date of that completion. For claims made by owners of fruit tree nurseries, the completed application must be accompanied by a copy of the EAN prohibiting the same or movement of the nursery stock, the notification's accompanying inventory describing the total number of trees covered by the EAN, their age and variety, and documentation indicating

the final disposition of the nursery stock. Without the information APHIS would be unable to compensate eligible grove and nursery owners for their losses.

Description of Respondents: Farms.

Number of Respondents: 10.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5.

Animal and Plant Health Inspection Service

Title: Importation of Mangoes from the Philippines.

OMB Control Number: 0579–0172.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7711–7714), the Secretary of Agriculture, either independently or in cooperation with the States, is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not know to be widely distributed throughout the United States. The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56 through 319.56–48) allow the importation of mangoes from Guimaras Island in the Republic of the Philippines into the United States under certain conditions. The regulations require the use of box marking to indicate the origin of the fruit, phytosanitary certificate to confirm that the fruit has been grown and treated in accordance with the regulations and a trust fund agreement between the Republic of the Philippines Department of Agriculture and the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) to cover the Agency's participation in the treatment and inspection activities in the Philippines that are required for the importation of mangoes.

Need and use of the information: APHIS will collect information from a variety of individuals who are involved in growing, packing, handling, transporting and exporting plants and plant products. The information APHIS collects serves as the supporting documentation for issuing PPQ forms and documents required to authorize release of restricted products, and allow movement of regulated products. The information APHIS collects is vital to helping ensure that injurious plant diseases and insect pest are not imported and do not spread into or within the United States.

Description of Respondents: Business or other for-profit; Farms; Federal Government.

Number of Respondents: 1,827.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 121.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–20995 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

August 19, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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Food and Nutrition Service

Title: Evaluation of the Underserved Elderly and Working Poor in the Supplemental Nutrition Assistance Program (SNAP) FY 2009 Pilots.

OMB Control Number: 0584–NEW.

Summary of Collection: The Omnibus Appropriations Act of 2009 (Pub. L. 118–8) provided $4.5 million for the USDA Food and Nutrition Service (FNS) to pilot and evaluate a range of approaches for expanding access to Supplemental Nutrition Assistance Program (SNAP) among two key underserved populations—eligible households with elderly members and eligible households with adult members who are working or are looking for work (working poor households). According to the latest (2007) U.S. Department of Agriculture estimates, less than one-third of elderly (age 60 and older) persons who are eligible for SNAP actually participate in the program. Less than three-fifths of persons in eligible households with someone working participate in the program. These low participation rates suggest that many elderly or working poor people who need SNAP are not receiving its assistance. Without SNAP, elderly individuals may not be able to meet their nutritional needs or may forgo medicine for food; working people may not be able to adequately feed their families, despite their work efforts.

Need and Use of the Information: FNS has funded six State demonstration projects to increase SNAP access to eligible households with either person over age 60 or with adult members who are working or looking for work. FNS is conducting an evaluation of the demonstration projects. By evaluating these demonstrations, FNS will be able to advise Federal policymakers and State administrators on the best approaches to increasing SNAP access for those two populations. The evaluation will describe each demonstration project and the implementation process; assess the impact on SNAP participation in the target groups, application barriers, client satisfaction, household benefits, administrative costs and payment errors; and assess the sustainability and replicability of each demonstration project. FNS will collect and analyze administrative data in each demonstration State and will conduct site visits to each demonstration project and conduct focus groups with SNAP applicants.

Description of Respondents: Individuals or households.

Number of Respondents: 1,200.

Frequency of Responses: Reporting: Other (One-time).

Total Burden Hours: 195.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–20997 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service, invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by October 25, 2010.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Director, Program Development & Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW., STOP 1522, Room 5159 South Building, Washington, DC 20250–1522. *Telephone:* (202) 720–0736. *FAX:* (202) 720–4120.

SUPPLEMENTARY INFORMATION: *Title:* 7 CFR Part 1753, Telecommunications System Construction Policies and Procedures.

OMB Control Number: 0572–0059.

Type of Request: Extension of a currently approved collection package.

Abstract: In order to facilitate the programmatic interest of the RE Act, and, in order to assure that loans made or guaranteed by the Agency are adequately secured, the Agency, as a secured lender, has established certain forms for materials, equipment and construction of electric and telecommunications systems. The use of standard forms, construction contracts, and procurement procedures helps assure the Agency that appropriate standards and specifications are maintained, the Agency's loan security is not adversely affected; and the loan and loan guarantee funds are used effectively and for the intended purposes.

Over the past three years, the Agency has undertaken a comprehensive review of its Telecommunications Program contracts. The purpose of this undertaking is to improve customer service to the Agency's rural borrowers with a more efficient and effective means to complete a contract transaction as well as improve the internal efficiency of processing contracts. The anticipated outcome when the contract revision process is completed is that the paperwork burden will not increase and may be reduced. A total of 25 forms are under review and the new contracts will be released as they are completed.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2 hours per response.

Respondents: Business or other for-profit and non-profit institutions.

Estimated Number of Respondents: 513.

Estimated Number of Responses per Respondent: 10.

Estimate Total Annual Burden on Respondents: 10,592 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Program Development and Regulatory Analysis, Rural Utilities Service (202) 720–7853.

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 will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques on other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2010–21007 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fishlake Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Fishlake Resource Advisory Committee will meet in Richfield, Utah. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to establish operating guidelines for the RAC, review and recommend projects for approval, and receive public comment on the meeting subjects and proceedings.

DATES: The meeting will be held September 8, 2010, 10 a.m.

ADDRESSES: The meeting will be held at the Sevier County Administration Building, 250 N. Main in Richfield, Utah. Written comments should be sent to Fishlake National Forest, 115 E 900, N, Richfield, UT 84701. Comments may also be sent via e-mail to *jzapell@fs.fed.us,* or via facsimile to 435–896–9347.

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 Fishlake National Forest 115 E. 900, N., Richfield, UT. Visitors are encouraged to call ahead to (435) 896–1070 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: John Zapell, RAC Coordinator, Fishlake National Forest, (435) 896–1070; e-mail: *jzapell@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) Establish operating guidelines for the RAC, (2) review and recommend projects for approval, and (3) receive public comment on the meeting subjects and proceedings. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by September 1, 2010 will have the opportunity to address the Committee at those sessions.

Dated: August 16, 2010.

Allen Rowley,

Forest Supervisor.

[FR Doc. 2010–20813 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator of the Foreign Agricultural Service (FAS) today accepted and began a review of a petition for trade adjustment assistance filed under the Fiscal Year 2011 program by 3 tilapia producers on behalf of tilapia producers in Arkansas. The Administrator will determine within 40 days whether increasing imports of tilapia contributed importantly to a greater than 15-percent decrease in the average annual price of tilapia, quantity of production, value of production, or cash receipts, compared to the average of the three preceding marketing years. If a determination is affirmative, producers who produce and market tilapia in Arkansas will be eligible to apply to the Farm Service Agency for free technical assistance and cash benefits.

FOR FURTHER INFORMATION CONTACT: Trade Adjustment Assistance for Farmers Program Staff, FAS, USDA by phone: (202) 720–0638 or (202) 690–0633: or by e-mail at: *tradeadjustment@fas.usda.gov;* or visit the TAA for Farmers' Web site: *http://www.fas.usda.gov/itp/taa.*

Dated: August 16, 2010.

John D. Brewer,

Administrator, Foreign Agricultural Service.

[FR Doc. 2010–20918 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document Number: AMS–FV–08–0067, FV–08–327]

United States Standards for Grades of Pineapple Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; correction.

SUMMARY: The United States Standards for Grades of Pineapple Juice are corrected to include text inadvertently omitted from Tables I and II. The corrections restore text for limiting rules that were inadvertently omitted when the standards were last revised in 1987.

DATES: *Effective Date:* August 24, 2010.

FOR FURTHER INFORMATION CONTACT: Lydia E. Berry, Processed Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building; STOP 0247, Washington, DC 20250–0247; Telephone (202) 720–4693, fax (202) 690–1087; or e-mail *lydia.berry@ams.usda.gov.* Corrected copies of the U.S. Standards for Grades of Pineapple Juice are located on the Internet at: *http://www.regulations.gov* or *http://www.ams.usda.gov/processedinspection.*

SUPPLEMENTARY INFORMATION: A final rule was published in the **Federal Register**, 52 FR 40 6129, revising the United States Standards for Grades of Pineapple Juice. During this revision, text was omitted from Tables I and II which summarize the quality factors for each product. When the standards were revised, the text was simplified; however, references to limiting rules were inadvertently not included in the text of that revision.

The United States Standards for Grades of Pineapple Juices as well as certain other fruit and vegetable standards no longer appear in the Code of Federal Regulations (CFR). Such U.S. standards were removed from the CFR in 1996 and are now subject to the procedures that appear in part 36, title 7 of the Code of Federal Regulations (7 CFR part 36).

These corrections restore the text for limiting rules to Tables I and II in the standards. The language of the limiting rules state that the product shall not be graded above "U.S. Grade B" if any of the quality factors—color, defects, or flavor score within the range for "U.S. Grade B;" and the product shall not be graded above "Substandard" if any of the quality factors—color, defects, or flavor score within the range for "Substandard."

Authority: 7 U.S.C. 1621–1627.

Dated: August 17, 2010.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. C1–2010–21030 Filed 8–23–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Management and Oversight of the National Estuarine Research Reserve System.

OMB Control Number: 0648–0121.

Form Number(s): NA.

Type of Request: Regular submission (renewal of a currently approved information collection).

Number of Respondents: 29.

Average Hours per Response: Applications for funding, 1 hour; management plans, site nominations and site profiles, 2,000 hours each.

Burden Hours: 10,682.

Needs and Uses: The Coastal Zone Management Act of 1972 (CZMA; 16 U.S.C. 1461 *et seq.*) provides for the designation of estuarine research reserves representative of various regions and estuarine types in the United States to provide opportunities for long-term research, education and interpretation. During the site selection and designation process, information is collected from states in order to prepare a management plan and environmental impact statement. The designated reserves apply annually for operations funds by submitting a work plan; subsequently progress reports are required every six months for the duration of the award. Each reserve compiles an ecological characterization or site profile to describe the biological and physical environment of the reserve, research to date and research gaps. A competitive research program provides an opportunity for two researchers to focus their work at each reserve. Reserves are evaluated every three years, per section 312 of the Act, and revise their management plans every five years. This information is required to ensure that reserves are adhering to regulations and keeping with the purpose for which they were designated.

Affected Public: Not-for-profit organizations; state, local and tribal government.

Frequency: Annually or one-time.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: August 19, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–20944 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–952]

Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 24, 2010.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4081.

SUPPLEMENTARY INFORMATION:

Amendment to the Final Determination

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended, ("the Act"), on July 19, 2010, the Department of Commerce ("the Department") published the final determination of sales at less than fair value ("LTFV") in the antidumping investigation of narrow woven ribbons with woven selvedge ("narrow woven ribbons") from the People's Republic of China ("PRC"). *See Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 41808 (July 19, 2010) ("*Final Determination*").

On July 19, 2010, Ningbo MH Industry Co. Ltd. ("Ningbo MH") filed a timely allegation that the Department made a ministerial error in the *Final Determination*, specifically, that the Department misidentified its producer. Ningbo MH thus requested, pursuant to 19 CFR 351.224, that the Department amend the *Final Determination* with the correct name of its producer. Additionally, on July 20, 2010, Yangzhou Bestpak Gifts & Crafts Co., Ltd. ("Bestpak") filed a timely allegation that the Department made a ministerial error in the *Final Determination*, specifically, that the Department misidentified the PRC–wide rate used in calculating the separate rate. Ningbo MH thus requested, pursuant to 19 CFR 351.224, that the Department correct the alleged ministerial error by recalculating the separate rate. No other parties in this proceeding submitted comments on the Department's final margin calculations.

A ministerial error is defined as an error "in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Department considers ministerial." *See* section 735(e) of the Act; *see also* 19 CFR 351.224(f).

After analyzing Bestpak's comments, we have determined, in accordance with section 735(e) of the Act and 19 CFR 351.224(e), that we made an inadvertent ministerial error by inaccurately listing the PRC–wide entity rate used in the Department's *Preliminary Determination*.[1] However, the appropriate correction for this error is to amend the Corroboration section of the *Final Determination*, as detailed below, not recalculation of the separate rate. For a detailed discussion of this ministerial error, *see* Memorandum to Edward C. Yang, Acting Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, through Abdelali Elouaradia, Director, AD/CVD Operations, Office 4, concerning, "Ministerial Errors Memorandum, Amended Final Determination of Sales at Less Than Fair Value: Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China," dated August 12, 2010 ("Ministerial Error Memo").

Additionally, after analyzing Ningbo MH's comments, we have determined, in accordance with section 735(e) of the Act and 19 CFR 351.224(e), that we did not make a ministerial error with respect to Ningbo MH's producer's name. For a detailed discussion of our analysis, *see* Ministerial Error Memo.

Therefore, in accordance with section 735(e) of the Act, we are amending the final determination of sales at LTFV in the antidumping duty investigation of narrow woven ribbons from the PRC. After correcting this ministerial error, the final text of the *Final Determination* Corroboration section should read as follows:

> Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as "information derived from the petition that gave rise to the investigation or review, the final determination concerning merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation."[2] To "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[3]

The adverse facts available ("AFA") rate that the Department used is drawn from the petition, as adjusted to reflect the United States Court of Appeals for the Federal Circuit ("CAFC")'s decision in *Dorbest. See Final Determination*, Issues and Decision Memorandum at Comment 1. Petitioner's methodology for calculating the U.S. price and normal value ("NV") in the petition is discussed in the *Initiation Notice*.[4] In

[1] *See Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 7244 (February 18, 2010) ("*Preliminary Determination*").

[2] *See Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479, 6481 (February 4, 2008), quoting SAA at 870.

[3] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

[4] *See Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations*, 74 FR 39291 (August 6, 2009) ("*Initiation Notice*")

the Preliminary Determination, we assigned to the PRC–wide entity the margin alleged in the petition, *i.e.*, 231.40 percent.[5] For the final determination, we have assigned to the PRC–wide entity the rate of 247.65 percent.[6] To corroborate the AFA margin that we have selected, we compared it to the model–specific margins we found for the participating mandatory respondent, Yama. We found that the margin of 247.65 percent has probative value because it is in the range of Yama's model–specific margins.[7] Accordingly, we find that the rate of 247.65 percent is corroborated within the meaning of section 776(c) of the Act.[8]

Continuation of Suspension of Liquidation:

In accordance with section 735(c)(1)(B) of the Act, the Department has instructed U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of narrow woven ribbons from the PRC, as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after, February 18, 2010, the date of publication of the *Preliminary Determination* in the **Federal Register**. *See Preliminary Determination*. The Department has instructed CBP to require a cash deposit or the posting of a bond equal to the weighted–average dumping margin amount by which the normal value exceeds U.S. price.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: August 17, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–21042 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–DS–S

[5] *See Preliminary Determination*, 75 FR at 7251.

[6] *See Final Determination*, Issues and Decisions Memorandum at Comment 1. *See also* July 12, 2010 Memorandum to the File from Karine Gziryan, International Trade Analyst, AD/CVD Operations, Office 4, "Antidumping Investigation of Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Proprietary Memorandum regarding Corroboration".

[7] *See* Final Analysis Memorandum for Yama Ribbons and Bows Co. Ltd., dated July 12, 2010.

[8] *See Final Determination*, Issues and Decision Memorandum at Comment 12; *see also* July 12, 2010 Memorandum to the File from Karine Gziryan, International Trade Analyst, AD/CVD Operations, Office 4, "Antidumping Investigation of Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Proprietary Memorandum regarding Corroboration".

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 84–21A12]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an amended Export Trade Certificate of Review to Northwest Fruit Exporters ("NFE") (Application #84–21A12).

SUMMARY: The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Northwest Fruit Exporters on August 18, 2010. The Certificate has been amended eleven times. The previous amendment was issued to NFE on September 16, 2009, and a notice of its issuance was published in the **Federal Register** on September 23, 2009 (74 FR 48250). The original Certificate for NFE was issued on June 11, 1984, and a notice of its issuance was published in the **Federal Register** on June 14, 1984 (74 FR 48520).

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Competition and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or e-mail at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2010).

The Office of Competition and Economic Analysis ("OCEA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

NFE's Export Trade Certificate of Review has Been Amended To

1. Add the following new Members of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Hood River Cherry Company (Hood River, OR), Ice Lakes LLS (E. Wenatchee, WA), and JackAss Mt. Ranch (Pasco, WA) and;

2. Delete the following Members from NFE's Certificate: Poirier Warehouse (Pateros, WA) and Witte Orchards (E. Wenatchee, WA).

Dated: August 19, 2010.

Joseph E. Flynn,

Director, Office of Competition and Economic Analysis.

[FR Doc. 2010–20971 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Hand Trucks and Certain Parts Thereof from the People's Republic of China; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 24, 2010.

FOR FURTHER INFORMATION CONTACT: Scott Hoefke or Fred Baker, 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) 482–4947 or (202) 482–2924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 29, 2010, the Department of Commerce (the Department) published in the **Federal Register** the initiation of administrative review of the antidumping duty order on hand trucks and certain parts thereof from the People's Republic of China, covering the period of December 1, 2008, to November 30, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, and Deferral of Initiation of Administrative Review*, 75 FR 4770 (January 29, 2010). The current deadline for the preliminary results of this review is September 9, 2010.

Extension of Time Limits for Preliminary Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires that the Department complete the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary results to a maximum of

365 days after the last day of the anniversary month of an order for which a review is requested.

The Department finds that it is not practicable to complete the preliminary results of this review within the original time frame because comments from interested parties have necessitated the solicitation and subsequent analysis of additional information from the respondent, New–Tec Integration (Xiamen) Co., Ltd. This additional information covers a wide range of issues and is extensive. The Department requires additional time to gather and analyze the additional information. Thus, the Department finds it is not practicable to complete this review within the original time limit (i.e., September 9, 2010). Accordingly, the Department is extending the time limit for completion of the preliminary results of this administrative review by 120 days (i.e., until January 7, 2011), in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2). We intend to issue the final results no later than 120 days after publication of the preliminary results notice.

This extension is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: August 17, 2010.

Edward C. Yang,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–21043 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–046]

Polychloroprene Rubber from Japan: Final Results of Sunset Review and Revocation of Finding

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 9, 2010, the Department of Commerce ("the Department") initiated the sunset review of the antidumping finding on polychloroprene rubber from Japan. Because the domestic interested parties did not participate in this sunset review, the Department is revoking this antidumping finding.

EFFECTIVE DATE: August 4, 2010

FOR FURTHER INFORMATION CONTACT: Martha Douthit, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION: On December 6, 1973, the Department of the Treasury published in the **Federal Register** the antidumping finding on polychloroprene rubber from Japan. *See Polychloroprene Rubber from Japan*, 38 FR 33593 (December 6, 1973). On August 4, 2005, the Department published its most recent continuation of the finding. *See Continuation of Antidumping Duty Order; Polychloroprene Rubber from Japan*, 70 FR 44893 (August 4, 2005). On July 9, 2010, the Department initiated a sunset review of this finding. *See Initiation of Five-year ("Sunset") Review*, 75 FR 39494 (July 9, 2010).

The domestic interested parties did not file a notice of intent to participate in this sunset review. As a result, in accordance with 19 CFR 351.218(d)(1)(iii)(A), the Department determined that no domestic interested party intends to participate in the sunset review and on July 29, 2010 we notified the International Trade Commission, in writing, that we intended to revoke this antidumping finding. *See* 19 CFR 351.218(d)(1)(iii)(B)(2).

Scope of the Finding:

Imports covered by the finding are shipments of polychloroprene rubber, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.41.00, 4002.49.00, 4003.00.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").[1] HTSUS item numbers are provided for convenience and customs purpose. The Department's written description of the scope remains dispositive.

Determination to Revoke:

Pursuant to section 751(c)(3)(A) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party files a notice of intent to participate, the Department shall, within 90 days after the initiation of the review, issue a final determination revoking the finding. Because the domestic interested parties did not file a notice of intent to participate in this sunset review, the Department finds that no domestic interested party is participating in this sunset review. Therefore, consistent with 19 CFR 351.222(i)(1)(i) and section 751(c)(3)(A) of the Act, we are revoking this antidumping finding. The effective date of revocation is August 4, 2010, the fifth anniversary of the date of publication in the **Federal Register** of the most recent notice of continuation of this antidumping duty finding.

Termination of Suspension of Liquidation:

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), the Department intends to issue instructions to U.S. Customs and Border Protection, to terminate the suspension of liquidation of the merchandise subject to this finding entered, or withdrawn from warehouse, on or after August 4, 2010. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this finding and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests of review.

This five-year (sunset) review and notice are published in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: August 17, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–21029 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–DS–S

[1] *See Polychloroprene Rubber from Japan: Final Changed Circumstances Review and Determination to Revoke Finding in Part*, 71 FR 57470 (September 29, 2006), in which the Department determined to revoke the antidumping finding with respect to the following products: (1) aqueous dispersions of polychloroprenes that are dipolymers of chloroprene and methacrylic acid, where the dispersion has a pH of 8 or lower (this category is limited to aqueous dispersions of these polymers and does not include aqueous dispersions of these polychloroprenes that contain comonomers other than methacrylic acid); (2) aqueous dispersions of polychloroprenes that are dipolymers of chloroprene and 2,3-dichlorobutadiene-1,3 modified with xanthogen disulfides, where the dispersion has a solids content of greater than 59 percent (this category is limited to aqueous dispersions of these polymers and does not include aqueous dispersions of polychloroprenes that contain comonomers other than 2,3-dichlorobutadiene-1,3); and (3) solid polychloroprenes that are dipolymers of chloroprene and 2,3-dichlorobutadiene-1,3 having a 2,3-dichlorobutadiene-1,3 content of 15 percent or greater (this category is limited to polychloroprenes in solid form and does not include aqueous dispersions). *See also* Notice of Scope Rulings, 74 FR 14521 (March 31, 2009).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY34

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR) Update; Greater Amberjack

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

ACTION: Notice of SEDAR Assessment Webinars.

SUMMARY: The SEDAR update of the assessment of the Gulf of Mexico stock of greater amberjack will consist of a series of webinars. This assessment will update the stock assessment conducted under SEDAR 9.

DATES: The second Assessment webinar will occur on October 7, 2010, from 2 p.m. – 5 p.m. The third Assessment webinar will occur on November 22, 2010, from 10 a.m. – 1 p.m. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES: The Webinars may be attended by the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information.

A listening station will be available at the Gulf of Mexico Fishery Management Council office located at 2203 N Lois Avenue, Suite 1100, Tampa, FL 33607. Those interested in participating via the listening station should contact Julie A. Neer at SEDAR at least 1 day prior to the webinar.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; (843) 571–4366; email *julie.neer@safmc.net*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. A full benchmark assessment conducted under SEDAR includes three workshops: (1) Data Workshop, (2) Stock Assessment Workshop Process and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Stock Assessment Workshop is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Review Workshop Report documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; international experts; and staff of Councils, Commissions, and state and Federal agencies.

SEDAR conducts updates of benchmark stock assessments previously conducted through the SEDAR program. Update assessments add additional data points to datasets incorporated in the original SEDAR benchmark assessment and run the benchmark assessment model to update population estimates.

The greater amberjack update assessment will update the SEDAR 9 benchmark of Gulf of Mexico greater amberjack. The update process consists of a series of webinars.

Greater Amberjack Update Schedule

October 7, 2010; 2 p.m. – 5 p.m.; SEDAR Update Assessment Webinar II

November 22, 2010; 10 a.m. – 1 p.m.; SEDAR Update Assessment Webinar III

Using updated datasets adopted during the Data Webinar, participants will employ assessment models used in SEDAR 9 to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Dated: August 19, 2010.

William D. Chappell,

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

[FR Doc. 2010–20958 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY28

Pacific Fishery Management Council; Public Meetings; Correction

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

ACTION: Notice of public meetings; correction.

SUMMARY: This action corrects the SUPPLEMENTARY INFORMATION section to a notice published in the **Federal Register** on August 19, 2010, which didn't contain all of the necessary information for the agenda for a Pacific Council meeting, leaving attendees misinformed. This correction adds a sentence to further clarify the meeting agenda.

DATES: The Pacific Council and its advisory entities will meet September 10–16, 2010. The Pacific Council meeting will begin on Saturday, September 11, 2010, at 8 a.m., reconvening each day through Thursday, September 16, 2010. All meetings are open to the public, except a closed session, which will be held from 8 a.m. until 9 a.m. on Saturday, September 11 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Pacific Council and its advisory entities will be held at the Doubletree Hotel Riverside, 2900 Chinden Boulevard, Boise, ID 83714; telephone: 208–343–1871. The Pacific Council address is Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: 503–820–2280 or 866–806–

7204 toll free; or access the Pacific Council website, *http://www.pcouncil.org*, for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION:

Need for Correction

In a notice NMFS published on August 19, 2010, beginning on page 51240, make the following correction in the SUPPLEMENTARY INFORMATION section. On page 51241 in the third column, revise item 4 to read as follows:

"4. National Marine Fisheries Service Report, including update on biennial specifications and management measures, Amendment 16–5, and Amendment 23."

Dated: August 19, 2010.

William D. Chappell,

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

[FR Doc. C1–2010–20960 Filed 8–23–10; 8:45 am]

BILLING CODE S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY38

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's Salmon Technical Team (STT), Scientific and Statistical Committee's (SSC) Salmon Subcommittee, and Model Evaluation Workgroup (MEW) will review proposed salmon methodology and conservation objective changes in a joint work session, which is open to the public.

DATES: The work session will be held Tuesday, October 19, 2010, from 10 a.m. to 4:30 p.m., and Wednesday October 20, 2010, from 8:30 a.m. to 4 p.m.

ADDRESSES: The work session will be held at the Hyatt Place Hotel Portland Airport, 9750 NE Cascades Parkway, Portland, OR 97220, 503–288–2808.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384, 503–820–2280.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council, 503 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to brief the STT and SSC Salmon Subcommittee on proposed changes to methods and standards used to manage ocean salmon fisheries. The work session will potentially include review of the Oregon coastal natural coho abundance predictor, evaluation of indicator stock tag groups for Columbia River summer Chinook, a progress report on abundance-based management framework for Lower Columbia River tule fall Chinook, update and revision of natural production information in the Lower Columbia River natural coho harvest management matrix, review and evaluation of mark-selective fishery reports, an update on methods to forecast ocean abundance of Columbia River fall Chinook, an analysis of bias in Chinook and Coho Fishery Regulation Assessment Models due to multiple encounters in mark-selective fisheries, and proposed changes to the conservation objectives for Puget Sound coho.

Although nonemergency issues not contained in the meeting agenda may come before the STT, SSC Salmon Subcommittee, and MEW for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least five days prior to the meeting date.

Dated: August 19, 2010.

William D. Chappell,

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

[FR Doc. 2010–20961 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XY37

Fisheries of the South Atlantic and Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Assessment Webinar for SEDAR 23 Goliath Grouper

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

ACTION: Notice of SEDAR 23 Gulf of Mexico and South Atlantic goliath grouper assessment webinar.

SUMMARY: The SEDAR 23 assessment of the Gulf of Mexico and South Atlantic stock of goliath grouper will consist of a series of workshops and webinars: a Data Workshop, an assessment workshop, an Assessment webinar, and a Review Workshop (**SUPPLEMENTARY INFORMATION**).

DATES: The SEDAR 23 Assessment webinar will be held on Wednesday, September 15, 2010, from 1 – 4 p.m. (EDT). The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information.

FOR FURTHER INFORMATION CONTACT: Julie A Neer, SEDAR Coordinator, 4055 Faber Place, Suite 201, North Charleston, SC 29405; phone (843) 571–4366. Email: *Julie.neer@safmc.net*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop, (2) Assessment Process utilizing workshops and webinars and (3) Review Workshop. The product of the Data Workshop is a data report

which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and Federal agencies.

SEDAR 23 Assessment Webinar

Using datasets recommended from the Data Workshop, participants will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

August 19, 2010.

William D. Chappell,

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

[FR Doc. 2010–20959 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Meeting of the Uniform Formulary Beneficiary Advisory Panel

AGENCY: Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (Title 5, United States Code (U.S.C.), Appendix, as amended) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces that the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as the Panel) will meet September 23, 2010, in Washington, DC.

DATES: The meeting will be held on September 23, 2010, from 9 a.m.–12 p.m.

A closed Administrative Work Meeting will be held from 8 a.m. to 9 a.m.

ADDRESSES: The meetings will be held at the Naval Heritage Center Theater, 701 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Stacia Spridgen, Designated Federal Officer, Uniform Formulary Beneficiary Advisory Panel; 2450 Stanley Road, Suite 208; Ft. Sam Houston, TX 78234–6102; *Telephone:* (210) 295–1271, *Fax:* (210) 295–2789, *E-mail: Baprequests@tma.osd.mil*.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting

The Panel will review and comment on recommendations made to the Director, TRICARE Management Activity, by the Pharmacy and Therapeutics Committee regarding the Uniform Formulary.

Meeting Agenda

Sign-In; Welcome and Opening Remarks; Public Citizen Comments; Scheduled Therapeutic Class Reviews—Ophthalmic Agents (Nonsteroidal Anti-Inflammatory, Mast Cell Stabilizers, Steroids, and Antihistamines), Renin-Angiotensin Antihypertensives (RAAS), pertinent utilization management issues, drugs recommended for non-formulary placement due to non-compliance with the National Defense Authorization Act for Fiscal Year 2008, Section 703; Panel Discussions and Vote; and comments following each therapeutic class review.

Meeting Accessibility

Pursuant to 5 U.S.C. 552b, as amended, and Title 41, Code of Federal Regulations (CFR), Section 102–3.140 through 102–3.165, and the availability of space this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing in. All persons must sign in legibly.

Administrative Work Meeting

Prior to the public meeting the Panel will conduct an Administrative Work Meeting from 8 a.m. to 9 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue, NW., Washington, DC 20004. Pursuant to 41 CFR 102–3.160, the Administrative Work Meeting will be closed to the public.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer (DFO). The DFO's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database—*https://www.fido.gov/facadatabase/public.asp*.

Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than 5 business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Public Comments

In addition to written statements, the Panel will set aside 1 hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice; but if they still want to address the Panel, then they will be afforded the opportunity to register to address the Panel. The Panel's DFO will have a "Sign-Up Roster" available at the Panel meeting, for registration on a first-come, first-served basis. Those wishing to address the Panel will be given no more than 5 minutes to present their comments, and at the end of the 1 hour time period no further public comments will be accepted. Anyone who signs up to address the Panel, but is unable to do so due to the time limitation, may submit their comments in writing; however, they must understand that their written comments may not be reviewed prior to the Panel's deliberation. Accordingly,

the Panel recommends that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: August 19, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–21014 Filed 8–23–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Advisory Council on Dependents' Education (ACDE)

AGENCY: Department of Defense Education Activity (DoDEA).

ACTION: Cancellation of September 8 meeting; announcing November 12 and 19 open meetings.

SUMMARY: The meeting of the Advisory Council on Dependents' Education (ACDE) scheduled for September 8, 2010, is cancelled. The meeting was announced in the **Federal Register** on June 25, 2010 (75 FR 36373).

Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the ACDE will meet on November 12, 2010, in Arlington, VA, and on November 19, 2010, in Riedstadt, Germany.

DATES: The meetings will be held:

1. Friday, November 12, 2010, from 8 a.m. to 11 a.m. (Eastern Standard Time), in Arlington, VA.

2. Friday, November 19, 2010, from 9 a.m. to 2 p.m. (Central European Time), in Riedstadt, Germany.

ADDRESSES: The meetings will be held:

1. Arlington—4040 North Fairfax Drive, Arlington, VA 22203.

2. Riedstadt—Best Western Hotel Riedstern, Stahlbaustrasse 17, Riedstadt, Germany 64560.

FOR FURTHER INFORMATION CONTACT: *Committee's Point of Contact:* Ms. Leesa Rompre, tel. (703) 588–3128, 4040 North Fairfax Drive, Arlington, VA 22203, e-mail *Leesa.Rompre@hq.dodea.edu.*

SUPPLEMENTARY INFORMATION:

September 8, 2010 Meeting

Pursuant to the Federal Advisory Committee Act, Appendix 2 of title 5, United States Code, Public Law 92–463, a notice published on June 25, 2010 (75 FR 36373), announcing a meeting of the ACDE scheduled to be held on September 8, 2010, from 8 a.m. to 3 p.m. has been cancelled.

November 12 and 19, 2010 Meetings

Purpose of the Meetings

Recommend to the Director, DoDEA, general policies for the operation of the Department of Defense Dependents Schools (DoDDS); to provide the Director with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense.

Agenda

The meeting agendas will be the current operational qualities of schools, the continuous improvement processes, and other educational matters.

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and the availability of space, these meetings are open to the public. Seating is on a first-come basis.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Advisory Council on Dependents' Education about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of the planned meeting of the Advisory Council on Dependents' Education.

All written statements shall be submitted to the Designated Federal Officer for the Advisory Council on Dependents' Education and this individual will ensure that the written statements are provided to the membership for their consideration. For the next meeting of the Advisory Council on Dependents' Education, Dr. Patrick Dworakowski, 4040 North Fairfax Drive, Arlington, VA 22203; *Patrick.Dworakowski@hq.dodea.edu*, (703) 588–3111, will be acting in the capacity of the Designated Federal Officer for this committee.

Statements being submitted in response to the agenda mentioned in this notice must be received by the Acting Designated Federal Officer at the address listed above at least fourteen calendar days prior to the meeting, which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Advisory Council on Dependents' Education until its next meeting.

The Acting Designated Federal Officer will review all timely submissions with the Advisory Council on Dependents' Education Chairpersons and ensure they are provided to all members of the Advisory Council on Dependents' Education before the meeting that is the subject of this notice.

Oral Statements by the Public to the Membership

Pursuant to 41 CFR 102–3.140(d), time will be allotted for public comments to the Advisory Council on Dependents' Education. Individual comments will be limited to a maximum of five minutes duration. The total time allotted for public comments will not exceed thirty minutes.

Dated: August 19, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–20970 Filed 8–23–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 25, 2010.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ,

Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 18, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title of Collection: Student Aid Internet Gateway (SAIG) Enrollment Documents.

OMB Control Number: 1845–0002.

Agency Form Number(s): N/A.

Frequency of Responses: On occasion.

Affected Public: Businesses or other for-profit; not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Total Estimated Number of Annual Responses: 16,974.

Total Estimated Number of Annual Hours: 5,756.

Abstract: Enrollment in the Federal Student Aid (FSA) Student Aid Internet Gateway (SAIG) allows eligible entities to securely exchange Title IV, HEA assistance programs data electronically with the Department of Education processors. Organizations establish Destination Point Administrators (DPAs) to transmit, receive, view and update student financial aid records using telecommunication software. Eligible respondents include the following, but are not limited to, institutions of higher education that participate in Title IV, HEA assistance programs, third-party servicers of eligible institutions, guaranty agencies, Federal Family Education Loan Program (FFELP) lenders, Title IV Additional Servicers (TIVAS), local educational agencies (LEAs). The Enrollment Form for Post Secondary Schools and Servicers represents the full complement of questions that must be presented for an organization enrolling in SAIG. The Enrollment Form for State Scholarship and Grant Agencies and the Enrollment Form for tracking FAFSA Completion for LEAs are a subset of selected questions (from the full complement of questions) to streamline the form for ease of use.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4234. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–20967 Filed 8–23–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension; Correction

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment; correction.

SUMMARY: The Department of Energy (DOE) published a notice in the **Federal Register** of August 6, 2010 for information that will be used in an impact evaluation of DOE's Solar Decathlon Program. The collection consists of four questionnaires to collect information on the respondents' knowledge of solar energy and energy efficiency and on installations of solar-energy and energy-efficiency equipment with which the respondents have been personally involved. This document corrects information regarding the date for the submission of comments.

FOR FURTHER INFORMATION CONTACT: Jeffery Dowd, Solar Decathlon Evaluation Lead; EE–3B, Forrestal Building; U.S. Department of Energy; 1000 Independence Avenue, SW.; Washington, DC 20585 or at phone 202–586–7258; fax 202–586–2176 or *jeff.dowd@ee.doe.gov.*

Correction

In the **Federal Register** of August 6, 2010, in FR Doc. 2010–19404, under the heading **DATES,** the first sentence is corrected to read: Comments regarding this collection must be received on or before October 7, 2010.

Issued in Washington, DC, on August 18, 2010.

Scott Hine,

Acting Deputy Assistant Secretary-Business Administration (DAS–BA), Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2010–20969 Filed 8–23–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Notice of extension of public comment period for reply comments.

SUMMARY: On July 27, 2010, the Department of Energy (DOE) published in the **Federal Register**, a notice of inquiry (NOI) and request for comment from the public to assist in its development of regulations pertaining to section 934 of the Energy Independence and Security Act of 2007 ("Act") . The NOI stated that comments were to be submitted by September 27, 2010. This notice announces that the period for submitting comments is extended to October 27, 2010.

DATES: DOE will accept comments and information regarding the NOI and the development of regulations under the Act received no later than October 27, 2010.

ADDRESSES: Any comments submitted must identify section 934 of the Act, as appropriate. Comments may be submitted using any of the following methods:

- *E-mail: Section 934 Rulemaking@Hq.Doe.Gov.* Include Section 934 in the subject line of the message.
- *Postal Mail:* Sophia Angelini, Attorney-Advisor, Office of the General Counsel for Civilian Nuclear Programs, GC–52, U.S. Department of Energy, l000 Independence Avenue, SW., Room 6A–

167, Washington, DC 20585; Telephone (202) 586–0319. Please submit one signed original and three paper copies of all comments.

FOR FURTHER INFORMATION CONTACT: Sophia Angelini, Attorney-Advisor, Office of the General Counsel for Civilian Nuclear Programs, GC–52, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Telephone (202) 586–0319.

SUPPLEMENTARY INFORMATION: On July 27, 2010, the DOE published an NOI in the **Federal Register** (75 FR 43945) on the development of regulations under section 934 of the Act, entitled Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation. Section 934 addresses how the United States will meet its obligations under the Convention on Supplementary Compensation for Nuclear Damage (CSC) and, in particular, its obligation to contribute to an international supplementary fund in the event of certain nuclear incidents. Section 934 authorizes the Secretary of Energy to issue regulations establishing a retrospective risk pooling program by which nuclear suppliers will reimburse the United States government for its contribution to the international supplementary fund. This retrospective risk pooling program will operate with respect to nuclear incidents that are covered by the international supplementary fund, take place outside the United States, and are not covered by the Price-Anderson Act indemnification.

The NOI requested public comment from interested persons regarding specific as well as general questions and provided for the submission of comments by September 27, 2010. To date, DOE has received comments dated August 10, 2010 from the Nuclear Energy Institute (NEI), stating that the breadth and number of topics on which comment has been requested will require substantial time and significant effort by nuclear suppliers to amass relevant data, analyses and other information to be considered by DOE. NEI also referred to "the potential amount of the retrospective liability to be borne by individual companies, the varying impact of such liability on companies of vastly different sizes with vastly different revenues, and the wide variety of goods and services supplied and the time over which they are supplied," as a basis for nuclear suppliers identifying a host of difficult issues related to the administration of any CSC risk pooling program that warrants additional time for nuclear suppliers to provide comments to DOE. For these reasons, NEI requested that the deadline for public comment be extended for an additional thirty (30) days, to October 27, 2010.

DOE has determined that extension of the comment period is appropriate based on the foregoing reasons. An extended comment period also supports DOE's interest in obtaining detailed and comprehensive commentary from nuclear suppliers and other interested stakeholders. DOE is hereby extending the comment period to October 27, 2010. DOE will consider any comments received by October 27, 2010 and deems any comments received between publication of the NOI and October 27, 2010 to be timely submitted.

Issued in Washington, DC, on August 18, 2010.

Scott Blake Harris,

General Counsel.

[FR Doc. 2010–20968 Filed 8–23–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7194–030]

Birch Power Company and Sorenson Engineering; Birch Power Company and Sorenson Leasing L.L.C.; Notice of Application for Transfer of License, and Soliciting Comments and Motions To Intervene

August 17, 2010.

On July 12, 2010, Birch Power Company and Sorenson Engineering (transferors) and Birch Power Company and Sorenson Leasing, L.L.C. (transferees) filed an application for transfer of license for the Birch Creek Hydroelectric Project No. 7194, located on Birch Creek, in Clark County, Idaho.

Applicants seek Commission approval to transfer the license for the Birch Creek project from the transferors to the transferees.

Applicant Contact: For both: Mr. Ted S. Sorenson, President, Birch Power Company, Sorenson Engineering, and Sorenson Leasing L.L.C., 5203 South 11th East, Idaho Falls, Idaho 83404, phone (208) 589–6908.

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments and motions to intervene: 30 days from the issuance date of this notice. Comments and motions to intervene may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under *http://www.ferc.gov/filing-comment.asp.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies may be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. More information about this project can be viewed or printed on the eLibrary link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–7194) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20932 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13656–000]

TideWorks, LLC; Notice of Application Ready for Environmental Analysis, Soliciting Comments, Recommendations, and Terms and Conditions, and Waiving Scoping

August 17, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* 5–Megawatt Exemption From Licensing.

b. *Project No.:* 13656–000.

c. *Date Filed:* January 15, 2010.

d. *Applicant:* TideWorks, LLC.

e. *Name of Project:* TideWorks Project.

f. *Location:* On the Sasanoa River adjacent to Bareneck Island, in Sagadahoc County, Maine. The project would not occupy lands of the United States.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Shana Lewis, 730 N. Yellowstone Street, Livingston, MT 59047, (406) 224–2908.

i. *FERC Contact:* Tom Dean, (202) 502–6041.

j. Deadline for filing comments, recommendations, and terms and conditions is 60 days from the issuance of this notice; reply comments are due 105 days from the issuance date of this notice. Under section 30(c) of the Federal Power Act, exemptions are subject to the mandatory conditioning

authority of federal and state fish and wildlife agencies with respect to the mitigation of project impacts on fish and wildlife resources.

All comments, recommendations, and terms and conditions may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. A notice of application accepted for filing, soliciting motions to intervene, and intent to waive scoping was issued on May 28, 2010, establishing July 27, 2010, as the deadline to file interventions and comments. The National Marine Fisheries Service and the Maine State Planning Office filed interventions, and the U.S. Fish and Wildlife Service and the Maine Department of Marine Resources filed comments. No comments were filed regarding scoping. With this notice we are waiving scoping for the proposed TideWorks Project.

l. This application has been accepted and is now ready for environmental analysis.

m. The proposed project would consist of: (1) A new submerged 5 kilowatt single vertical shaft turbine generating unit with four 4-inch-wide, 5-foot-long blades; (2) a new 10-foot-wide, 20-foot-long steel pontoon float to suspend the turbine into the river; (3) a new 3.5-foot-wide, 40-foot-long walkway ramp connecting the pontoon float to Bareneck Island; (4) a new 100-foot-long, 220-volt transmission line; and (5) appurtenant facilities. The project would have an average annual generation of about 22,000 kilowatt-hours. The project would operate in a run-of-river mode using the river current flood and ebb tidal flows to rotate the hydrokinetic turbine generating unit.

n. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," or "TERMS AND CONDITIONS," (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, or terms and conditions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20933 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–161–002]

Bison Pipeline LLC; Notice of Application

August 16, 2010.

Take notice that on August 12, 2010, Bison Pipeline LLC (Bison), 717 Texas Street, Suite 2400, Houston, Texas 77002, filed in the above referenced docket an application under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations to amend the certificate of public convenience and necessity authorizing the construction and operation of the Bison Pipeline Project (Bison Pipeline) issued to Bison, subject to conditions, on April 9, 2010 (Order).[1] Specifically, Bison seeks authorization to amend the certificate of public convenience and necessity (Certificate) in order to construct the Project in two phases; first to meet the service requirements of the existing service agreements and second, to coincide with the marketing of all or a substantive part of the remaining pipeline capacity within the timing prescribed by the Order, and in so doing amend the initial rates for transportation service approved in the Order. During the first phase, Bison would construct the mainline facilities consisting of 302 miles of 30-inch diameter pipeline and two meter stations and related appurtenances as authorized in the Order (Phase 1). During the second phase, Bison plans to construct the Hettinger Compressor Station located in Hettinger County, North Dakota as authorized in the Order (Phase 2). Therefore, the construction and in-service date of the Hettinger Compressor Station would be delayed until no later than the deadline for construction set forth in Paragraph (D) of the Order, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact *FERC at FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions regarding the application are to be directed to Robert

[1] *Bison Pipeline, LLC,* 131 FERC ¶61,013 (2010).

Jackson, Director, Certificates and Regulatory Administration, Bison Pipeline LLC, 717 Texas Street, Houston, Texas 77002, phone (832) 320–5487.

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 seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: August 30, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20929 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–477–000]

Southern LNG Company, L.L.C.; Notice of Application

August 16, 2010.

Take notice that on August 4, 2010, Southern LNG Company, L.L.C. (Southern LNG), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in the above referenced docket an application pursuant to sections 3 and 7 of the Natural Gas Act seeking authorization to abandon its certificate authorization associated with certain facilities located at its liquefied natural gas (LNG) import terminal on Elba Island, in Chatham County, Georgia (Elba Island), and to reactivate, expand, operate and lease the truck loading facilities on Elba Island, all as more fully set forth in the application. 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.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this application should be directed to Glenn A. Sheffield, Director—Rates and Regulatory, Southern LNG Company, L.L.C., 569 Brookwood Village, Suite 501, Birmingham, Alabama 35209 at (205) 325–3813.

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 an original plus seven 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 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comment Date: September 7, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20930 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR10–80–000]

CenterPoint Energy—Illinois Gas Transmission Company; Notice of Baseline Filing

August 17, 2010.

Take notice that on August 12, 2010, the applicant listed above submitted their baseline filing of its Statement of Operating Conditions for services provided under section 311 of the Natural Gas Policy Act of 1978 (NGPA).

Any person desiring to participate in this rate proceeding must file a motion to intervene, or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 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 Tuesday, August 31, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20931 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

August 17, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER96–1551–022; ER01–615–018; ER09–746–003.

Applicants: Public Service Company of New Mexico; Optim Energy Marketing, LLC.

Description: Public Service Company of New Mexico et al submits supplemental to triennial market power update.

Filed Date: 08/16/2010.

Accession Number: 20100816–0015.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER99–845–020; ER10–622–002

Applicants: Puget Sound Energy, Inc., Macquarie Energy LLC

Description: Revised Exhibits to Triennial Updated Market Analysis of Puget Sound Energy, Inc., and Macquarie Energy LLC.

Filed Date: 08/16/2010.

Accession Number: 20100816–5159.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER99–1435–024; ER98–4336–016; ER00–1814–012.

Applicants: Avista Corporation; Spokane Energy, LLC; Avista Turbine Power, Inc.

Description: Applicants submits the replacement Exhibits LR–19a through LR–19f to Attachment A of the 6/29/10 filing.

Filed Date: 08/17/2010.

Accession Number: 20100817–0047.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER03–1284–011; ER05–1202–011; ER08–1225–009; ER09–1321–005.

Applicants: Blue Canyon Windpower II LLC, Cloud County Wind Farm, LLC, Blue Canyon Windpower LLC, Blue Canyon Windpower V LLC.

Description: Supplement to Updated Market Power Anaylsis for Blue Canyon Windpower LLC, et. al.

Filed Date: 08/17/2010.

Accession Number: 20100817–5034.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER07–521–010.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc., Compliance Implementation Plan.

Filed Date: 08/16/2010.

Accession Number: 20100816–5158.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–1622–001.

Applicants: Interstate Power and Light Company.

Description: Interstate Power and Light Company submits supplemental materials regarding 1PL's recovery of

Preliminary Survey and Investigation costs for the cancelled Sutherland Generating Station Unit 4.

Filed Date: 08/17/2010.

Accession Number: 20100817–0202.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–1629–001.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company submits tariff filing per 35: San Diego Gas & Electric Company Baseline Transmission Owner Tariff Vol 11 to be effective 8/16/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5061.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 07, 2010.

Docket Numbers: ER10–2242–000.

Applicants: Central Hudson Gas & Electric Corporation.

Description: Central Hudson Gas & Electric Corporation submits Second Revised Sheet 4 to its Rate Schedule FERC 206.

Filed Date: 08/16/2010.

Accession Number: 20100816–0211.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2245–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits tariff filing per 35.12: PGE 13 Ancillary Services Tariff Baseline to be effective 8/16/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5127.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2246–000.

Applicants: Entergy Gulf States Louisiana, LLC.

Description: Entergy Gulf States Louisiana, LLC submits tariff filing per 35.15: Cancellation of EGSL Tariff ID to be effective 12/31/1998.

Filed Date: 08/16/2010.

Accession Number: 20100816–5128.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2247–000.

Applicants: Entergy Gulf States Louisiana, LLC.

Description: Entergy Gulf States Louisiana, LLC submits tariff filing per 35.12: EGSL OATT Baseline Filing to be effective 8/16/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5130.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2248–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits baseline Short-Term Capacity and/or Energy for resale eTariff pursuant to Order No 714, to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5000.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2249–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits its baseline Market-Based Rate Tariff pursuant to Order No 714, to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5001.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2250–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits its baseline Reserve Energy Service Tariff, to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5002.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2251–000.

Applicants: Wisconsin Electric Power Company.

Description: PJM Interconnection, LLC submits an executed interconnection service agreement entered into among PJM, et al.

Filed Date: 08/16/2010.

Accession Number: 20100817–0203

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2252–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc submits Notice of Cancellation to Second Revised FPC 72, an Electric Interconnection Contract with Western Light & Telephone Company, Inc.

Filed Date: 08/16/2010.

Accession Number: 20100817–0205.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2253–000.

Applicants: Astoria Energy LLC.

Description: Astoria Energy LLC submits tariff filing per 35.12: Astoria Energy LLC FERC Electric Tariff No. 1 to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5027.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2254–000.

Applicants: Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc.

Description: Duke Energy Ohio, Inc et al submits filing as next of their proposed move from Midwest ISO to PJM following the filing made on 6/25/10.

Filed Date: 08/16/2010.

Accession Number: 20100817–0204.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2257–000.

Applicants: Duke Energy Ohio, Inc.

Description: Duke Energy Ohio, Inc. submits tariff filing per 35.13(a)(2)(iii): Hamilton Sales Agreement to be effective 8/18/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5064

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2258–000.

Applicants: Northbrook New York, LLC.

Description: Northbrook New York, LLC submits tariff filing per 35.12: Northbrook New York, LLC FERC Electric Tariff No. 2 to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5075.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2260–000.

Applicants: Cabrillo Power I LLC.

Description: Cabrillo Power I LLC submits tariff filing per 35: Cabrillo Power I—FERC electric Tariff to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5089.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2261–000.

Applicants: Cabrillo Power II LLC.

Description: Cabrillo Power II LLC submits tariff filing per 35: Cabrillo Power II—FERC Electric Tariff to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5090.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2262–000.

Applicants: El Segundo Power LLC.

Description: El Segundo Power LLC submits tariff filing per 35: El Segundo Power—FERC Electric Tariff to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5091.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2263–000.

Applicants: El Segundo Power II LLC.

Description: El Segundo Power II LLC submits tariff filing per 35: El Segundo Power II—FERC Electric Tariff to be effective 8/17/2010.

Filed Date: 08/17/2010.

Accession Number: 20100817–5095.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2264–000.
Applicants: Long Beach Generation LLC.
Description: Long Beach Generation LLC submits tariff filing per 35: Long Beach Generation—FERC Electric Tariff to be effective 8/17/2010.
Filed Date: 08/17/2010.
Accession Number: 20100817–5099.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2265–000.
Applicants: NRG Power Marketing LLC.
Description: NRG Power Marketing LLC submits tariff filing per 35: NRG Power Marketing—FERC Electric Tariff to be effective 8/17/2010.
Filed Date: 08/17/2010.
Accession Number: 20100817–5101.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2266–000.
Applicants: Solar Blythe LLC.
Description: Solar Blythe LLC submits tariff filing per 35: NRG Solar Blythe—FERC Electric Tariff to be effective 8/17/2010.
Filed Date: 08/17/2010.
Accession Number: 20100817–5105.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed 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.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2010–20934 Filed 8–23–10; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

August 16, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER98–1150–011; ER07–1232–003; ER07–964–002.
Applicants: Tucson Electric Company; UniSource Energy Development Company; UNS Electric, Inc.
Description: Supplement to Triennial Market Power Update of Tucson Electric Power Company, *et al.*
Filed Date: 08/13/2010.
Accession Number: 20100813–5132.
Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER00–2885–025; ER01–2765–024; ER02–2102–024; ER03–1283–019; ER05–1232–020; ER07–1112–009; ER07–1113–009; ER07–1116–008; ER07–1117–011; ER07–1118–010; ER07–1356–011; ER07–1358–010; ER09–1141–003; ER09–335–006; ER09–609–002.
Applicants: J.P. Morgan Ventures Energy Corporation, BE Allegheny LLC, BE CA LLC, BE Ironwood LLC, BE KJ LLC, BE Alabama LLC, BE Louisiana LLC, Cedar Brakes I, L.L.C., Utility Contract Funding, L.L.C., Vineland Energy LLC, Central Power & Lime LLC, Cedar Brakes II, L.L.C., J.P. Morgan Commodities Canada Corporation, BE Rayle LLC
Description: Third Supplement to Notice of Non-Material Change in Status (Red Hills) of JP Morgan Sellers.
Filed Date: 08/13/2010.
Accession Number: 20100813–5096.
Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER00–2885–026; ER01–2765–025; ER02–2102–025; ER03–1283–020; ER05–1232–021; ER07–1112–010; ER07–1113–010; ER07–1116–009; ER07–1117–012; ER07–1118–011; ER07–1356–012; ER07–1358–011; ER09–1141–005; ER09–335–007; ER09–609–003.
Applicants: BE Alabama LLC, BE Allegheny LLC, BE CA LLC, BE Ironwood LLC, BE KJ LLC, BE Louisiana LLC, BE Rayle LLC, Cedar Brakes I, L.L.C., Cedar Brakes II, L.L.C., Central Power & Lime LLC, J.P. Morgan Commodities Canada Corporation, J.P. Morgan Ventures Energy Corporation, Utility Contract Funding, L.L.C., Vineland Energy LLC.
Description: Third Supplement to Notice of Non-Material Change in Status (Rail Splitter) of J.P. Morgan Sellers.
Filed Date: 08/13/2010.
Accession Number: 20100813–5118.
Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER00–2885–027; ER01–2765–026; ER02–2102–026; ER03–1283–021; ER05–1232–022; ER07–1112–011; ER07–1113–011; ER07–1116–010; ER07–1118–012; ER07–1117–013; ER07–1358–012; ER07–1356–013; ER09–609–004; ER09–1141–006; ER09–335–008.
Applicants: J.P. Morgan Ventures Energy Corporation, BE Allegheny LLC, BE CA LLC, BE Ironwood LLC, BE KJ LLC, BE Rayle LLC, BE Alabama LLC, BE Louisiana LLC, Cedar Brakes I, L.L.C., Utility Contract Funding, L.L.C., Vineland Energy LLC, Central Power &

Lime LLC, Cedar Brakes II, L.L.C., J.P. Morgan Commodities Canada Corporation

Description: Supplement to Notice of Non-Material Change in Status of JPMorgan Sellers.

Filed Date: 08/13/2010.

Accession Number: 20100813–5094

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER00–2885–031; ER01–2765–030; ER02–2102–030; ER03–1283–024; ER05–1232–028; ER07–1112–014; ER07–1113–015; ER07–1116–013; ER07–1117–016; ER07–1118–015; ER07–1356–016; ER07–1358–017; ER09–1141–010; ER09–335–010; ER09–609–007.

Applicants: Cedar Brakes I LLC; Cedar Brakes II, LLC; Utility Contract Funding, L.L.C.; Vineland Energy LLC; J.P. Morgan Ventures Energy Corporation; BE Allegheny LLC; BE CA LLC; BE Ironwood LLC; BE KJ LLC; BE Rayle LLC; BE Alabama LLC; BE Louisiana LLC; J.P. Morgan Commodities Canada Corporation; Central Power & Lime LLC.

Description: Fourth Supplement to Notice of Non-Material Change in Status (Smoky II) of J.P. Morgan Sellers under ER07–1356, *et al.*

Filed Date: 08/16/2010.

Accession Number: 20100816–5092.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER02–1633–009.

Applicants: Auburndale Peaker Energy Center, L.L.C.

Description: Renewed Request for Acceptance of Updated Market Power Analysis and Order No. 697–A Compliance Filing of Auburndale Peaker Energy Center, L.L.C.

Filed Date: 08/13/2010.

Accession Number: 20100813–5133

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–468–004.

Applicants: Google Energy LLC.

Description: Notice of Change of Status of Google Energy LLC.

Filed Date: 08/13/2010.

Accession Number: 20100813–5088.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–1772–001.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: Golden Spread Electric Cooperative, Inc. submits tariff filing per 35: Baseline Filing to be effective 7/14/2010.

Filed Date: 08/13/2010.

Accession Number: 20100813–5122.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–1775–001.

Applicants: Florida Power Corporation.

Description: Florida Power Corporation submits tariff filing per 35.17(b): Florida Power Corporation submits amendment to baseline OATT to be effective 7/14/2010.

Filed Date: 08/13/2010.

Accession Number: 20100813–5065.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–1821–001.

Applicants: Goshen Phase II LLC.

Description: Goshen Phase II LLC submits tariff filing per 35.17(b): Amendment to MBR Application of Goshen Phase II LLC, to be effective 9/1/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5001.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2228–000.

Applicants: Entergy New Orleans, Inc.

Description: Entergy New Orleans, Inc. submits tariff filing per 35: ENOI OATT Baseline Filing to be effective 8/2/2010.

Filed Date: 08/13/2010.

Accession Number: 20100813–5099.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2229–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii): Letter Agreement Solar Millennium SA 84 N 081310 to be effective 7/16/2010.

Filed Date: 08/13/2010.

Accession Number: 20100813–5101.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2230–000.

Applicants: Louisville Gas and Electric Company.

Description: Louisville Gas and Electric Company submits tariff filing per 35: Compliance Filing 08_13_10 to be effective N/A.

Filed Date: 08/13/2010.

Accession Number: 20100813–5107.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2231–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities Company submits tariff filing per 35: Compliance Filing 08_13_10 to be effective 7/18/2010.

Filed Date: 08/13/2010.

Accession Number: 20100813–5124.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2232–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc *et al.* submits revisions to the Forward Capacity Market rules related to performance penalties and incentives for Demand Resources.

Filed Date: 08/13/2010.

Accession Number: 20100816–0204.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2233–000.

Applicants: Niagara Mohawk Power Corporation.

Description: Niagara Mohawk Power Corporation submits First Revised Service Agreement 125 etc.

Filed Date: 08/13/2010.

Accession Number: 20100816–0203.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2234–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc submits notice of cancellation to FERC Electric Tariff, Volume No 7, the Wholesale Contract Service—Rural Electric Cooperatives between Westar, Doniphan Electric Cooperative Association, *et al.*

Filed Date: 08/13/2010.

Accession Number: 20100816–0202.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2235–000.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company submits Annual Transmission Owner Formula Cycle 3 Rate Change (Cycle 4) Filing, effective 9/1/10.

Filed Date: 08/13/2010.

Accession Number: 20100816–0206.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2236–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits executed interim Interconnection Service Agreement with Exelon Generation Company, LLC and Commonwealth Edison Company.

Filed Date: 08/13/2010.

Accession Number: 20100816–0201.

Comment Date: 5 p.m. Eastern Time on Friday, September 3, 2010.

Docket Numbers: ER10–2237–000.

Applicants: Wildflower Energy LP.

Description: Wildflower Energy LP submits tariff filing per 35.12: 20100816_wildflower energy baseline to be effective 8/16/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5046.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2238–000.

Applicants: Indigo Generation LLC.

Description: Indigo Generation LLC submits tariff filing per 35.12:

20100816_indigo generation_baseline to be effective 8/16/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5047.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2239–000.

Applicants: Larkspur Energy LLC.

Description: Larkspur Energy LLC submits tariff filing per 35.12: 20100816_larkspur energy_baseline to be effective 8/16/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5048.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2240–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Company submits tariff filing per 35.12: PGE 12 Baseline Filing to be effective 8/16/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5059.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2241–000.

Applicants: New York Independent System Operator, Inc. and New York Transmission Owners.

Description: New York Independent System Operator submits tariff filing per 35.13(a)(2)(iii): Compliance Filing—Order 890—Patka 8/16/10 to be effective 8/16/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5060.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2243–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): 1164R1 Wildorado Wind, LLC LGIA to be effective 7/30/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5095.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Docket Numbers: ER10–2244–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35: Integrated Transmission Plan Compliance in ER10–1269 to be effective 7/26/2010.

Filed Date: 08/16/2010.

Accession Number: 20100816–5114.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 7, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–20937 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

August 16, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–1060–000.

Applicants: Northwest Pipeline GP.

Description: Northwest Pipeline GP submits tariff filing per 154.204: Northwest Pipeline GP—Minor Corrections and Housekeeping Tariff Filing to be effective 9/13/2010.

Filed Date: 08/11/2010.

Accession Number: 20100811–5058.

Comment Date: 5 p.m. Eastern Time on Monday, August 23, 2010.

Docket Numbers: RP10–1061–000.

Applicants: Fayetteville Express Pipeline LLC.

Description: Fayetteville Express Pipeline LLC submits tariff filing per 154.203: FEP Baseline Filing to be effective 10/1/2010.

Filed Date: 08/11/2010.

Accession Number: 20100811–5059.

Comment Date: 5 p.m. Eastern Time on Monday, August 23, 2010.

Docket Numbers: RP10–1062–000.

Applicants: Crossroads Pipeline Company.

Description: Crossroads Pipeline Company submits tariff filing per 154.203: Baseline Filing to be effective 8/11/2010.

Filed Date: 08/11/2010.

Accession Number: 20100811–5088.

Comment Date: 5 p.m. Eastern Time on Monday, August 23, 2010.

Docket Numbers: RP10–1063–000.

Applicants: Gulfstream Natural Gas System, L.L.C.

Description: Gulfstream Natural Gas System, L.L.C. submits tariff filing per 154.204: Gulfstream PALS Filing to be effective 11/1/2010.

Filed Date: 08/11/2010.

Accession Number: 20100811–5089.

Comment Date: 5 p.m. Eastern Time on Monday, August 23, 2010.

Docket Numbers: RP10–1064–000.

Applicants: Millennium Pipeline Company, LLC.
Description: Millennium Pipeline Company, LLC submits tariff filing per 154.203: Activity Report—Compliance Filing on Rate Schedules FT–2, BH–1 & HT–1.
Filed Date: 08/12/2010.
Accession Number: 20100812–5029.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 24, 2010.

Docket Numbers: RP10–1065–000.
Applicants: Millennium Pipeline Company, LLC.
Description: Millennium Pipeline Company, LLC submits tariff filing per 154.402: ACA 2010 to be effective 10/1/2010.
Filed Date: 08/12/2010.
Accession Number: 20100812–5036.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 24, 2010.

Docket Numbers: RP10–1066–000.
Applicants: Rendezvous Gas Pipeline Company, L.L.C.
Description: Submission of Five-Year Report and Request for Modification of Conditions of Rendezvous Gas Pipeline Company, L.L.C.
Filed Date: 07/16/2010.
Accession Number: 20100716–5038.
Comment Date: 5 p.m. Eastern Time on Monday, August 23, 2010.

Docket Numbers: RP10–1067–000.
Applicants: Equitrans, L.P.
Description: Equitrans, L.P. submits tariff filing per 154.204: FTS Rate Schedule and Form of Service Agreement Revisions and Tariff Corrections to be effective 9/11/2010.
Filed Date: 08/12/2010.
Accession Number: 20100812–5060.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 24, 2010.

Docket Numbers: RP10–1068–000.
Applicants: Williston Basin Interstate Pipeline Company.
Description: Williston Basin Interstate Pipeline Company submits Fourth Revised Sheet 371A to FERC Gas Tariff, Second Revised Volume 1 to be effective 9/11/10.
Filed Date: 08/12/2010.
Accession Number: 20100812–0201.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 24, 2010.

Docket Numbers: RP10–1069–000.
Applicants: Kinder Morgan Interstate Gas Transmission LLC.
Description: Kinder Morgan Interstate Gas Transmission LLC submits tariff filing per 154.203: Baseline to be effective 8/13/2010.
Filed Date: 08/13/2010.
Accession Number: 20100813–5000.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 25, 2010.

Docket Numbers: RP10–1070–000.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits Sixth Revised Sheet 263F *et al.* to FERC Gas Tariff, Fifth Revised Volume 1 to be effective 11/1/10.
Filed Date: 08/12/2010.
Accession Number: 20100813–0204.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 24, 2010.

Docket Numbers: RP10–1070–001.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas Company submits 15 Revised Sheet 236H *et al.* of its FERC Gas Tariff, Fifth Revised Volume 1 effective 11/1/10.
Filed Date: 08/13/2010.
Accession Number: 20100813–0205.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 25, 2010.

Docket Numbers: RP10–1071–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: Ozark Gas Transmission, L.L.C. submits tariff filing per 154.203: Ozark Baseline Filing to be effective 8/13/2010.
Filed Date: 08/13/2010.
Accession Number: 20100813–5018.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 25, 2010.

Docket Numbers: RP10–1072–000.
Applicants: Egan Hub Storage, LLC.
Description: Egan Hub Storage, LLC submits tariff filing per 154.204: Contract 310527–R1 to be effective 8/1/2010.
Filed Date: 08/13/2010.
Accession Number: 20100813–5021.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 25, 2010.

Docket Numbers: RP10–1073–000.
Applicants: Bison Pipeline LLC.
Description: Bison Pipeline LLC Pro Forma Tariff Filing re the Bison Pipeline Project.
Filed Date: 08/12/2010.
Accession Number: 20100812–5125.
Comment Date: 5 p.m. Eastern Time on Tuesday, August 24, 2010.

Docket Numbers: RP10–1074–000.
Applicants: MarkWest Pioneer, L.L.C.
Description: MarkWest Pioneer, L.L.C. submits tariff filing per 154.203: MarkWest Pioneer—Baseline Filing to be effective 8/13/2010.
Filed Date: 08/13/2010.
Accession Number: 20100813–5044.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 25, 2010.

Docket Numbers: RP10–1075–000.
Applicants: Gulfstream Natural Gas System, L.L.C.
Description: Gulfstream Natural Gas System, L.L.C. submits tariff filing per 154.204: Gulfstream Delivery Pressure Filing to be effective 9/12/2010.
Filed Date: 08/13/2010.
Accession Number: 20100813–5047.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 25, 2010.

Docket Numbers: RP10–1076–000.
Applicants: Panther Interstate Pipeline Energy, LLC.
Description: Panther Interstate Pipeline Energy, LLC submits tariff filing per 154.203: Panther Baseline eTariff Filing to be effective 8/12/2010.
Filed Date: 08/13/2010.
Accession Number: 20100813–5051.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 25, 2010.

Docket Numbers: RP10–1077–000.
Applicants: MarkWest New Mexico, L.L.C.
Description: MarkWest New Mexico, L.L.C. submits tariff filing per 154.203: MarkWest New Mexico—Baseline Filing to be effective 8/13/2010.
Filed Date: 08/13/2010.
Accession Number: 20100813–5095
Comment Date: 5 p.m. Eastern Time on Wednesday, August 25, 2010.

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888 First St., NE., Washington, DC 20426.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–20935 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance at Midwest ISO Meetings

August 16, 2010.

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and Commission staff may attend the following Midwest ISO-related meetings:

- Advisory Committee (10 a.m.–3 p.m., ET)
  - August 18 (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - September 15
  - October 20
  - November 17
  - December 1
- Board of Directors (8:30 a.m.–10 a.m., ET)
  - August 19 (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - October 21
  - December 2
- Board of Directors Markets Committee (8 a.m.–10 a.m., ET)
  - August 18 (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - September 15
  - October 20
  - November 17
  - December 1
- Midwest ISO Informational Forum (3 p.m.–5 p.m., ET)
  - August 17 (St. Paul Hotel, 350 Market St., St. Paul, MN)
  - September 14
  - October 19
  - November 16
  - December 14
- Midwest ISO Market Subcommittee (9 a.m.–5 p.m., ET)
  - August 31
  - October 5
  - November 2
  - December 7

Except as noted, all of the meetings above will be held at: Midwest ISO Headquarters, 701 City Center Drive, 720 City Center Drive, and Carmel, IN 46032.

Further information may be found at *http://www.midwestiso.org.*

The above-referenced meetings are open to the public.

The discussions at each of the meetings described above may address matters at issue in the following proceedings:

Docket No. RM01–5, *Electronic Tariff Filings*

Docket No. ER02–488, *Midwest Independent Transmission System Operator, Inc.*

Docket Nos. ER02–2595, *et al., Midwest Independent Transmission System Operator, Inc.*

Docket No. ER04–375, *Midwest Independent Transmission System Operator, Inc., et al.*

Docket Nos. ER04–458, *et al., Midwest Independent Transmission System Operator, Inc.*

Docket Nos. ER04–691, EL04–104 and ER04–106, *et al., Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER05–6, *et al., Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER05–636, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER05–752, *Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.*

Docket No. ER05–1047, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER05–1048, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER05–1083, *et al., Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER05–1085, *et al., Midwest Independent Transmission System Operator, Inc.*

Docket No. ER05–1138, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER05–1201, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER05–1230, *Midwest Independent Transmission System Operator, Inc.*

Docket No. EL05–103, *Northern Indiana Power Service Co.* v. *Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C.*

Docket No. EL05–128, *Quest Energy, L.L.C.* v. *Midwest Independent Transmission System Operator, Inc.*

Order No. 890, *Preventing Undue Discrimination and Preference in Transmission Service*

Docket Nos. EC06–4 and ER06–20, *LGE Energy LLC, et al.*

Docket Nos. ER06–18, *et al., Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–22, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–27, *Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER06–56, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–192, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–356, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–360, *et al., Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. ER06–532, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–731, *Independent Market Monitor for the Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–866, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–881, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–1420, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–1536, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER06–1552, *Midwest Independent Transmission System Operator, Inc.*

Docket No. EL06–31, *Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. EL06–49, *Midwest Independent Transmission System Operator, Inc., et al.*

Docket No. EL06–80, Midwest Independent Transmission System Operator, Inc.

Order Nos. 693 and 693–A, *Mandatory Reliability Standards for Bulk-Power System*

Docket No. AD07–12, *Reliability Standard Compliance and Enforcement in Regions with*

Independent System Operators and Regional Transmission Organizations
Docket No. ER07–53, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–478, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–532, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–580, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–815, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–940, *Midwest Independent Transmission System Operator, Inc., et al.*
Docket No. ER07–1141, *International Transmission Co., et al.*
Docket No. ER07–1144, *American Transmission Co. LLC, et al.*
Docket No. ER07–1182, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. ER07–1233 and ER07–1261, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–1372, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–1375, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–1388, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER07–1417, *Midwest Independent Transmission System Operator, Inc., et al.*
Docket No. EL07–44, *Dakota Wind Harvest, LLC* v. *Midwest Independent Transmission System Operator, Inc., et al.*
Docket No. EL07–79, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. EL07–86, EL07–88, EL07–92, *Ameren Services Co., et al.* v. *Midwest Independent Transmission System Operator, Inc., et al.*
Docket No. EL07–100, *E.ON U.S. LLC* v. *Midwest Independent Transmission System Operator, Inc.*
Docket No. OA07–57, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. RR07–2, *et al., Delegation Agreement Between the North American Electric Reliability Corporation and Midwest Reliability Organization, et al.*
Docket No. EL08–32, *Central Minnesota Municipal Power Agency and Midwest Municipal Transmission Group, Inc.*
Docket No. ER08–15, *Midwest ISO Transmission Owners*
Docket No. ER08–55, *Midwest Independent Transmission System Operator, Inc., et al.*
Docket No. ER08–109, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. ER08–185 and ER08–186, *Ameren Energy Marketing Company, et al.*
Docket No. ER08–207, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–209, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–269, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–296, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–320, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–370, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–394, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–404, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–416, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–622, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–637, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–925, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1043, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1074, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1169, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1244, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1252, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1285, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1309, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1370, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1399, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1400, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1401, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1404, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1435, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1485, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1486, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER08–1505, *Midwest Independent Transmission System Operator, Inc.*
Docket No. OA08–4, *Midwest ISO Transmission Owners, et al.*
Docket No. OA08–14, *Midwest Independent Transmission System Operator, Inc.*
Docket No. OA08–42, *Midwest Independent Transmission System Operator, Inc.*
Docket No. OA08–53, *Midwest Independent Transmission System Operator, Inc.*
Docket No. OA08–106, *Midwest Independent Transmission System Operator, Inc.*
Docket No. OA09–7, *Midwest Independent Transmission System Operator, Inc.*
Docket No. RM08–19, *Mandatory Reliability Standards for the Calculation of Available Transfer, Capacity Benefit Margins, Transmission Reliability Margins, Total Transfer Capability, and Existing Transmission Commitments and Mandatory Reliability Standards for the Bulk Power System*
Docket No. AD09–10, *National Action Plan on Demand Response*
Docket No. AD09–15, *Version One Regional Reliability Standard for Resource and Demand Balancing*
Docket No. EL09–71, *Resale Power Group of Iowa, WPPI Energy*
Docket No. ER09–66, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–72, *Xcel Energy Operating Companies*
Docket No. ER09–91, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–108, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER09–123, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–245, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–266, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–267, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–403, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–499, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–506, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–512, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–91, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–573, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–592, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–654, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–660, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–769, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–774, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–783, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–785, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–788, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–807, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–827, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–839, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–861, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–991, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–994, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–998, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–999, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1049, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1074, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1126, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1369, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1396, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1422, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1432, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1431, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1435, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1526, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1543, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1575, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1581, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1619, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1719, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1727, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1769, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1779, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ES09–54, *Midwest Independent Transmission System Operator, Inc.*
Docket No. AD10–5, *RTO/ISO Performance Metrics*
Docket No. AD10–14, *Reliability Standards Development and NERC and Regional Entity Enforcement*
Docket No. EC10–39, *American Transmission Company, LLC*
Docket No. EF10–3, *Western Area Power Administration*
Docket No. EL10–41, *Tatanka Wind Power, LLC* v. *Montana-Dakota Utilities Company, a division of MDU Resources Group, Inc.*
Docket No. EL10–45, *Midwest Independent Transmission System Operator, Inc.* v. *PJM Interconnection, LLC*
Docket No. EL10–46, *Midwest Independent Transmission System Operator, Inc.* v. *PJM Interconnection, LLC*
Docket No. EL10–60, *PJM Interconnection, LLC* v. *Midwest Independent Transmission System Operator, Inc.*
Docket No. EL10–68, *Resale Power Group of Iowa and WPPI Energy* v. *ITC Midwest LLC and Interstate Power and Light Company*
Docket No. EL10–77, *City of Pella, Iowa* v. *Midwest Independent Transmission System Operator, Inc. and MidAmerican Energy Company, Inc.*
Docket No. EL10–78, *PJM Interconnection, L.L.C.*
Docket No. ER10–8, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. ER10–9, 10–73, 10–74, *Dairyland Power Cooperative* v. *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–27, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. ER10–209, EL10–12, and ER10–640, *Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.* v. *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–277, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–279, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–224, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–128, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–316, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–327, *Dynegy Midwest Generation, Inc.*
Docket No. ER10–386, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–394, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–495, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–559, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–563, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–576, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–579, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–582, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–639, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–640, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–685, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–686, *Otter Tail Power Company*
Docket No. ER10–687, *Midwest Independent Transmission System Operator, Inc. and ALLETE, Inc.*
Docket No. ER10–691, *Duke Energy Indiana, Inc.*
Docket No. ER10–706, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–771, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–789, *Carolina Power & Light Co., and Duke Energy Carolinas, LLC*
Docket No. ER10–810, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–839, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–863, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–866, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–867, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–884, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–938, *Duke Energy Corporation*
Docket No. ER10–953, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–957, *Midwest Independent Transmission System Operator, Inc., PJM Interconnection, L.L.C., and Southwest Power Pool, Inc.*
Docket No. ER10–962, *Union Electric Company*
Docket No. ER10–970, *FirstEnergy Solutions Corp.*
Docket No. ER10–978, *Wolverine Power Supply Cooperative, Inc.*
Docket No. ER10–980, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–990, *Midwest Independent Transmission System Operator, Inc. and Dairyland Power Cooperative*
Docket No. ER10–1004, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1007, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1024, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1036, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1069, *Southwest Power Pool, Inc.*
Docket No. ER10–1070, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1071, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1085, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1086, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1098, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1132, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1194, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1244, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1251, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1273, *Joint Pricing Zone Revenue Allocation Agreement between Great River Energy, Central Minnesota Municipal Power Agency, Northern States Power Company and Southern Minnesota Municipal Power Agency*
Docket No. ER10–1296, *Wisconsin Electric Power Company*
Docket No. ER10–1301, *Notice of Cancellation of Adjacent Balancing Authority Coordination Agreement between the Midwest ISO and Dairyland Power Cooperative*
Docket No. ER10–1305, *Xcel Energy Services Inc.*
Docket No. ER10–1349, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1361, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1366, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1377, *Xcel Energy Services, Inc.*
Docket No. ER10–1400, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1413, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1444, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1446, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1463, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1485, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1492, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1552, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1561, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1562, *In Re Duke Ohio*
Docket No. ER10–1648, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1666, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1649, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1668, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1677, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1696, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1701, *Ameren Services Company as Agent for Illinois Power Company*
Docket Nos. ER10–1732 and ER10–1733, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER10–1791, *Midwest Independent Transmission System*

Operator, Inc. and the Midwest ISO Transmission Owners

Docket No. ER10–1814, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–1913, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–1997, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–2052, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–2072, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–2080, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER10–2090, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ES10–31, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ES10–35, *Integrys Energy Services, Inc. and Macquarie Cook Power Inc.*

Docket No. PL10–4, *Enforcement of Statutes, Orders, Rules, and Regulations*

Docket No. RM09–13, *Time Error Correction Reliability Standard*

Docket No. RM10–9, *Transmission Loading Relief Reliability Standard and Curtailment Priorities*

Docket No. RM10–11, *Integration of Variable Energy Resources*

Docket No. RM10–13, *Credit Reforms in Organized Wholesale Electric Markets*

Docket No. RM10–17 and EL09–68, *Demand Response Compensation in Organized Wholesale Energy Markets*

For more information, contact Patrick Clarey, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov,* or Christopher Miller, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (317) 249–5936 or *christopher.miller@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–20928 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–2195–000]

Driftwood LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

August 16, 2010.

This is a supplemental notice in the above-referenced proceeding, of Driftwood LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is September 7, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–20936 Filed 8–23–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2009–0280; FRL–9192–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Annual Public Water System Compliance Report (Reinstatement); EPA ICR No. 1812.04 OMB Control No. 2020–0020

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 et seq.), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before September 23, 2010.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OECA–2009–0280, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Enforcement and Compliance Docket Center (EPA/DC), Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joyce Chandler, Compliance Assurance & Sector Division, Office of Compliance, Mailcode 2224A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 202–564–7073; *fax number:* 202–564–7083; *e-mail address: chandler.joyce@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 2, 2009 (74 FR 31730), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OECA–2009–0280, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 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 Enforcement and Compliance Docket is 202–566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Annual Public Water System Compliance Report (Reinstatement).

ICR numbers: EPA ICR No. 1812.04, OMB Control No. 2020–0020.

ICR Status: This is a request to reinstate an ICR that expired on June 30, 2008. 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: Section 1414 (c)(3)(A) of the Safe Drinking Water Act requires that each state (a term that includes states, commonwealths and territories) that has primary enforcement authority under the Act shall prepare, make readily available to the public, and submit to the Administrator of EPA, an annual report of violations of national primary drinking water regulations in the state. These Annual State Public Water System Compliance Reports are to include violations of maximum contaminant levels, treatment requirements, variances and exemptions, and monitoring requirements determined to be significant by the Administrator after consultation with the states. To minimize a state's burden in preparing its annual statutorily-required report, EPA issued guidance that explains what Section 1414(c)(3)(A) requires and provides model language and reporting templates. EPA also annually makes available to the states a computer query that generates for each state (from information states are already separately required to submit to EPA's national database on a quarterly basis) the required violations information in a table consistent with the reporting template in EPA's guidance.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 80 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State, local and/or Tribal Governments

Estimated Number of Respondents: 55.

Frequency of Response: Yearly.

Estimated Total Annual Hour Burden: 4,400.

Estimated Total Annual Cost: $232,303, includes $0 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 80 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to miscalculating the number of states required to submit reports. Wyoming was counted in the previous ICR as a respondent although it doesn't have primacy for the drinking water program and the US EPA submits its annual report. The number of respondents should be fifty-five entities (49 states, 5 territories and one tribe). The change is an adjustment to the estimates

Dated: August 18, 2010.

Joseph A. Sierra,

Acting Director, Collection Strategies Division.

[FR Doc. 2010–20994 Filed 8–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2006–0278; FRL–9192–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreements (Reinstatement); EPA ICR No. 2212.03, OMB Control No. 2090–0025

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before September 23, 2010.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OA–2006–0278, (1) to EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, MBE/WBE

Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreements, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kimberly Y. Patrick, Office of Small Business Programs, *Mailcode:* 1230T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 202–566–2605; *fax number:* 202–566–0548; *e-mail address: Patrick.Kimberly@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 22, 2009 (74 FR 48265), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OA–2006–0278, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 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 Office of Environmental Information Docket is 202–566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Under Federal Grants, Cooperative Agreements, and Interagency Agreements (Renewal).

ICR numbers: EPA ICR No. 2212.03, OMB Control No. 2090–0025.

ICR Status: This ICR seeks reinstatement of a previously approved information collection activity that expired on October 31, 2009. 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: All EPA financial assistance agreement recipients are required to make good faith efforts to assure that small, minority and women owned businesses are used, when possible, as sources of construction, services, equipment, and supplies. The completion and submission of EPA Form 5700–52A is mandatory. The information collected by EPA Form 5700–52A is used to compile data concerning the utilization of minority and women owned businesses as contractors and subcontractors under procurements funded by EPA financial assistance agreements pursuant to Executive Orders 11625, 12138, and 12432, and Public Laws 101–507 and 102–389. The effectiveness of EPA's MBE/WBE Program is measured through this reporting requirement. The modifications to the form were made to simplify and shorten the form itself. The instructions in the modified form also provide more information about questions frequently asked by respondents.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.5 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:

Estimated total number of potential respondents: 3,600.

Frequency of response: Depending on the type of financial assistance received, respondents either report on an annual, semi-annual, or quarterly basis.

Estimated total average number of responses for each respondent: 2.5 average responses per year, including annual and quarterly respondents.

Estimated total annual burden hours: 9,000.

Estimated total annual costs: $606,960. This includes $0 annualized capital startup costs, $0 annualized O&M costs, and $606,960 annualized labor costs.

Changes in the Estimates: The estimates reflect a decrease in Respondent and Agency burden hours due to a transition from quarterly reporting to semi-annual reporting. There was an increase in Respondent total costs per year due to the use of an updated wage rate for employee compensation. The current rate ($48.17) was taken from the December 2009 Bureau of Labor Statistics release, while the prior estimate utilized the March 2005 wage rate ($36.28). In addition, the estimates reflect a decrease in Agency burden hours and costs due to a transition from quarterly reporting to semi-annual reporting. While there is still a percentage of Respondents that will continue to report quarterly, this group will diminish over time because only those agreements awarded prior to May 27, 2008 may still report quarterly. The burden estimate was also revised to include annual, semi-annual, and quarterly reporting. These changes are categorized as adjustments. We received no comments regarding the form from our consultation efforts or from public comments, therefore, the hours to gather information to complete the form were not changed. The total burden hours remains at 1.5 burden hours.

Dated: August 18, 2010.

Joseph A. Sierra,

Acting Director, Collection Strategies Division.

[FR Doc. 2010–20998 Filed 8–23–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2009–0983; FRL–9192–4; EPA ICR No. 0116.09; OMB Control No. 2060–0060]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before September 23, 2010.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2009–0983, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket, Mailcode 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lynn Sohacki, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4851; fax number: 734–214–4869; e-mail address: *sohacki.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On January 22, 2010 (75 FR 3723), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2009–0983 which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 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 Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program (Renewal).

ICR numbers: EPA ICR No. 0116.09, OMB Control No. 2060–0060.

ICR Status: This ICR is scheduled to expire on August 31, 2010. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and 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: Under Section 206(a) of the Clean Air Act (42 U.S.C. 7521), on-highway engine and vehicle manufacturers may not legally introduce their products into U.S. commerce unless EPA has certified that their production complies with applicable emission standards. Per section 207(a), original vehicle manufacturers must warrant that vehicles are free from defects in materials and workmanship that would cause the vehicle not to comply with emission regulations during its useful life. Section 207(a) directs EPA to provide certification to those manufacturers or builders of automotive aftermarket parts that demonstrate that the installation and use of their products will not cause failure of the engine or vehicle to comply with emission standards. An aftermarket part is any part offered for sale for installation in or on a motor vehicle after such vehicle has left the vehicle manufacturer's production line (40 CFR 85.2113(b)). Participation in the aftermarket certification program is voluntary. Aftermarket part manufacturers or builders electing to participate conduct emission and durability testing as described in 40 CFR part 85, subpart V, and submit data about their products and testing procedures.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 547 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Importers (including Independent Commercial Importers) of light duty vehicles or engines, light duty trucks or engines, and highway motorcycles or engines.

Estimated Number of Respondents: 1.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 547.

Estimated Total Annual Cost: $19,063, including $1,955 annualized capital and O&M costs.

Changes in the Estimates: There is an increase of $420 in the annual cost burden currently identified in the OMB Inventory of Approved ICR Burdens. This reflects the most recent estimates for similar O&M and capital cost elements in ICRs developed since the last renewal. There is no change in the hour burden.

Dated: August 18, 2010.

Joseph A. Sierra,

Acting Director, Collection Strategies Division.

[FR Doc. 2010–20996 Filed 8–23–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

August 19, 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 23, 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. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page http://reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information or copies of the information collection(s), contact Judith B. Herman, OMD, 202–418–0214, or email judith–b.herman@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0853.

Title: Certification by Administrative Authority to Billed Entity Compliance with the Children's Internet Protection Act/Receipt of Service Confirmation; and Adjustment to Funding Commitment and Modification to Receipt of Service Confirmation Form.

Form Numbers: FCC Forms 479, 486 and 500.

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: 45,000 respondents, 45,000 responses.

Estimated Time per Response: 1 – 1.5 hours.

Frequency of Response: On occasion and annual reporting requirements, 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, 201 – 205, 218 – 220, 254, 303(r), 403, and 405.

Total Annual Burden: 62,500 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission. If the Commission requests applicants to submit information that the respondent believe is confidential, respondents may request confidential treatment of their information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) during this comment period to obtain the three year clearance from them. There is no change in the reporting, recordkeeping and/or third party disclosure requirements. There is no change in the Commission's burden estimates.

The three FCC forms serve the functions of the Universal Service Schools and Libraries Support Mechanism, 47 U.S.C. 254 of the Communications Act of 1934, as amended. They are used at the point where services provided to the program are implemented, or are about to be implemented, and are a necessary prerequisite to the distribution of payments under the program. The forms ensure that congressional mandates regarding access to the Internet by minors are met.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–21002 Filed 8–23–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

August 19, 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 on 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 [October 25, 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: 3060–0957.

Title: Section 20.18(i) and (g), Requests for Waiver of Deadline on Location–Capable Handset Deployment, Fourth Memorandum Opinion and Order, CC Docket No. 94–102.

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: 2,500 respondents, 2,500 responses.

Estimated Time Per Response: 3 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154, 160, 251–254, 303 and 332.

Total Annual Burden: 7,500 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No questions of a confidential nature are asked.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the full three year clearance from them. There is no change to the reporting requirement. There is no change to the Commission's burden estimates.

The Commission's Fourth Memorandum Opinion and Order, FCC 00–326, CC Docket No. 94–102, sets forth guidelines for filing successful requests for waiver of E911 Phase II rules. Wireless carriers are instructed to submit waiver requests that are specific, focused and limited in scope, and with a clear path to compliance. A waiver request must specify the solutions considered and explain why none could be employed in a way that complies with Phase II rules. If deployment must be delayed, the carrier should specify the reason for the delay and provide a revised schedule.

The Commission will use the information submitted by petitioners to ensure that carriers comply with critical Phase II requirements in an orderly, timely, comprehensive fashion with no unnecessary delay.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–21004 Filed 8–23–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Approved by the Office of Management and Budget

August 18, 2010.

SUMMARY: The Federal Communications Commission has received Office of Management and Budget (OMB) approval for the following public information collection(s) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number, and no person is required to respond to a collection of information unless it displays a currently valid OMB control number. Comments concerning the accuracy of the burden estimate(s) and any suggestions for reducing the burden should be directed to the person listed in the "For Further Information Contact" section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0647.

OMB Approval Date: August 4, 2010.

OMB Expiration Date: August 31, 2013.

Title: Annual Survey of Cable Industry Prices.

Form Number: FCC Form 333.

Number of Respondents and Responses: 732 respondents and 732 responses.

Estimated Time per Response: 6 hours.

Frequency of Response: Annual Reporting Requirement.

Total Annual Burden: 4,392 hours.

Total Annual Cost: None.

Obligation to Respond: Mandatory. The statutory authority for this information collection is in Sections 4(i) and 623(k) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: If individual respondents to this survey wish to request confidential treatment of any data provided in connection with this survey, they can do so upon written request, in accordance with Sections 0.457 and 0.459 of the Commission's rules. To receive confidential treatment of their data, respondents need only describe the specific information they wish to protect and provide an explanation of why such confidential treatment is appropriate.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Cable Television Consumer Protection and Competition

Act of 1992 ("Cable Act") requires the Commission to publish annually a report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to effective competition and those that are not subject to effective competition. The Annual Cable Industry Price Survey is intended to collect the data needed to prepare that report. The data from these questions are needed to complete this report.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–21012 Filed 8–23–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTION GRANTED EARLY TERMINATION

ET date	Trans No.	ET req status	Party name
08–JUN–09	0090490	G	Occidental Petroleum Corporation.
		G	The Dow Chemical Company.
		G	The Dow Chemical Company.
09–JUN–09	20090496	G	Caisse Nationale des Caisses d'Epargne.
		G	CEBP SA.
		G	CEBP SA.
	20090498	G	Banque Federale des Banques Populaires.
		G	CEBP SA.
		G	CEBP SA.
10–JUN–09	20090477	G	AT&T Inc.
		G	Verizon Communications Inc.
		G	Newco LLC.
12–JUN–09	20090504	G	Clayton, Dubilier & Rice Fund VII, L.P.
		G	Hertz Global Holdings, Inc.
		G	Hertz Global Holdings, Inc.
16–JUN–09	20090511	G	Vista Equity Partners Fund III, L.P.
		G	SumTotal Systems, Inc.
		G	SumTotal Systems, Inc.
17–JUN–09	20090503	G	Carlyle Partners IV, L.P.
		G	Hertz Global Holdings, Inc.
		G	Hertz Global Holdings, Inc.
	20090514	G	Johnson & Johnson.
		G	Cougar Biotechnology, Inc.
		G	Cougar Biotechnology, Inc.
	20090515	G	OCM/GFI Power Opportunities Fund II, L.P.
		G	Robert David Sheehan, Jr.
		G	Sheehan Pipe Line Construction Company.
18–JUN–09 20090493		G	Novant Health, Inc.
		G	Prince William Health System.
		G	Prince William Health System.
	20090499	G	The Johns Hopkins Health System Corporation.
		G	Suburban Hospital Healthcare System, Inc.
		G	Suburban Hospital Healthcare System, Inc.
	20090527	G	Alternative Asset Management Acquisition Corp.
		G	Andrew Gumaer.
		G	Great American Group, LLC.
	20090528	G	Alternative Asset Management Acquisition Corp.
		G	Harvey M. Yellen.
		G	Great American Group, LLC.
19–JUN–09	20090486	G	Schering-Plough Corporation.
		G	Novartis AG.
		G	Novartis Pharma AG.
	20090487	G	Novartis AG.
		G	Schering-Plough Corporation.
		G	Schering-Plough Ltd.
23–JUN–09 20090532		G	S. Kumars Nationwide Ltd.
		G	Hartmarx Corporation.

TRANSACTION GRANTED EARLY TERMINATION—Continued

ET date	Trans No.	ET req status	Party name
	.....	G	Hartmarx Corporation.
25–JUN–09	20090505	G	Valline S.r.l.
	.....	G	Cornerstone Therapeutics Inc.
	.....	G	Cornerstone Therapeutics Inc.
	20090512	G	Sumitomo Metal Mining Co., Ltd.
	.....	G	Teck Resources Limited.
	.....	G	Teck-Pogo, Inc.
	20090526	G	Golden Gate Capital Opportunity Fund, L.P.
	.....	G	Aeon Co. Ltd.
	.....	G	J. Jill, LLC.
	.....	G	Birch Pond Realty Corporation.
26–JUN–09	20090537	G	Communications Infrastructure Investments, LLC.
	.....	G	FiberNet Telecom Group, Inc.
	.....	G	FiberNet Telecom Group, Inc.
	20090541	G	Aquiline Financial Services Fund L.P.
	.....	G	Swiss Reinsurance Company Ltd.
	.....	G	Conning & Company.
	.....	G	Conning Asset Management Limited.
	.....	G	Conning Asset Management (Europe) Limited.
29–JUN–09	20090492	G	John C. Malone.
	.....	G	Liberty Entertainment, Inc.
	.....	G	Liberty Entertainment, Inc.
02–JUL–09	20090502	G	EMC Corporation.
	.....	G	Data Domain, Inc.
	.....	G	Data Domain, Inc.
	20090506	G	NetApp, Inc.
	.....	G	Data Domain, Inc.
	.....	G	Data Domain, Inc.
06–JUL–09 20090543	.....	G	Golden Gate Capital Opportunity Fund, L.P.
	.....	G	SoftBrands, Inc.
	.....	G	SoftBrands, Inc.
	20090544	G	Nokia Corporation.
	.....	G	Nortel Networks Corporation.
	.....	G	Nortel Networks Corporation.
	20090545	G	SAIC, Inc.
	.....	G	R.W. Beck Group, Inc.
	.....	G	R.W. Beck Group, Inc.
	20090553	G	CCMP Capital Investors II, L.P.
	.....	G	Eddie Bauer Holdings, Inc.
	.....	G	Eddie Bauer Holdings, Inc.
07–JUL–09	20090539	G	Sageview Capital Master, L.P.
	.....	G	Gerresheimer AG.
	.....	G	Gerresheimer AG.

For Further Information Contact: Sandra M. Peay, Contact Representative; or Renee Hallman, Contact Representative, Federal Trade Commission Premerger, Notification Office, Bureau Of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2010–20814 Filed 8–23–10; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects:

Title: Office of Community Services (OCS) Community Economic Development (CED) and Job Opportunities for Low-Income Individuals (JOLI) Standard Reporting Format.

OMB No.: New Collection.

Description: The Office of Community Services (OCS) is collecting key information about projects funded through the Community Economic Development (CED) and Job Opportunities for Low-Income Individuals (JOLI) programs. The legislative requirement for these two programs is in Title IV of the Community Opportunities, Accountability and Training and Educational Services Act (COATS Human Services Reauthorization Act) of October 27, 1998, Public Law 105–285, section 680(b) as amended. The Performance Progress Report (PPR) is a new proposed reporting format that will collect information concerning the outcomes and management of CED and JOLI projects. OCS will use the data to critically review the overall design and effectiveness of each program.

The PPR will be administered to all active grantees of the CED and JOLI programs. Grantees will be required to use this reporting tool for their semiannual reports. The majority of the questions in this tool were adapted from

a previously approved questionnaire, Office of Management and Budget (OMB) Control Number: 0970–0317. Questions were also adapted to the OMB-approved reporting format of the PPR, specifically forms SF–PPR, SF–PPR–A, SF–PPR–B, and SF–PPR–E. Additional changes were made to improve the clarity and quality of the data and to eliminate unnecessary questions.

Respondents: Current CED and JOLI grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Questionnaire for current OCS–JOLI grantees	40	2	1.50	120
Questionnaire for current OCS–CED grantees	170	2	1.50	510
Estimated Total Annual Burden Hours				630

In compliance with the requirements of Section 506(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 Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@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.

Dated: August 18, 2010.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2010–20892 Filed 8–23–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Menthol Report Subcommittee of the Tobacco Products Scientific Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Menthol Report Subcommittee of the Tobacco Products Scientific 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 27, 2010, from 9 a.m. to 1 p.m.

Location: Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373.

Contact Person: Cristi Stark, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373 (choose option 4), email: *TPSAC@fda.hhs.gov* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 8732110002. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that 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 27, 2010, the subcommittee will receive a presentation and discuss the timelines and structure of the Tobacco Products Scientific Advisory Committee's required report to the Secretary of Health and Human Services regarding the impact of use of menthol in cigarettes on the public health.

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 September 17, 2010. Oral presentations from the public will be scheduled between approximately 10 a.m. and 11 a.m. on September 27, 2010. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before September 9, 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 September 10, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Cristi Stark at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 18, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–20953 Filed 8–23–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular Pathobiology and Hematology.

Date: September 14–15, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ai-Ping Zou, MD, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–435–1777, *zouai@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Bioengineering Sciences and Technologies.

Date: September 22, 2010.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Raymond Jacobson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5858, MSC 7849, Bethesda, MD 20892, 301–996–7702, *jacobsonrh@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Biomarkers Study Section.

Date: October 4–5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Lawrence Ka-Yun Ng, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–435–1719, *ngkl@csr.nih.gov*.

Name of Committee: Oncology 1–Basic Translational Integrated Review Group; Tumor Cell Biology Study Section.

Date: October 4–5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Angela Y Ng, PhD, MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817) Bethesda, MD 20892, 301–435–1715, *ngan@mail.nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Cellular and Molecular Biology of the Kidney Study Section.

Date: October 4–5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bonnie L. Burgess-Beusse, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.

Date: October 4–5, 2010.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Harbor Magic-Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202.

Contact Person: Maribeth Champoux, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.

Date: October 4–5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Rass M. Shayiq, PhD, Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Somatosensory and Chemosensory Systems Study Section.

Date: October 5–6, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: M Catherine Bennett, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Sensorimotor Integration Study Section.

Date: October 5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: John Bishop, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopjo@mail.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Cognitive Neuroscience Study Section.

Date: October 5, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Edwin C Clayton, PhD, Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, 301–408–9041, *claytone@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Genomics, Computational Biology and Technology Study Section.

Date: October 5–6, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Barbara J Thomas, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2218, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.

Date: October 5–6, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Baltimore Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

Contact Person: Kathryn M Koeller, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Bacterial Pathogenesis Study Section.

Date: October 5, 2010

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont San Francisco Hotel, 950 Mason Street, San Francisco, CA 94108.

Contact Person: Richard G Kostriken, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, (301) 402–4454, *kostrikr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–09–016: Innovation in Molecular Imaging Probes.

Date: October 5, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Eileen W Bradley, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 18, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–20963 Filed 8–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Advisory Neurological Disorders and Stroke Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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 materials, 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 Advisory Neurological Disorders and Stroke Council; Clinical Trials Subcommittee.

Date: September 22–23, 2010.

Closed: September 22, 2010, 8 p.m. to 9:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Open: September 23, 2010, 8 a.m. to 9:30 a.m.

Agenda: To discuss clinical trials policy.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Contact Person: Petra Kaufmann, MD, Director, Office of Clinical Research, NINDS, National Institutes of Health, Neuroscience Center, Room 2216, 6001 Executive Blvd., (301) 496–9135, *Kaufmanp2@ninds.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.ninds.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: August 18, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–20962 Filed 8–23–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

Land and Water Conservation Fund Description and Notification, Performance Reports, Agreements and Amendments, On-site Inspection Reports, and Conversion of Use Provisions

AGENCY: National Park Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, we (National Park Service, NPS) have sent five interrelated Information Collection Requests (ICRs) to OMB for renewal (OMB Control Numbers 1024–0031, 1024–0032, 1024–0033, 1024–0034, and 1024–0047). We summarize each ICR below and describe the nature of the collection and the estimated burden. These ICRs are scheduled to expire on August 31, 2010. We 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. However, under OMB regulations, we may continue to conduct or sponsor these information collections while they are pending at OMB.

DATES: Submit comments on any or all of these ICRs on or before September 23, 2010.

ADDRESSES: Send your comments and suggestions on these ICRs to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_DOCKET@OMB.eop.gov* (e-mail). Please provide a copy of your comments to Cartina Miller, Information Collection

Clearance Officer, National Park Service, at 202–371–2049 (fax) or *Cartina_Miller@nps.gov* (e-mail). Please specify the appropriate OMB control number(s) in the subject line of your comment.

FOR FURTHER INFORMATION CONTACT: Laurie Heupel, Outdoor Recreation Planner, State and Local Assistance Programs, National Park Service, 1849 C Street, NW., Mail Stop 2225, Washington, DC 20240 (mail) or 202–371–5179 (fax). You are entitled to a copy of the ICR packages free of charge.

SUPPLEMENTARY INFORMATION: The Land and Water Conservation Fund Act of 1965 (LWCF Act) (16 U.S.C 4601–4 *et seq.*) was enacted to help preserve, develop, and ensure access to outdoor recreation facilities. The LWCF Act provides funds for and authorizes Federal assistance to the States for planning, acquisition, and development of needed land and water areas and facilities. In accordance with the LWCF Act, we administer the LWCF State Assistance Program, which provides matching grants to States, and through the States to local units of government. As used in these ICRs, the term "States" includes the 50 States; the Commonwealths of Puerto Rico and the Northern Mariana Islands; the District of Columbia; and the territories of Guam, the U.S. Virgin Islands, and American Samoa.

The LWCF State Assistance Program gives maximum flexibility and responsibility to the States. States establish their own priorities and criteria and award their grant money through a competitive selection process based on a Statewide recreation plan. Local units of government participate in the program as subgrantees of the State with the State retaining primary grant compliance responsibility.

We are seeking renewal of the following information collections for this program:

1. Description and Notification Form

Title: Land and Water Conservation Fund Description and Notification Form.

OMB Control Number: 1024–0031.

Service Form Numbers: 10–903.

Type of Request: Extension of a currently approved collection of information.

Brief Description of Collection: The Description and Notification Form (DNF), NPS 10–903, captures information about Land and Water Conservation Fund grants and the parks and recreation areas assisted through approval of a new grant, an amendment to an existing grant, or a Conversion of Use Provisions request. The DNF becomes part of the official project agreement.

Affected Public: States.

Obligation to Respond: Required to obtain or retain a benefit.

Frequency of Response: On occasion.

Estimated Total Annual Responses: 448.

Estimated Completion Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 448.

2. Program Performance Report

Title: Land and Water Conservation Fund Program Performance Reports.

OMB Control Number: 1024–0032.

Type of Request: Extension of a currently approved collection of information.

Brief Description of Collection: States must submit performance reports that describe the status of the work required under the project agreement and other pertinent information. Performance reports may be combined with the on-site inspection reports approved under OMB Control No. 1024–0034. We use this information to determine that adequate progress is being made for completing projects as agreed.

Affected Public: States.

Obligation to Respond: Required to obtain or retain a benefit.

Frequency of Response: On occasion.

Estimated Total Annual Responses: 672.

Estimated Completion Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 672.

3. Project Agreements and Amendments

Title: Land and Water Conservation Fund Project Agreement and Amendment.

OMB Control Number: 1024–0033.

Service Form Numbers: 10–902 and 10–902A.

Type of Request: Extension of a currently approved collection of information.

Brief Description of Collection: To receive financial assistance, States must complete and sign the LWCF Project Agreement. We use this information to document the obligations assumed by the State through its acceptance of Federal assistance. This agreement also obligates the Federal government to provide grants up to the designated amount for eligible costs. To alter an agreement, States must complete and sign the Amendment to Project Agreement.

Affected Public: States.

Obligation to Respond: Required to obtain or retain a benefit.

Frequency of Response: On occasion.

Estimated Total Annual Responses: 448 (224 for each form).

Estimated Completion Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 1,344.

4. On-Site Inspection Reports

Title: Land and Water Conservation Fund On-Site Inspection Reports.

OMB Control Number: 1024–0034.

Type of Request: Extension of a currently approved collection of information.

Brief Description of Collection: On-site inspections of funded sites are required so that we can (1) determine a project's eligibility to receive LWCF assistance, (2) monitor the performance of grantees, and (3) ensure compliance with all applicable requirements and regulations.

Affected Public: States.

Obligation to Respond: Required to obtain or retain a benefit.

Frequency of Response: On occasion.

Estimated Total Annual Responses: 5,992.

Estimated Completion Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 2,996.

5. Conversion of Use Provisions Request

Title: Land and Water Conservation Fund Conversion of Use Provisions, 36 CFR 59.

OMB Control Number: 1024–0047.

Type of Request: Extension of a currently approved collection of information.

Brief Description of Collection: In accordance with section 6(f)(3) of the LWCF Act and as codified in 36 CFR part 59, no lands acquired or developed with LWCF funds can be converted to other than public outdoor recreation uses unless the NPS approves the conversion in advance. The basis for this information collection is the narrative and supporting documentation necessary to ensure that a conversion of use meets the requirements of the LWCF Act.

Affected Public: States.

Obligation to Respond: Required to obtain or retain a benefit.

Frequency of Response: On occasion.

Estimated Total Annual Responses: 50.

Estimated Completion Time per Response: 35 hours.

Estimated Total Annual Burden Hours: 1,750.

We published the following notices in the **Federal Register** announcing our intention to renew these ICRs and soliciting public comments for 60 days:

• OMB Control No. 1024–0031—notice published on March 24, 2010 (75 FR 14181) with public comment period open through May 24, 2010. We did not receive any comments.

• OMB Control No. 1024–0032—notice published on April 14, 2010 (75 FR 19419) with public comment period open through June 14, 2010. We did not receive any comments.

• OMB Control No. 1024–0033—notice published on April 14, 2010 (75 FR 19419) with public comment period open through June 14, 2010. We did not receive any comments.

• OMB Control No. 1024–0034—notice published on March 15, 2010 (75 FR 12253) with public comment period open through May 14, 2010. We received one comment. The commenter expressed concern that the report is negligent in design and does not protect taxpayers' money and that the program is a waste of money that accomplishes nothing for the good of the American people.

Response: On-site inspection reports are one of the methods we use to determine a project's eligibility to receive LWCF assistance, to monitor the performance of grantees, and to ensure compliance with all requirements and regulations. There is no standard report format. The State develops the on-site inspection report considering issues applicable to the specific project. An agreement negotiated between the NPS and the State covers the scope, timing, and selectivity of the inspections. If we discover that grant funds are being used improperly or the terms of the grant agreement are not being followed, we can withhold the State's LWCF funding. In addition, if anyone believes that a State's report may be incorrect or flawed, he or she should contact the appropriate NPS Regional Office.

Under the Land and Water Conservation Fund grants program, we have approved over 40,000 projects to support acquisition of open space for park lands or the development of outdoor recreation facilities in every geographic region of the United States, in every county, and in almost all localities. Seventy-five percent of the total funds obligated have gone to locally sponsored projects to provide close-to-home recreation opportunities that are readily accessible to America's youth, adults, senior citizens, and the physically or mentally challenged. In addition to thousands of small recreation areas, grants have helped to acquire and develop new parks of Statewide or national significance.

• OMB Control No. 1024–0047—notice published on April 19, 2010 (75 FR 20374) with public comment period open through June 18, 2010. We received one comment. The commenter stated that the public should have an opportunity to comment on a State's request to convert LWCF-assisted land to other than public outdoor recreational use.

Response: While there is no requirement for a State to seek public comment on a conversion of use request, the regulations at 36 CFR part 59 do require that such requests be in accord with the Statewide Comprehensive Outdoor Recreation Plan (SCORP). Before receiving LWCF grants, States must develop a SCORP and revise it at least every 5 years. The Land and Water Conservation Fund Act of 1965 requires that States provide ample opportunity for public participation during SCORP development and revision. The Governor of the State must certify that this opportunity has been afforded, and the State must send the results of public meetings and a summary of the public comments to NPS with the SCORP.

We again invite comments on: (1) The practical utility of the information being gathered; (2) the accuracy of the burden hour estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden to respondents, including the use of automated information collection techniques or other forms of information technology. Before including your address, phone number, e-mail, 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: August 19, 2010.

Cartina Miller,

NPS Information Collection Officer.

[FR Doc. 2010–21041 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2010–N181; 60120–1113–0000–D2]

Endangered and Threatened Wildlife and Plants; Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permits.

SUMMARY: We announce our receipt of applications to conduct certain activities pertaining to enhancement of survival of endangered species. The Endangered Species Act requires that we invite public comment on these permit applications.

DATES: Written comments on this request for a permit must be received by September 23, 2010.

ADDRESSES: Submit written data or comments to the Assistant Regional Director—Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225–0486; facsimile 303–236–0027.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal indentifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Document Availability

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552), by any party who submits a request for a copy of such documents within 30 days of the date of publication of this notice to Kris Olsen, by mail (see **ADDRESSES**) or by telephone at 303–236–4256. All comments we receive from individuals become part of the official public record.

Applications

The following applicants have requested issuance of enhancement of survival permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Applicant: James Karpowitz, Utah Division of Wildlife Resources, Ogden, Utah, TE–047266. The applicant requests a permit amendment to add reintroduction of black-footed ferrets (*Mustela nigripes*) to their permit in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Applicant: Julia Auckland, Denver, Colorado, TE–08836A. The applicant requests a permit to take Southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with recovery activities throughout the species' range for the purpose of enhancing its survival and recovery.

Dated: August 12, 2010.

Sharon Rose,

Acting Regional Director, Denver, Colorado.

[FR Doc. 2010–20945 Filed 8–23–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Extension of Concession Contract

AGENCY: National Park Service, Interior.

ACTION: Public notice.

DATES: *Effective Date:* January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Jo A. Pendry, Chief, Commercial Services Program, National Park Service, 1201 Eye Street, NW., 11th Floor, Washington, DC 20005, Telephone 202/513–7156.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the National Park Service proposes to extend the following concession contract for a period of two years through December 31, 2014.

SUPPLEMENTARY INFORMATION: The listed concession authorization will expire by its terms on December 31, 2012. The National Park Service has determined that the proposed short-term extension is necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption.

Conc ID No.	Concessioner name	Park
DENA001–03	Doyon/ARAMARK Denali National Park Concession Joint Venture	Denali National Park.

FOR FURTHER INFORMATION CONTACT: Jo A. Pendry, Chief, Commercial Services Program, National Park Service, 1201 Eye Street, NW., 11th Floor, Washington, DC 20005, Telephone 202/513–7156.

Dated: July 26, 2010.

Heidi M. Ernst,

Acting Associate Director, Business Services.

[FR Doc. 2010–21038 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Field Museum of Natural History, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Field Museum of Natural History (Field Museum), Chicago, IL, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 12 cultural items are 1 stone pestle, 1 camas digging stick handle, 2 bone awls, 2 triangular points, 4 arrow points, 1 stone point or knife, and 1 obsidian point or knife. In 1901, Dr. Merton Miller removed the 12 cultural items from locations along the Columbia Rim or the banks of the Columbia River, near Umatilla, OR, for the Field Museum of Natural History. The items were accessioned into the collections of the Field Museum of Natural History that same year.

According to Field Museum of Natural History records, the stone pestle was a surface find, collected along the Columbia River at Umatilla. The stone pestle (Field Museum catalog number 69202) consists of a stone nipple top maul with red ocher on the surface, and measures 16.3 cm x 5.8 cm.

According to museum records, the camas digging stick handle was removed from a Native American grave located along the Columbia Rim at Umatilla. The camas digging stick handle (Field Museum catalog number 69267) is most likely made from elk antler, and measures 26.6 cm x 4.3 cm.

According to museum records, the two triangular flint points, four stone arrow points, two bone awls, stone point or knife, and obsidian point or knife were each removed from Native American graves located along the Columbia River at Umatilla. None of the associated human remains are in the control or possession of the Field Museum of Natural History. The two triangular points are made of flint (Field Museum catalog number 69273.1 and 69273.2). The first point measures 5.3 cm x 3.5 cm and the second point measures 3.3 cm x 2.6 cm. The four arrow points (Field Museum catalog number 69274) are made of stone, two are stemmed and the remaining two have side notching. The stemmed arrow points measure 2.4 cm x 1.3 cm and 2.4 cm x 1.6 cm. The side notched arrow points measure 2.5 cm x 1.4 cm and 2.7 cm x 1.2 cm. One bone awl (Field Museum catalog number 69275) is bleached and has a broken tip, and measures 14.8 cm x 2.5 cm. The second awl (Field Museum catalog number 69277) is made of highly polished bone, and measures 13.1 cm x .4 cm. The stone point or knife (Field Museum catalog number 69278) has slightly rounded edges, and measures 8.8 cm x 3.4 cm. The obsidian point or knife (Field Museum catalog number 69279) has slightly curving sides and a notched base, and measures 7.1 cm x 2.6 cm.

The cultural affiliation of the cultural items is to the Umatilla, as indicated through museum records, scholarly publications, and consultation information provided by representatives of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-federally recognized Indian group.

Officials of the Field Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001(3)(B), the 12 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of a death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Field Museum of Natural History also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared

group identity that can be reasonably traced between the unassociated funerary objects and the Confederated Tribes of the Umatilla Indian Reservation, Oregon.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 S. Lake Shore Dr., Chicago, IL 60605, telephone (312) 665–7317, before September 23, 2010. Repatriation of the unassociated funerary objects to the Confederated Tribes of the Umatilla Indian Reservation, Oregon, may proceed after that date if no additional claimants come forward.

The Field Museum is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and the Nez Perce Tribe, Idaho, that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20951 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: University of Montana, Missoula, MT

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the University of Montana, Missoula, MT, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

In 1972, human remains representing a minimum of one individual were removed from a site along the upper Rattlesnake Creek in Missoula County, MT. The human remains were described in a Notice of Inventory Completion published in the **Federal Register** (68 FR 50187–50189, August 20, 2003), and subsequently repatriated to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana. In July 2009, the funerary objects associated with the individual were discovered in the collection. The funerary objects were not curated or accessioned with the human remains, and therefore, were not previously identified. Since the individual is no longer in the possession of the university, the funerary objects are now considered unassociated funerary objects. The 17 unassociated funerary objects are 13 animal rib bones (some fragmentary), 1 bird bone whistle, 1 large chert flake, 1 small unifacial chert tool and 1 drill with a broken tip.

The site is in Rattlesnake Valley and was occupied prehistorically and historically by the Salish and Kootenai tribes. Additionally, a tribal representative has identified Missoula County, MT, as part of the Confederated Salish & Kootenai Tribes traditional occupation area.

Officials of the University of Montana have determined that, pursuant to 25 U.S.C. 3001(3)(B), the 17 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American. Officials of the University of Montana also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact John Douglas, Chair and Professor, Department of Anthropology, University of Montana, 32 Campus Dr., Missoula, MT 39812, telephone (406) 243–4246, before September 23, 2010. Repatriation of the unassociated funerary objects to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana, may proceed after that date if no additional claimants come forward.

The University of Montana is responsible for notifying the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana, that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20942 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Cherokee National Forest, Cleveland, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of Agriculture, Forest Service, Cherokee National Forest, Cleveland, TN. The human remains and associated funerary objects were removed from Washington County, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Georgia State University professional staff. Analysis of associated funerary objects was made by University of Tennessee and University of Georgia professional staff.

In 1978, human remains representing a minimum of 36 individuals were removed from the Jackson Farm site (40Wg17), Washington County, TN, by the late Dr. Roy Dickens of the University of Georgia (later University of North Carolina, Chapel Hill). In approximately 1980, Dr. Dickens transferred the human remains to the late Dr. R.L. Blakely of Georgia State University. The associated funerary objects, including shell beads and shell gorgets, stone and bone tools, ornaments, trade beads and metal trade objects were also excavated from these burials and were documented in reports generated in the 1980s by University of Tennessee and University of Georgia professional staff. However, no official

count of the associated funerary objects was done for reporting purposes. No known individuals were identified. An unknown number of associated funerary objects were present.

Analysis in the 1980s of the human remains and the associated funerary objects, and other artifacts excavated from 40Wg17, indicate these human remains are affiliated with the prehistoric/protohistoric Pisgah (A.D. 1250–1500) and the protohistoric/early historic Qualla (A.D. 1500–1800) archeological phases. The Pisgah and Qualla archeological phases are associated with the Cherokee Tribes. The Cherokee are represented by the Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Officials of the Forest Service have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of 36 individuals of Native American ancestry. Officials of the Forest Service also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Forest Service have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Cherokee Nation of Oklahoma, Eastern Band of Cherokee Indians of North Carolina, and the United Keetoowah Band of Cherokee Indians in Oklahoma.

In the early 1990s, these human remains and associated funerary objects were repatriated to the Eastern Band of Cherokee Indians of North Carolina. Questions or concerns related to the repatriation of the human remains and/or associated funerary objects described in this notice or representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact H. Thomas Speaks, Forest Supervisor, Cherokee National Forest Service, USDA Forest Service, 2800 N. Ocoee St., Cleveland, TN 37312, telephone (423) 476–9700, before September 23, 2010.

The Forest Service is responsible for notifying the Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; and the United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20938 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Colorado Museum, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the University of Colorado Museum, Boulder, CO. The human remains were removed from Boulder County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the University of Colorado Museum professional staff in consultation with representatives of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

On an unknown date, human remains representing a minimum of two individuals were removed from Boulder County, CO, by an unknown individual. In the early 1990s, the University of Colorado, Boulder Department of Anthropology transferred them to the Museum for NAGPRA compliance. No known individuals were identified. The two associated funerary objects are fragments of historic clothing.

The human remains are Native American based on the decision of the Department of Anthropology to transfer them to the museum for the purpose of NAGPRA compliance, the lack of biological evidence to support a determination the remains are not Native American, and the collecting history of the Department of Anthropology. The remains date to the post European contact period based on the associated funerary objects.

Officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the University of Colorado Museum also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the two objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot reasonably be traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. In October 2009, the University of Colorado Museum requested that the Review Committee recommend disposition of the culturally unidentifiable human remains and associated funerary objects to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, based on aboriginal land claims supported by oral tradition, as well as the support of the other Indian tribes consulted. The Comanche Nation, Oklahoma, and Pawnee Nation of Oklahoma, signed the disposition agreement in support of the disposition to the tribe requesting disposition. None

of the Indian tribes consulted objected to the determination of the "culturally unidentifiable" status by the University of Colorado Museum and the disposition to Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

The Review Committee considered the proposal at its October 30–31, 2009, meeting and recommended disposition of the human remains and associated funerary objects to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah. The Secretary of the Interior agreed with the Review Committee's recommendation. An April 19, 2010, letter from the Designated Federal Officer, writing on behalf of the Secretary of the Interior, transmitted the authorization for the University of Colorado Museum to effect disposition of the physical remains of the culturally unidentifiable individuals to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement. In the same letter, the Secretary recommended the transfer of the associated funerary objects to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, to the extent allowed by Federal, state, or local law.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Steve Lekson, Curator of Anthropology, University of Colorado Museum, in care of Jan Bernstein, NAGPRA Consultant, Bernstein & Associates, 1041 Lafayette St., Denver, CO 80218, telephone (303) 894–0648, before September 23, 2010. Disposition of the human remains and associated funerary objects to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, may proceed after that date if no additional claimants come forward.

The University of Colorado Museum is responsible for notifying the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes, Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20939 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Texas Parks and Wildlife Department, Austin, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Texas Parks and Wildlife Department, Austin, TX. The human remains and associated funerary objects were removed from El Paso County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Texas Parks and Wildlife Department professional staff in consultation with representatives of the Comanche Nation, Oklahoma; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Isleta, New Mexico; and the Ysleta Del Sur Pueblo of Texas.

In 1972, human remains representing a minimum of four individuals were removed from House 2, Hueco Tanks Village, Hueco Tanks State Park and Historic Site, El Paso County, TX, during an archeological excavation. The excavation was done under the direction of George Kegley, archeologist, Texas Parks and Wildlife Department. The human remains were inventoried as Burials 1 to 4. No known individuals were identified. The nine associated funerary objects are one bone awl, three bags of debitage, three bags of ceramic shreds, one piece of adobe-like material and one rock.

Based on the burial context and their association with House 2 at Hueco Tanks Village, archeological evidence indicates that they are Native American and were probably interred during the Doña Ana phase, between A.D. 1000 and 1300.

In August 1979, human remains representing a minimum of one individual were removed from Hueco Tanks State Park and Historic Site, El Paso County, TX. The human remains were found partially exposed by park visitors. Later that same month, the remains were removed by George Kegley, archeologist, Texas Parks and Wildlife Department. The human remains were inventoried as "Burial 5." No known individual was identified. The 21 associated funerary objects are 7 pottery sherds, 1 obsidian projectile point, 9 chipped stone debitage and 4 rocks.

The ceramics recovered from the sediment around the burial indicate to archeologists that this grave dates to the Formative period (A.D. 200 to 1450), even though it includes a Late Archaic dart point.

In May 1982, human remains representing a minimum of one individual were removed from the wall of a deep arroyo, Hueco Tanks State Park and Historic Site, El Paso County, TX, by a park visitor. The human remains were inventoried as "Burial 6." No known individual was identified. The two associated funerary objects are one projectile point and one lot of sherds.

The point was found in the rib area of the individual and the El Paso Brownware sherds were recovered from sediment above the grave, therefore, archeologists date the grave to the Archaic period (6000 B.C. to A.D. 200) or the Formative period (A.D. 200 to 1450) (Ralph 1997:105, 107).

In July 1982, human remains representing a minimum of one individual were removed from the wall of a deep arroyo, Hueco Tanks State Park and Historic Site, El Paso County, TX, by Ron Ralph. The human remains were inventoried as "Burial 7." No known individual was identified. The 10 associated funerary objects are 7

chipped stone flakes, 2 sherds and 1 lead shotgun pellet.

Artifacts in the sediment around the burial indicate that this grave dates to the Formative period, between A.D. 200 and 1450. The shotgun pellet was probably introduced into sediments around the burial accidentally in recent times, but is considered to be a funerary object based on tribal consultation.

In November 1991, human remains representing a minimum of one individual were removed from a narrow ledge in Hueco Tanks State Park and Historic Site, El Paso County, TX, by rock climbers. No known individual was identified. The human remains were inventoried as "Burial 8." The 54 associated funerary objects are 9 shell disk beads and 1 pot, which contains 44 shell beads.

The type of vessel is known as a culinary shoe pot, and American Southwest archeologists generally date these vessels between A.D. 1250 and 1700. Similar cooking pots continue to be used today by native groups in Central and South America (Dixon 1963:594–596, 606).

At an unknown date, human remains representing a minimum of one individual were removed from locality CA7, in Hueco Tanks State Park and Historic Site, El Paso County, TX, by a park visitor. The human remains were inventoried as "Burial 9." No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from locality ES3, in Hueco Tanks State Park and Historic Site, El Paso County, TX, by park staff. The human remains were inventoried as "Burial 10." No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from House 3, Hueco Tanks Village, in Hueco Tanks State Park and Historic Site, El Paso County, TX. The human remains were inventoried as "Burial 11." The burial dates to the Doña Ana phase (A.D. 1000 to 1300). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from House 4, Hueco Tanks Village, in Hueco Tanks State Park and Historic Site, El Paso County, TX. The human remains were inventoried as "Burial 12." The burial dates to the Doña Ana phase (A.D. 1000 to 1300). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed Hueco Tanks Village, in Hueco Tanks State Park and Historic Site, El Paso County, TX. The human remains were inventoried as "Burial 13." No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from the Hueco Tanks Village, in Hueco Tanks State Park and Historic Site, El Paso County, TX. The human remains were inventoried as "Burial 14." Burial 14 has no specific provenience, but it was likely removed from the Hueco Tanks Village site since it was found in the site collection. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from Hueco Tanks State Park and Historic Site, El Paso County, TX. The human remains were inventoried as "Burial 15." Burial 15 has no specific provenience, but was found in the site collection. No known individual was identified. No associated funerary objects are present.

The human remains and associated funerary objects described above are culturally affiliated with the Comanche Nation, Oklahoma; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Isleta, New Mexico; and the Ysleta Del Sur Pueblo of Texas. The determination of the cultural affiliation of the human remains and associated funerary objects described above was based upon oral tradition, archeological context, osteological evidence, and artifacts. In addition, primary information sources, such as accession and catalog records and consultation with Indian tribal officials and traditional religious leaders, support this finding of cultural affiliation.

Officials of the Texas Parks and Wildlife Department have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of 15 individuals of Native American ancestry. Officials of the Texas Parks and Wildlife Department also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the 96 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Texas Parks and Wildlife Department have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Comanche Nation, Oklahoma; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Isleta, New Mexico; and the Ysleta Del Sur Pueblo of Texas.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Aina Dodge, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, TX 78744, telephone (512) 389–4876, before September 23, 2010. Repatriation of the human remains and/or associated funerary objects to the Comanche Nation, Oklahoma; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Isleta, New Mexico; and the Ysleta Del Sur Pueblo of Texas, may proceed after that date if no additional claimants come forward.

The Texas Parks and Wildlife Department is responsible for notifying the Comanche Nation, Oklahoma; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Isleta, New Mexico; and the Ysleta Del Sur Pueblo of Texas, that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20941 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Arizona State Museum, University of Arizona, Tucson, AZ. The human remains and associated funerary

objects were removed from sites within the boundaries of the Fort Apache Indian Reservation, Gila County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Arizona State Museum professional staff in consultation with representatives of the Hopi Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico.

In 1978, human remains representing a minimum of 65 individuals were removed from Spotted Mountain Ruin, AZ V:2:3(ASM), Gila County, AZ, during legally authorized salvage activities conducted by the University of Arizona Archaeological Field School under the direction of Madeleine Hinkes. The site had previously been extensively vandalized, and the objective of the University of Arizona archeologists was to recover all the human remains and associated funerary objects which had been disturbed. The collections were accessioned by the Arizona State Museum in 1978. No known individuals were identified. The 179 associated funerary objects are 155 ceramic sherds, 3 ceramic vessels, 1 stone drill, 14 stone projectile points, 1 stone drill base, 1 shell fragment, 1 stone core and 3 pieces of flaked stone.

The Spotted Mountain Ruin is a pueblo site with at least 80 rooms and an associated plaza. The architectural forms and ceramic types indicate that the village was occupied during the period A.D. 1275–1400. These characteristics are consistent with the archeologically described Upland Mogollon or prehistoric Western Pueblo traditions.

In 1971, fragmentary human remains representing a minimum of four individuals were removed from the August 13th Site, AZ V:2:9(ASM), Gila County, AZ, during a legally authorized survey conducted by the University of Arizona Archaeological Field School under the direction of William Longacre. The site had previously been vandalized, and the objective of the University of Arizona survey was to recover all the human remains which had been disturbed. The collections were accessioned by the Arizona State Museum in 1971. No known individuals were identified. No associated funerary objects are present.

The site was described in field notes as a pueblo of at least 200 rooms. It is probable that this site is actually the same locality as the Blue House Mountain Site, AZ V:2:13(ASM). The architectural forms and ceramic types indicate that the village was occupied during the period A.D. 1275–1400. These characteristics are consistent with the archeologically described Upland Mogollon or prehistoric Western Pueblo traditions.

In 1979, fragmentary human remains representing a minimum of three individuals were removed from the Blue House Mountain Site, AZ V:2:13(ASM), Gila County, AZ, during a legally authorized survey conducted by the University of Arizona Archaeological Field School under the direction of Madeleine Hinkes. A report prepared by Madeleine Hinkes describes the presence of 20 to 30 unauthorized excavations and scattered bone at this site, but does not state whether or not the bone was collected during her survey. There is no record in Arizona State Museum files regarding the accession of these human remains. However, the container in which the human remains were found is labeled July 8, 1979. No known individuals were identified. No associated funerary objects are present.

The Blue House Mountain Site is a 140 room pueblo. The architectural forms and ceramic types indicate that the village was occupied during the period A.D. 1275–1400. These characteristics are consistent with the archeologically described Upland Mogollon or prehistoric Western Pueblo traditions.

On an unknown date, fragmentary human remains representing a minimum of one individual were removed from the T–20 Site, AZ V:2:14(ASM), Gila County, AZ. It is possible that the human remains were collected in 1979, at the same time that nearby sites were visited during legally authorized surveys conducted by the University of Arizona Archaeological Field School under the direction of Madeleine Hinkes. There is no record in Arizona State Museum files regarding the accession of these human remains, but the fact that they were found in the same storage location as the human remains from site AZ V:2:13(ASM) suggests that they were brought to the museum at the same time. No known individual was identified. The one associated funerary object is a chert flake.

The T–20 Site has been dated to the period A.D. 900–1000, based on the types of ceramics present on the ground surface and surface indications of pithouse architecture. These characteristics indicate that the occupation of the site is likely related to an early phase of the archeologically described Upland Mogollon or prehistoric Western Pueblo traditions.

On an unknown date, fragmentary human remains representing a minimum of four individuals were removed from Canyon Butte Pueblo, AZ V:2:49(ASM), Gila County, AZ. It is probable that the human remains were collected in 1979 during legally authorized surveys conducted by the University of Arizona Archaeological Field School under the direction of Madeleine Hinkes. A report prepared by Madeleine Hinkes describes the presence of five unauthorized excavations with a scatter of human and non-human bone at this site, but does not state whether or not the bone was collected during her survey. There is no record in Arizona State Museum files regarding the accession of these human remains, but the fact that they were found in the same storage location as the human remains from site AZ V:2:13(ASM) suggests that they were brought to the museum at the same time as that collection. No known individuals were identified. No associated funerary objects are present.

Canyon Butte Pueblo is an L-shaped masonry building of 40 to 65 rooms, with a walled plaza. The architectural forms and ceramic types indicate that the village was occupied during the period A.D. 1275–1400. These characteristics are consistent with the archeologically described Upland Mogollon or prehistoric Western Pueblo traditions.

A detailed discussion of the basis for cultural affiliation of archeological sites in the region where the above sites are located may be found in "Cultural Affiliation Assessment of White Mountain Apache Tribal Lands (Fort Apache Indian Reservation)," by John R. Welch and T.J. Ferguson (2005). The results of their assessment may be summarized as follows. Archeologists have used the terms Upland Mogollon or prehistoric Western Pueblo to define the archeological complexes represented by the five sites listed above. Material culture characteristics of these traditions include a temporal progression from earlier pit houses to later masonry pueblos, villages organized in room blocks of contiguous dwellings associated with plazas, rectangular kivas, polished and paint-decorated ceramics, unpainted

corrugated ceramics, inhumation burials, cradleboard cranial deformation, grooved stone axes and bone artifacts. The combination of the material culture attributes and a subsistence pattern that included hunting and gathering augmented by maize agriculture helps to recognize an identifiable earlier group. Archeologists have also remarked that there are strong similarities between this earlier group and present-day tribes included in the Western Pueblo ethnographic group, especially including the Hopi Tribe of Arizona and the Zuni Tribe of the Zuni Reservation, New Mexico. The similarities in ceramic traditions, burial practices, architectural forms and settlement patterns have led archeologists to believe that the prehistoric inhabitants of the Mogollon Rim region migrated north and west to the Hopi mesas, and north and east to the Zuni River Valley. Certain objects found in Upland Mogollon archeological sites have been found to have strong resemblances with ritual paraphernalia that are used in continuing religious practices by the Hopi and Zuni. Some petroglyphs on the Fort Apache Indian Reservation have also persuaded archeologists of continuities between the earlier identified group and current-day Western Pueblo people. Biological information from the site of Grasshopper Pueblo, which is located in close proximity to the five sites listed above, supports the view that the prehistoric occupants of the Upland Mogollon region had migrated from various locations to the north and west of the region.

The archeological evidence for migration is paralleled by Hopi and Zuni oral traditions. Migration figures prominently in Hopi oral tradition, which refers to the ancient sites, pottery, stone tools, petroglyphs and other artifacts left behind by the ancestors as "Hopi Footprints." This migration history is complex and detailed and includes traditions relating specific clans to the Mogollon region. Hopi cultural advisors have also identified medicinal and culinary plants at archeological sites in the region. Their knowledge about these plants was passed down to them from the ancestors who inhabited these ancient sites. Migration is also an important attribute of Zuni oral tradition and includes accounts of Zuni ancestors passing through the Upland Mogollon region. The ancient villages mark the routes of these migrations. Zuni cultural advisors remark that the ancient sites were not abandoned. People returned to these places from time to time, either to reoccupy them or for the purpose of religious pilgrimages — a practice that has continued to the present-day. Archeologists have found ceramic evidence at shrines in the Upland Mogollon region that confirms these reports. Zuni cultural advisors have names for plants endemic to the Mogollon region which do not grow on the Zuni Reservation. They also have knowledge about traditional medicinal and ceremonial uses for these resources, which has been passed down to them from their ancestors. Furthermore, Hopi and Zuni cultural advisors have recognized that their ancestors may have been co-resident at some of the sites in this region during their ancestral migrations.

There are differing points of view regarding the possible presence of Apache people in the Upland Mogollon region during the time that these ancient sites were occupied. Some Apache traditions describe interactions with Ancestral Pueblo people during this time, but according to these stories, Puebloan people and Apache people were regarded as having separate identities. The White Mountain Apache Tribe of the Fort Apache Reservation, Arizona, does not claim cultural affiliation with the human remains and associated funerary objects from these five ancestral Upland Mogollon sites. As reported by Welch and Ferguson (2005), consultations between the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona, and the Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; and Pueblo of Laguna, New Mexico, have indicated that that none of these tribes wish to pursue claims of affiliation with sites on White Mountain Apache Tribal lands. Finally, the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona, supports the repatriation of human remains and associated funerary objects from these five ancestral Upland Mogollon sites and is ready to assist the Hopi Tribe of Arizona and Zuni Tribe of the Zuni Reservation, New Mexico, in reburial on tribal land.

Officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of 77 individuals of Native American ancestry. Officials of the Bureau of Indian Affairs and Arizona State Museum also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the 180 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Hopi Tribe of Arizona and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact John McClelland, NAGPRA Coordinator, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 626-2950, before September 23, 2010. Repatriation of the human remains and associated funerary objects to the Hopi Tribe of Arizona and Zuni Tribe of the Zuni Reservation, New Mexico, may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Hopi Tribe of Arizona and Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20946 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Colorado Museum, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the University of Colorado Museum, Boulder, CO. The human remains were removed from Moffat County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the University of Colorado Museum professional staff in consultation with representatives of the Apache Tribe of Oklahoma; Bridgeport Paiute Indian Colony of California; Comanche Nation, Oklahoma; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Death Valley Timbi-Sha Shoshone Band of California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Ely Shoshone Tribe of Nevada; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kiowa Indian Tribe of Oklahoma; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Northwestern Band of the Shoshoni Nation of Utah (Washakie); Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, and Shivwits Band of Paiutes); Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Paiute Tribes of the Duck Valley Reservation, Nevada; Skull Valley Band of Goshute Indians, Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band); Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Winnemucca Indian Colony of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; Yomba Shoshone Tribe of the Yomba Reservation, Nevada; and Zuni Tribe of the Zuni Reservation, New Mexico.

Sometime from the late 1930s through the 1940s, human remains representing one individual were removed from Yampa Canyon, Moffat County, CO, by Charlie Mantle. No known individual was identified. No associated funerary objects are present.

In 1939 or 1940, human remains representing one individual were removed from Big Joe Draw, Yampa Canyon, Moffat County, CO, by Charlie Mantle. No known individual was identified. No associated funerary objects are present.

In both situations described above, field crews from the University of Colorado Department of Anthropology and the University of Colorado Museum conducted legally permitted excavations throughout much of Yampa Canyon during the late 1930s and throughout the 1940s. The expeditions were directed by Robert F. Burgh, Earl H. Morris, and Charles Scoggin. Much of this work occurred either within or close to present-day Dinosaur National Monument. However, catalogue records suggest that the human remains were given to the excavators by Charlie Mantle, a private property owner. Mantle's private land holdings were later added to Dinosaur National Monument. There is a clear gift agreement from Charlie Mantle to the museum. Based on biological evidence, Mr. Mantle's apparent extensive knowledge of the Native American sites on his land and his collecting interests, and the interests of the excavators, the human remains are reasonably believed to be Native American.

Officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of two individuals of Native American ancestry. Lastly, officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot reasonably be traced between the Native American human remains and any present-day Indian tribe.

The Native American Graves Protection and Repatriation Review Committee (Review Committee) is responsible for recommending specific actions for disposition of culturally unidentifiable human remains. In October 2009, the University of Colorado Museum requested that the Review Committee recommend disposition of the culturally unidentifiable human remains to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, based on Ute aboriginal land claims, supported by oral tradition, as well as the support of other Indian tribes that were consulted. The Comanche Nation, Oklahoma; Hopi Tribe of Arizona; and Susanville Indian Rancheria, California, signed the disposition agreement in support of the disposition to the Ute Mountain Tribe. Furthermore, none of the Indian tribes consulted objected to the determination of the "culturally unidentifiable" status by the University of Colorado Museum and the disposition to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

The Review Committee considered the proposal at its October 30–31, 2009, meeting and recommended the disposition of the human remains to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah. The Secretary of the Interior agreed with the Review Committee's recommendation. An April 19, 2010, letter from the Designated Federal Officer, writing on behalf of the Secretary of the Interior, transmitted the authorization for the University of Colorado Museum to effect disposition of the physical remains of the culturally unidentifiable individuals to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Steve Lekson, Curator of Anthropology, University of Colorado Museum, in care of Jan Bernstein, Bernstein & Associates, 1041 Lafayette St., Denver, CO 80218, telephone (303) 894–0648, before September 23, 2010. Disposition of the human remains to the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, may proceed after that date if no additional claimants come forward.

The University of Colorado Museum is responsible for notifying the Apache Tribe of Oklahoma; Bridgeport Paiute Indian Colony of California; Comanche Nation, Oklahoma; Confederated Tribes of the Goshute Reservation, Nevada and Utah; Death Valley Timbi-Sha Shoshone Band of California; Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada; Ely Shoshone Tribe of Nevada; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kiowa Indian Tribe of Oklahoma; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada;

Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Northwestern Band of the Shoshoni Nation of Utah (Washakie); Paiute Indian Tribe of Utah; Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California; Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; San Juan Southern Paiute Tribe of Arizona; Shoshone Tribe of the Wind River Reservation, Wyoming; Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho; Shoshone Paiute Tribes of the Duck Valley Reservation, Nevada; Skull Valley Band of Goshute Indians, Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Summit Lake Paiute Tribe of Nevada; Susanville Indian Rancheria, California; Te-Moak Tribe of Western Shoshone Indians of Nevada; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Walker River Paiute Tribe of the Walker River Reservation, Nevada; Winnemucca Indian Colony of Nevada; Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; Yomba Shoshone Tribe of the Yomba Reservation, Nevada; and Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20954 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: New York University College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the New York University College of Dentistry, New York, NY. The human remains were removed from Port Clarence, Nome County, AK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by New York University College of Dentistry professional staff in consultation with representatives of the Native Village of Brevig Mission and Native Village of Teller.

At an unknown date, human remains representing a minimum of one individual were removed from an unidentified site at Port Clarence, Nome County, AK, by an unknown individual. By 1924, the human remains were donated to the Museum of the American Indian, Heye Foundation by Mrs. George Heye. In 1956, the human remains were transferred to Dr. Theodore Kazamiroff, New York University College of Dentistry (NYUCD #334). No known individual was identified. No associated funerary objects are present.

Museum of the American Indian records list the origin of the human remains as Port Clarence, AK, which is located on the Seward Peninsula. The morphology of the human remains is consistent with Native American ancestry. In the late 19th century, Edward William Nelson, Smithsonian Institution naturalist, observed burials in the region. The human remains were placed in wooden boxes that were elevated onto poles. The boxes or poles were marked with totems to which tools or other necessary items were attached. The boxes were exposed and highly visible to collectors. Based on the preservation observed in excavations on the Seward Peninsula, it is likely that the human remains are associated with the Western Thule tradition, and postdate A.D. 1000.

In the Western Thule tradition, the people of the Seward Peninsula were highly localized, with differences in their lifeways based on the particular resources available in their territory. Localization may have occurred alongside the development of geopolitical boundaries. Port Clarence was focused on whaling, and was part of the Sinrarmiut or Port Clarence territory of Inupiaq speakers at the time of European contact. Today, the descendants of the people of Port Clarence are represented by the Native Villages of Brevig Mission and Teller. Both communities made seasonal use of Port Clarence in the 20th century, and tribal representatives have identified Port Clarence as part of their ancestral territory.

Officials of New York University College of Dentistry have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of New York University College of Dentistry also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Native Village of Brevig Mission and Native Village of Teller.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Louis Terracio, New York University College of Dentistry, 345 East 24th St., New York, NY 10010, telephone (212) 998–9917, before September 23, 2010. Repatriation of the human remains to the Native Village of Brevig Mission and Native Village of Teller may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry is responsible for notifying the Native Village of Brevig Mission and Native Village of Teller that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20950 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: New York University College of Dentistry, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the New York University College of Dentistry, New York, NY. The human remains were removed from an unknown location.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native

American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by New York University College of Dentistry professional staff in consultation with representatives of the Miccosukee Tribe of Indians of Florida, Seminole Nation of Oklahoma, and Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations).

At an unknown date, human remains representing a minimum of one individual were removed from an unknown location. The human remains were acquired by Dr. Joseph Jones of Louisiana at an unknown date. In 1906, the widow of Dr. Jones sold his collection to the Museum of the American Indian, Heye Foundation. In 1956, the Museum of the American Indian transferred the human remains to Dr. Theodore Kazamiroff, New York University College of Dentistry. No known individual was identified. No associated funerary objects are present.

Museum records indicate that the human remains are from an unknown location, and are the human remains of a Seminole individual whose last name was Tigertail. This name is a known surname among the Seminole. The identification of a surname and tribal affiliation indicates that the human remains date to post-Contact times. Although a surname is listed for the individual, lineal descendants could not be identified because the full name of the individual could not be determined. Despite the inability to determine lineal descendants, no information from the museum records, osteological assessment, or consultation conflicts with the identification of the human remains as "Seminole." During consultations, tribal representatives supported the identification of the human remains as Seminole. Today, descendants of the Seminole are members of the Miccosukee Tribe of Indians of Florida, Seminole Nation of Oklahoma, and Seminole Tribe of Florida.

Officials of New York University College of Dentistry have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of New York University College of Dentistry also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Miccosukee Tribe of Indians of Florida, Seminole Nation of Oklahoma, and Seminole Tribe of Florida.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Louis Terracio, New York University College of Dentistry, 345 East 24th St., New York, NY 10010, telephone (212) 998–9917, before September 23, 2010. Repatriation of the human remains to the Miccosukee Tribe of Indians of Florida, Seminole Nation of Oklahoma, and Seminole Tribe of Florida, may proceed after that date if no additional claimants come forward.

The New York University College of Dentistry is responsible for notifying the Miccosukee Tribe of Indians of Florida, Seminole Nation of Oklahoma, and Seminole Tribe of Florida, that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20949 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Field Museum of Natural History, Chicago, IL

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Field Museum of Natural History, Chicago, IL. The human remains and associated funerary objects were removed from near or in Umatilla County, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Field Museum of Natural History professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-federally recognized Indian group.

On an unknown date, human remains representing a minimum of one individual were removed from an island on the Columbia River, 10 miles south of Umatilla, near or in Umatilla County, OR. In 1896, the Field Museum of Natural History purchased these human remains from Joseph V. Tallman of Pendleton, OR (Field Museum of Natural History accession number 275, catalog number 40662). No known individuals were identified. No associated funerary objects are present.

In 1901, human remains representing a minimum of two individuals were removed from a location along the banks of the Columbia River, near Umatilla, near or in Umatilla County, OR, by Dr. Merton Miller for the Field Museum of Natural History (Field Museum of Natural History accession number 781, catalog number 40997). No known individual was identified. The five associated funerary objects are one chert scraper, one stone tool or blade, and three bone awls.

The human remains have been identified as Native American, based on the specific cultural and geographic attribution in Field Museum of Natural History records. Scholarly publications and consultation information provided by the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe, Idaho; and the Wanapum Band, a non-federally recognized Indian group, indicate that the areas where the human remains and associated funerary objects were found are located within the traditional lands of the Umatilla, Cayuse, and the Walla Walla. These groups have been located there since the late Prehistoric Period, and each are represented today by the Confederated Tribes of the Umatilla Indian Reservation.

Officials of the Field Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of three individuals of Native American ancestry. Officials of the Field Museum of Natural History also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the five objects described above are reasonably believed to have been placed with or near individual human remains

at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Field Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the associated funerary objects and the Confederated Tribes of the Umatilla Indian Reservation, Oregon.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Helen Robbins, Repatriation Director, Field Museum of Natural History, 1400 S. Lake Shore Dr., Chicago, IL 60605, telephone (312) 665–7317, before September 23, 2010. Repatriation of the human remains and associated funerary objects to the Confederated Tribes of the Umatilla Indian Reservation, Oregon, may proceed after that date if no additional claimants come forward.

The Field Museum is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Indian Reservation, Oregon; Confederated Tribes of the Warm Springs Reservation of Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and the Nez Perce Tribe, Idaho, that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20948 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains were removed from the vicinity of Salem, Marion County, OR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Burke Museum professional staff in consultation with representatives of the Confederated Tribes of the Grand Ronde Community of Oregon and the Confederated Tribes of the Warm Springs Reservation of Oregon.

At an unknown date prior to 1930, human remains representing a minimum of one individual were removed from the vicinity of Salem, in Marion County, OR. These human remains were acquired by the Burke Museum through an exchange in 1930 (Burke Museum Accn. #2391). No known individual was identified. No associated funerary objects are present.

The human remains are determined to be consistent with Native American morphology, as evidenced through cranial deformation and presence of wormian bones. Information available in the original accession files helped affirm the determination.

Historical documentation indicates that the Willamette Valley area surrounding Salem, OR, was occupied by the Kalapuyan speaking people (Ruby and Brown 1986, Swanton 1952, and Zenk 1990). The Northern subdivision, the Yamhill, and the Central subdivision, the Sanitiam, were the primary aboriginal occupants in the vicinity of Salem. By the terms of the Kalapuya Treaty of 1855, the Kalapuyan people were moved to the Grand Ronde Reservation (Ruby and Brown 1986). Descendents of the Kalapuyan speaking people are now represented by the Confederated Tribes of the Grand Ronde Community of Oregon.

The Confederated Tribes of the Grand Ronde Community of Oregon include at least 26 tribes and bands whose ancestral homelands span across western Oregon, southwestern Washington, and northern California. The Grand Ronde tribes and bands include the Rogue River, Umpqua, Chasta, Kalapuya, Molala, Clackamas, Salmon River, Tillamook, and Nestucca, as well as many other groups. At the time of contact, the various tribal groups spoke approximately 30 dialects of the Athabascan, Chinookan, Kalapuyan, Takelman, Molalan, Sahaptin, Salishan, and Shastan language families. In 1855, the U.S. Government forcibly relocated the Grand Ronde peoples to the Grand Ronde Reservation at the headwaters of the South Yamhill River in Yamhill and Polk Counties, OR.

Officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001(9), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Burke Museum also have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of the Grand Ronde Community of Oregon.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195, telephone (206) 685–3849, before September 23, 2010. Repatriation of the human remains to the Confederated Tribes of the Grand Ronde Community of Oregon may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes of the Grand Ronde Community of Oregon and the Confederated Tribes of the Warm Springs Reservation of Oregon that this notice has been published.

Dated: August 18, 2010.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2010–20940 Filed 8–23–10; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Boston Harbor Islands National Recreation Area Advisory Council; Notice of Public Meeting

AGENCY: Department of the Interior, National Park Service, Boston Harbor Islands National Recreation Area.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that a meeting of the Boston Harbor Islands National Recreation Area Advisory Council will be held on Wednesday, September 15, 2010, at 6 p.m. to 8 p.m. at the Independence Wharf, 470 Atlantic Avenue, Community Room, Boston, MA.

The agenda will include a scoping session about a park pet policy, a brainstorming session for a 2016 celebration, and an update on the community outreach project, a park update, and public comment. The meeting will be open to the public. Any person may file with the Superintendent

a written statement concerning the matters to be discussed. Persons who wish to file a written statement at the meeting or who want further information concerning the meeting may contact Superintendent Bruce Jacobson at Boston Harbor Islands, 408 Atlantic Avenue, Suite 228, Boston, MA 02110 or (617) 223–8667. 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.

DATES: September 15, 2010, at 6 p.m.

ADDRESSES: Independence Wharf, 470 Atlantic Avenue, Community Room, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Superintendent Bruce Jacobson, (617) 223–8667.

SUPPLEMENTARY INFORMATION: The Advisory Council was appointed by the Director of National Park Service pursuant to Public Law 104–333. The 28 members represent business, educational/cultural, community and environmental entities; municipalities surrounding Boston Harbor; Boston Harbor advocates; and Native American interests. The purpose of the Council is to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the development and implementation of a management plan and the operations of the Boston Harbor Islands NRA.

Dated: August 13, 2010.

Bruce Jacobson,

Superintendent, Boston Harbor Islands NRA.

[FR Doc. 2010–21040 Filed 8–23–10; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[USITC SE–10–026]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: August 26, 2010 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–468 and 731–TA–1166–1167 (Final)(Certain Magnesia Carbon Bricks from China and Mexico)—briefing and vote. (The Commission is currently scheduled to transmit its determinations and Commissioners' opinions to the Secretary of Commerce on or before September 7, 2010.)
5. Outstanding action jackets:

(1.) Document No. GC–10–144 concerning approval of revised users' manual for Commission Mediation Program for investigations under section 337 of the Tariff Act of 1930.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: August 19, 2010.

By order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2010–21057 Filed 8–20–10; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0037]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Letter Application to Obtain Authorization for the Assembly of a Nonsporting Rifle or Nonsporting Shotgun for the Purpose of Testing or Evaluation.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 114, page 33829, on June 15, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

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

(2) *Title of the Form/Collection:* Letter Application to Obtain Authorization for the Assembly of a Nonsporting Rifle or Nonsporting Shotgun for the Purpose of Testing or Evaluation.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Other: None. Abstract: The information is required by ATF to provide a means to obtain authorization for the assembly of a nonsporting rifle or nonsporting shotgun for the purpose of testing or evaluation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 5 respondents, who will complete a written letter within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 3 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–20983 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0032]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Records of Acquisition and Disposition, Collectors of Firearms.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 114, page 33826 on June 15, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

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

(2) *Title of the Form/Collection:* Records of Acquisition and Disposition, Collectors of Firearms.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: none. Abstract: The recordkeeping requirement is for the purpose of facilitating ATF's authority to inquire into the disposition of any firearm in the course of a criminal investigation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are 45,973 respondents. It is estimated that it takes 3 hours per year for line by line entry and that 45,973 licensees will participate.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 137,919 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–20984 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0011]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Application to Make and Register a Firearm.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 114, pages 33826–33827 on June 15, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your

comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

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

(2) *Title of the Form/Collection:* Application to Make and Register a Firearm.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 1 (5320.1). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* Business or other for-profit, State, Local, or Tribal Government. *Abstract:* The form is used by persons applying to make and register a firearm that falls within the purview of the National Firearms Act. The information supplied by the applicant on the form helps to establish the applicant's eligibility.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 1,071 respondents, who will complete the form within approximately 4 hours.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 4,284 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–20987 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number: 1121–0314]

Agency Information Collection Activities: Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired; Comments Requested

ACTION: 60-Day notice of information collection under review: Firearms Inquiry Statistics (FIST) Program.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics (BJS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until October 25, 2010. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Allina D. Boutilier, Bureau of Justice Statistics, 810 Seventh Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* Firearms Inquiry Statistics (FIST) Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Not applicable. Tally sheets are sent to relevant State and local agencies for reporting purposes. These data collection forms are not assigned an agency form number but are labeled with the appropriate OMB number.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State and Local Governments. This information collection is a survey of State and local agencies that conduct background checks on individuals applying to purchase firearms from federally licensed firearm dealers. The information will provide national statistics on the total number of applications and rejections annually, reasons for rejection, and arrest and appeal information.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 559 respondents will complete a 15-minute form once annually.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 139.75 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 2010–20991 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0015]

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-Day notice of information collection under review: Extension of a currently approved collection, Hate Crime Incident Report; Quarterly Hate Crime Report.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 112, pages 33332–33333, on June 11, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010 This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Gregory E. Scarbro, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* Hate Crime Incident Report and Quarterly Hate Crime Report.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms 1–699 and 1–700; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, State, Federal and tribal law enforcement agencies. This collection is needed to collect information on hate crime incidents committed throughout the United States. Data are tabulated and published in the annual Crime in the United States and Hate Crime Statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 13,242 law enforcement agency respondents with an estimated response time of 9 minutes.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 7,945 hours, annual burden, associated with this information collection.

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–20990 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0011]

Violent Criminal Apprehension Program: Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-Day notice of information collection under review: Revision of a currently approved collection due to expire 10/31/2010 Violent Criminal Apprehension Program.

The Department of Justice, Federal Bureau of Investigation, Critical Incident Response Group will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, number 118, pages 35087–35088 on June 21, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Lesa Marcolini, Program Manager, Federal Bureau of Investigation, Critical Incident Response Group, ViCAP, FBI Academy, Quantico, Virginia 22135; facsimile (703) 632–4239.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* ViCAP Case Submission Form, FD–676.

(3) The *agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms 676; Critical Incident Response Group, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State and local government law enforcement agencies charged with the responsibility of investigating violent crimes.

Established by the Department of Justice in 1985, ViCAP serves as the national repository for violent crimes; specifically:

Homicides and attempted homicides, especially those that (a) involve an abduction, (b) are apparently random, motiveless, or sexually oriented, or (c) are known or suspected to be part of a series.

Sexual assaults, especially those that (a) were committed by a stranger or (b) are known or suspected to be part of a series.

Missing persons, where the circumstances indicate a strong possibility of foul play and the victim is still missing.

Unidentified human remains, where the manner of death is known or suspected to be homicide.

Comprehensive case information submitted to ViCAP is maintained in the ViCAP Web National Crime Database and is automatically compared to all other cases in the database to identify similarities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Of the approximately 17,000 government entities that are eligible to submit cases, it is estimated that forty to sixty percent will actually submit cases to ViCAP. The time burden of the respondents is less than 60 minutes per form.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 10,000 hours, annual burden, associated with this information collection.

If additional information is required contact: Ms. Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 2010–20988 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0012]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Notice of Firearms Manufactured or Imported.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 114, page 33828, on June 15, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Notice of Firearms Manufactured or Imported.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 2 (5320.2). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Federal Government, State, Local, or Tribal Government. Abstract: ATF 2 (5320.2) is used by a federally qualified firearms manufacturer or importer to report firearms manufactured or imported and to have these firearms registered in the National Firearms Registration and Transfer Record as proof of the lawful existence of the firearm.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 816 respondents who will complete the form within approximately 45 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 3,750 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management

Division, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–20985 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0312]

Agency Information Collection Activities: Reinstatement, With Change, of a Previously Approved Collection for Which Approval Has Expired; Comments Requested

ACTION: 60-Day notice of information collection under review: Survey of State Criminal History Information Systems.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics (BJS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until October 25, 2010. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Devon Adams, Bureau of Justice Statistics, 810 Seventh St., NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) *Title of the Form/Collection:* Survey of State Criminal History Information Systems.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Not applicable.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State Government. This information collection is a survey of State record repositories to estimate the percentage of total state records that are immediately available through the FBI's Interstate Identification Index and the percentage of records that are complete and fingerprint-supported.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 56 respondents will expend approximately 3 hours to complete the survey once every two years.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 168 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2010–20993 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0038]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Application for Federal Firearms License (Collector of Curios and Relics).

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 114, page 338239–33830 on June 15, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Federal Firearms License (Collector of Curios and Relics).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 7CR (5310.16). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* None. *Abstract:* The form is used by the public when applying for a Federal firearms license to collect curios and relics to facilitate a personal collection in interstate and foreign commerce. The information requested on the form establishes eligibility for the license.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 7,300 respondents will complete a 15 minute form.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 1,825 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, 145 N Street, NE., Suite 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–21006 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0053]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Training Registration Request for Non-ATF Employees.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 114, page 33828–33829 on June 15, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Training Registration Request for Non-ATF Employees.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 6400.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local, or Tribal Government. *Other:* none. *Abstract:* The Bureau of Alcohol, Tobacco, Firearms and Explosives provides arson and explosive investigative techniques training to State and local investigators. The registration request form will be used by prospective students.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 500 respondents, who will complete the form within approximately 6 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 50 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, 145 N Street, NE., Room 2E–502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–21005 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0056]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Special Agent Medical Pre-placement.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 114, page 33827 on June 15, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until September 23, 2010. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Special Agent Medical Pre-placement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 2300.10. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* none. *Abstract:* The form is used by a special agent who is applying for a position that has specific medical standards. The information collected is used to determine medical suitability to qualify for a position that has specific medical standards and physical requirements. The information will be used to make a recommendation on either hiring or not hiring an applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 300 respondents, who will complete the form within approximately 45 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 225 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, 145 N Street, NE., Suite 2E-502, Washington, DC 20530.

Dated: August 18, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–21003 Filed 8–23–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Linda Watts-Thomas on 202–693–4223 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov*.

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

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, *e.g.,* permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Prohibited Transaction Class Exemption 92–6: Sale of Individual Life Insurance or Annuity Contracts by a Plan.

OMB Control Number: 1210–0063.

Affected Public: Business or other for-profit.

Cost to the Federal Government: $0.

Estimated Number of Respondents: 21,533.

Estimated Number Responses: 334,661.

Total Estimated Annual Burden Hours: 14,745.

Total Estimated Annual Costs Burden (operation and maintenance): $101,670.

Description: Prohibited Transaction Class Exemption 92–6 exempts from the prohibited transaction restrictions of the Employee Retirement Security Act of 1974 (ERISA) the sale of individual life insurance or annuity contracts by a plan to participants, relatives of participants, employers any of whose employees are covered by the plan, other employee benefit plans, owner-employees or shareholder-employees. In the absence of this exemption, certain aspects of these transactions might be prohibited by section 406 of ERISA.

Among other conditions, PTE 92–6 requires that pension plans inform the insured participant of a proposed sale of a life insurance or annuity policy to the employer, a relative, another plan, an owner-employee, or a shareholder-employee. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210–0063. The OMB approval is currently scheduled to expire on August 31, 2010.

For additional information, see related notice published in the **Federal Register** on June 23, 2010 (Vol. 75 page 35842).

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: PTE 91–55—Transactions Between Individual Retirement Accounts and Authorized Purchasers of American Eagle Coins.

OMB Control Number: 1210–0079.

Affected Public: Business of other for-profit.

Costs to the Federal Government: $0.

Estimated Number of Respondents: 3.

Total Number of Responses: 10,286.

Total Estimated Annual Burden Hours: 349.

Total Estimated Annual Costs Burden (operation and maintenance): $3,125.

Description: Prohibited Transaction Exemption 91–55 permits purchases and sales by certain "individual retirement accounts," as defined in Internal Revenue Code section 408 (IRAs) of American Eagle bullion coins ("Coins") in principal transactions from or to broker-dealers in Coins that are "authorized purchasers" of Coins in bulk quantities from the United States Mint and which are also "disqualified persons," within the meaning of Code section 4975(e)(2), with respect to IRAs. The exemption also describes the circumstances under which an interest-free extension of credit in connection with such sales and purchases is permitted. In the absence of an exemption, such purchases and sales and extensions of credit would be impermissible under the Employee Retirement Income Security Act of 1974 (ERISA).

Among other conditions, the exemption requires certain information related to covered transactions in Coins to be disclosed by the authorized purchaser to persons who direct the transaction for the IRA. Currently, it is standard industry practice that most of this information is provided to persons directing investments in an IRA when transactions in Coins occur. The exemption also requires that the disqualified person maintain for a period of at least six years such records as are necessary to allow accredited persons, as defined in the exemption, to determine whether the conditions of the transaction have been met. Finally, an authorized purchaser must provide a confirmation statement with respect to each covered transaction to the person who directs the transaction for the IRA. The requirements constitute information collections within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210–0079. The OMB approval is currently scheduled to expire on August 31, 2010.

The recordkeeping requirement facilitates the Department's ability to make findings under section 408 of ERISA and section 4975(c) of the Code. The confirmation and disclosure requirements protect a participant or beneficiary who invests in IRAs and transacts in Coins with authorized purchasers by providing the investor or the person directing his or her investments with timely information about the market in Coins and about the individual's account in particular.

For additional information, see related notice published in the **Federal Register** on June 23, 2010 (Vol. 75 page 35841).

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Prohibited Transaction Class Exemption 85–68—To Permit Employee Benefit Plans to Invest in Customer Notes of Employers.

OMB Control Number: 1210–0094.

Affected Public: Business or other for-profit.

Cost to the Federal Government: 0.

Estimated Number of Respondents: 3.

Total Number of Responses: 3.

Total Estimated Annual Burden Hours: 1.

Total Estimated Annual Costs Burden (operation and maintenance): $0.

Description: Pursuant to section 408 of ERISA, the Department has authority to grant an exemption from the prohibitions of sections 406 and 407(a) if it can determine that the exemption is administratively feasible, in the interest of participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan. Prohibited Transaction Class Exemption 85–68 describes the conditions under which a plan is permitted to acquire customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's primary business activity. The exemption covers sales as well as contributions of customer notes by an employer to its plan. Specifically, the exemption requires that the employer provide a written guarantee to repurchase a note which becomes more than 60 days delinquent, that such notes be secured by a perfected security interest in the property financed by the note, and that the collateral be insured. The exemption requires records pertaining to the transaction to be maintained for a period of six years for the purpose of ensuring that the transactions are protective of the rights of participants and beneficiaries. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210–0094. The OMB approval is currently scheduled to expire on August 31, 2010. For additional information, see related notice published in the **Federal Register** on June 23, 2010 (Vol. 75 page 35842).

Dated: August 18, 2010.

Linda Watts Thomas,

Acting Departmental Clearance Officer.

[FR Doc. 2010–20914 Filed 8–23–10; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0038]

Rigging Equipment for Material Handling; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in paragraphs (b)(1), (b)(6)(i), (b)(6)(ii), (c)(15)(ii), (e)(1)(i), (ii), and (iii) and (f)(2) of the Standard on Rigging Equipment for Material Handling (29 CFR 1926.251). These paragraphs require affixing identification tags or markings on rigging equipment, developing and maintaining inspection records, and retaining proof-testing certificates.

DATES: Comments must be submitted (postmarked, sent, or received) by October 25, 2010.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0038, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA Docket No. 2010–0038). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph (b)(1) requires that alloy steel chains have permanently affixed durable identification tags stating size, grade, rated capacity and sling manufacturer. Paragraph (b)(6)(i) requires the employer to make a thorough periodic inspection of alloy steel chain slings in use on a regular basis, but at least once a year. Paragraph (b)(6)(ii) requires the employer to make and maintain a record of the most recent month in which each alloy steel chain was inspected and make the record available for examination.

Paragraph (c)(15)(ii) requires that all welded end attachments of wire rope slings be proof tested by the manufacturer at twice their rated capacity prior to initial use, and that the employer retain a certificate of the proof test and make it available for examination.

Paragraphs (e)(1)(i), (ii), and (iii) require that synthetic web slings be marked or coded to show the manufacturer's name or trademark, the rated capacity for the type of hitch and the type of synthetic webbing material.

Paragraph (f)(2) requires that all hooks for which no applicable manufacturer's recommendations are available be tested twice before they are put into use. The employer shall maintain a record of the dates and results of the tests.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Rigging Equipment for Material Handling (29 CFR 1926.251). The Agency is requesting an adjustment decrease of 4,520 burden hours (from 56,335 hours to 51,815 hours). This decrease is a result of new data indicating a drop in the number of cranes and derricks from 132,737 to 122,091. The Agency will summarize

the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Rigging Equipment for Material Handling (29 CFR 1926.251).

OMB Control Number: 1218–0233.

Affected Public: Business or other for-profits.

Number of Respondents: 1,220,910.

Frequency: On occasion.

Average Time per Response: Average of 3 minutes (.05 hour) for an employer to maintain and disclose a certificate to 30 minutes (.50 hour) for an employer to acquire information and make a tag for a sling.

Estimated Total Burden Hours: 51,815.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (OSHA Docket No. 2010–0038). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information, such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site and for assistance in using the Internet to locate docket submissions.

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

V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, on August 19, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–21050 Filed 8–23–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0039]

Portable Fire Extinguishers (Annual Maintenance Certification Record); Extension of the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Portable Fire Extinguishers Standard (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)).

DATES: Comments must be submitted (postmarked, sent, or received) by October 25, 2010.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0039, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA–2010–0039). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Paragraph (e)(3) of the Standard specifies that employers must subject each portable fire extinguisher to an annual maintenance inspection and record the date of the inspection. In addition, this provision requires employers to retain the inspection record for one year after the last entry or for the life of the shell, whichever is less, and to make the record available to OSHA on request. This recordkeeping requirement assures employees and Agency compliance officers that portable fire extinguishers located in the workplace will operate normally in case of fire; in addition, this requirement provides evidence to OSHA compliance officers during an inspection that the employer performed the required maintenance checks on the portable fire extinguishers.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Portable Fire Extinguishers Standard (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)). OSHA is proposing to decrease the burden hours in the currently approved information collection request from 69,019 to 67,995 (a total decrease of 1,024 hours). This decrease is due to updated data showing a decrease in the number of fire extinguishers affected by the Standard.

The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Portable Fire Extinguishers (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)).

OMB Number: 1218–0238.

Affected Public: Business or other for-profits; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 1,359,900.

Frequency of Response: On occasion.

Average Time per Response: One minute (.02 hour) to maintain the certification records to 30 minutes (.50 hour) to inspect a fire extinguisher and to generate and maintain the certification record.

Estimated Total Burden Hours: 67,995 hours.

Estimated Cost (Operation and Maintenance): $19,582,560.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0039). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, this 16th day of August 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–21059 Filed 8–23–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0021]

Grantee Quarterly Progress Report; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its proposal to extend the Office of Management and

Budget's (OMB) approval of the information collection requirements specified for its Grantee Quarterly Progress Report.

DATES: Comments must be submitted (postmarked, sent, or received) by October 25, 2010.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0021, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA–2010–0021). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. To obtain a copy of the ICR, you may contact Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

FOR FURTHER INFORMATION CONTACT: Kimberly A. Newell, OSHA Directorate of Training and Education, 2020 S. Arlington Heights Road, Arlington Heights, IL 60005–4102; telephone: (847) 759–7700; e-mail: *HarwoodGrants@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Section 21 of the OSH Act (29 U.S.C. 670) authorizes OSHA to conduct directly, or through grants and contracts, education and training courses. These courses must ensure an adequate number of qualified personnel to fulfill the purposes of the OSH Act, provide them with short-term training, inform them of the importance and proper use of safety and health equipment, and train employers and employees to recognize, avoid, and prevent unsafe and unhealthful working conditions.

Under Section 21, OSHA awards training grants to nonprofit organizations to provide part of the required training. The Agency requires organizations that receive these grants to submit quarterly progress reports that provide information on their grant-funded training activities; these reports allow OSHA to monitor the grantee's performance and to determine if an organization is using grant funds as specified in its grant application. Accordingly, the Agency compares the information provided in the quarterly progress report to the quarterly milestones proposed by the organization in the work plan and budget that accompanied the grant application. This information includes: identifier data (organization name and grant number); the date and location where the training occurred; the length of training (hours); the number of employees and employers attending training sessions provided by the organization during the quarter; a description of the training provided; a narrative account of grant activities conducted during the quarter; and an evaluation of progress regarding planned versus actual work accomplished. This comparison permits OSHA to determine if the organization is meeting the proposed program goals and objectives, and spending funds in the manner described in the proposed budget.

Requiring these reports on a quarterly basis enables OSHA to identify work plan, training, and expenditure discrepancies in a timely fashion so that it can implement appropriate action. In addition, this information permits the Agency to assess an organization's ability to meet projected milestones and expenditures.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements specified for the Grantee Quarterly Progress Report. The Agency is requesting an increase in burden hours from 2,640 hours to 4,944 hours. The increase is a result of an increase in the average annual number of grants during the past three-year period from 55 to 103. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Grantee Quarterly Progress Report.

OMB Number: 1218–0100.

Affected Public: Business or other for-profits; Not-for-profit institutions.
Number of Respondents: 103.
Frequency of Responses: Quarterly.
Average Time per Response: 12 hours per quarter.
Estimated Total Burden Hours: 4,944.
Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0021). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (*see* the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, on August 17, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–21053 Filed 8–23–10; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0037]

Welding, Cutting and Brazing Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comment.

SUMMARY: OSHA solicits comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Welding, Cutting and Brazing Standard (29 CFR part 1910, subpart Q). The information collected is used by employers and workers whenever welding, cutting and brazing are performed. The purpose of the information is to ensure that employers evaluate hazards associated with welding and ensure that adequate measures are taken to make the process safe.

DATES: Comments must be submitted (postmarked, sent, or received) by October 25, 2010.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0037, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (Docket No. OSHA–2010–0037). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled "Supplementary Information."

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and

OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Section 1910.255(e) requires that a periodic inspection of resistance welding equipment be made by qualified maintenance personnel, and that a certification record be generated and maintained. The certification shall include the date of the inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the equipment inspected. The record shall be made available to an OSHA inspector upon request. The maintenance inspection ensures that welding equipment is in safe operating condition while the maintenance record provides evidence to workers and Agency compliance officers that employers performed the required inspections.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Welding, Cutting and Brazing (29 CFR part 1910, subpart Q). The Agency is requesting to reduce its current burden hour estimate associated with this Standard from 5,994 hours to 5,935 hours for a total reduction of 59 hours. The reduction is a result of a decrease in the estimated number of resistance welders. The Agency will summarize any comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Welding, Cutting and Brazing (29 CFR part 1910, subpart Q).

OMB Number: 1218–0207.

Affected Public: Business or other for-profits.

Number of Respondents: 42,328.

Frequency: On occasion; Semiannually.

Average Time per Response: Varies from 1 minute (.02 hour) to maintain the inspection certification record to 7 minutes (.12 hour) to perform the inspection and to generate and maintain the inspection certification record.

Estimated Total Burden Hours: 5,935.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0037). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (67 FR 31160).

Signed at Washington, DC, on August 16, 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010–21055 Filed 8–23–10; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act.

SUMMARY: Notice is hereby given that the National Science Foundation (NSF) has received a waste management permit application from Dr. Ralph Fedor for the establishment of a temporary amateur radio campsite for up to 13 people on Waterpipe Beach, Signey Island for approximately 18 days during the 2010–2011 austral summer season. The application is submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application within September 23, 2010. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National

Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Dr. Polly A. Penhale, Environmental Officer at the above address or (703) 292–8030.

SUPPLEMENTARY INFORMATION: NSF's Antarctic Waste Regulation, 45 CFR part 671, requires all U.S. citizens and entities to obtain a permit for the use or release of a designated pollutant in Antarctica, and for the release of waste in Antarctica. NSF has received a permit application under this Regulation for the operation of a temporary amateur radio camp on Signy Island, Antarctica. Zodiacs will be used to transport equipment and personnel to the camp site. Refueling of these vehicles will take place only on the ship. The camp will consist of two Weatherport shelters (12 x 25 feet): One as a lab or radio communications center; and the other for sleeping and storage. The power generator will have double containment to prevent any fuel spills. All camp waste (wrappers, empty container, disposable items), kitchen waste (garbage, debris, waste water), and human waste (solid and liquid) will be removed and returned to Ushuaia, Argentina for disposal. All shoes, clothing, equipment taken ashore will be cleaned and disinfected prior to leaving the ship to prevent introduction of non-indigenous species.

No hazardous domestic products or wastes (aerosol cans, paints, solvents, *etc.*) will be brought ashore. Conditions of the permit would include requirements to report on the removal of materials and any accidental releases, and management of all waste, including human waste, in accordance with Antarctic waste regulations.

Application for the permit is made by: Ralph Fedor, 2337 Granite View Road, Waite Park, MN 56387.

Location: Signy Island, South Orkney Islands.

Dates: January 1, 2010 to February 28, 2011.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2010–20923 Filed 8–23–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, September 14, 2010.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The ONE item is open to the public.

MATTER TO BE CONSIDERED:

8146B

Aircraft Accident Summary Report—Midair Collision Over Hudson River, Piper PA–32R–300, N71MC, and Eurocopter AS350BA, N401LH, Near Hoboken, New Jersey, August 8, 2009.

NEWS MEDIA CONTACT:

Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 by Friday, September 10, 2010.

The public may view the meeting via a live or archived webcast by accessing a link under "News & Events" on the NTSB home page at *http://www.ntsb.gov.*

FOR MORE INFORMATION CONTACT: Candi Bing, (202) 314–6403.

Dated: August 20, 2010.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2010–21151 Filed 8–20–10; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0280]

Biweekly Notice Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission or NRC) is publishing this regular biweekly notice. The Act requires the Commission publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 29, 2010 to August 11, 2010. The last biweekly notice was published on August 10, 2010 (75 FR 48370).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules, Announcements and Directives Branch (RADB), TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal**

Register notice. Written comments may also be faxed to the RADB at 301–492–3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then

submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E–Filing system. To be timely, an electronic filing must be submitted to the E–Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E–Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E–Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E–Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, *Attention:* Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E–Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: June 30, 2010.

Description of amendment request: The proposed change would revise the Technical Specification (TS) High Pressure Coolant Injection (HPCI) Equipment Room Delta Temperature High Trip Setpoint and Allowable Value listed in Table 3.3.2–2, Isolation Actuation Instrumentation Setpoints, Item 4e, for Limerick Generating Station (LGS), Units 1 and 2. The Trip Setpoint and Allowable Values are proposed to be lowered, which is in the conservative direction, to reflect a revised analysis for the HPCI equipment room temperature following a postulated 25 gallon per minute steam leak. The revised analysis was performed in September 2009. LGS Licensee Event Report number 2009–003–00, "Both Isolation Actuation Instrument Channels Inoperable" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML092990404), submitted on October 26, 2009, provides more details on the reason for completing the revised analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below with NRC edits in brackets:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to lower the Technical Specification (TS) High Pressure Coolant Injection (HPCI) Equipment Room Delta Temperature High Isolation Trip Setpoint from ≤126 degrees [Fahrenheit] F to ≤104 degrees F and lower the corresponding Allowable Value (AV) from ≤130.5 degrees F to ≤108.5 degrees F do not significantly increase the probability or consequences of an accident previously evaluated. A reanalysis of the steam leak model for HPCI equipment room has identified that a 25 gallons per minute (gpm) steam leak may not have been isolated on HPCI equipment room high differential temperature with the existing temperature indicating switch setpoints in all plant conditions. Lowering the non-conservative TS Trip Setpoint to 104 degrees F will decrease the consequence of a 25 gpm HPCI steam line leak outside primary containment within the HPCI room by ensuring it is isolated. The value of 104 degrees F is set high enough to ensure that a premature isolation of the HPCI System following a Loss of Coolant Accident does

not occur. The environmental qualification of required equipment in the HPCI rooms is not affected by the proposed lowered isolation trip setpoint. The proposed setpoint change [ensures that a 25 gpm steam leak is isolated prior to exceeding the integrated mass release of the bounding analysis] described in the Limerick Updated Final Safety Analysis [R]eport (UFSAR) Section 15.6.4, "Steam System Piping Break Outside Primary Containment."

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to lower the TS HPCI Equipment Room Delta Temperature High Isolation Trip Setpoint from ≤126 degrees F to ≤104 degrees F and lower the corresponding AV from ≤130.5 degrees F to ≤108.5 degrees F do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not add or remove equipment. The proposed changes are limited to an instrument setpoint change to an existing temperature indicating switch within the Steam Leak Detection System. The Steam Leak Detection System is a mitigating system; changes to its instrumentation setpoints do not introduce any new accident initiators, nor do they reduce or adversely affect the capabilities of any plant structure, system, or component to perform their safety function. The physical establishment and setting of the proposed setpoint of the accident mitigation instruments will have no direct impact on the plant's normal operating conditions. The instrumentation is normally in a monitoring mode and does not actively support normal plant operation. No new failure modes are being introduced by the proposed changes and the Steam Leak Detection System will continue to be operated in the same manner.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to lower the TS HPCI Equipment Room Delta Temperature High Isolation Trip Setpoint from ≤126 degrees F to ≤104 degrees F and lower the corresponding AV from ≤130.5 degrees F to ≤108.5 degrees F do not involve a significant reduction in a margin of safety. The lower trip setpoint will ensure that a 25 gpm leak in the HPCI steam line will be isolated on HPCI equipment room high differential temperature. The proposed system isolation TS trip setpoint was selected to provide equivalent margins that ensure the effectiveness of the Steam Leak Detection System isolation system to mitigate the consequences of an accident without compromising the operability of the HPCI System. The proposed trip setpoint and proposed allowable value range maintain adequate margins between these new values and the operating range of the HPCI System in order to prevent the inadvertent actuation of the Steam Leak Detection System isolation system and the loss of the HPCI System. The same difference of 4.5 degrees F between the existing trip setpoint and AV values and the proposed trip setpoint and AV values is being maintained as an allowance for instrument drift. The trip setpoint and the AV range is within the specified range of the instruments and therefore, the accuracy and drift provides the same margin of safety as previously assumed.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Esquire, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Harold K. Chernoff.

Indiana Michigan Power Company (the licensee), Docket No. 50–315 and 50–316, Donald C. Cook Nuclear Plant (CNP), Units 1 and 2, Berrien County, Michigan

Date of amendment request: June 22, 2010.

Description of amendment request: The proposed amendment would modify the Technical Specifications, Surveillance Requirement (SR) 3.6.6.5, regarding containment spray nozzles. Currently SR 3.6.6.5 requires that the nozzles be verified to be unobstructed every 10 years. The licensee proposed to change the frequency to be event-based, specifically, "following maintenance that could result in nozzle blockage."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff performed its own analysis, which is presented below:

(1) Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

The containment spray system and its spray nozzles were not identified as accident initiators in previously evaluated accidents; thus, the proposed change, which affects only the surveillance frequency of spray nozzles, cannot and do not have any effect on the probability of occurrence of an accident. In addition, since no design function of the containment spray system, including the nozzles, would be altered by the proposed change of the surveillance frequency, the containment spray system will continue to perform its original design function, mitigating the consequences of certain accidents previously evaluated. Thus, the consequences of accidents previously evaluated will not be significantly increased.

(2) Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not introduce a new mode of plant operation and does not involve physical modification to plant design. Thus, the proposed change does not involve the possibility of introducing any new accident initiators to affect assumptions made in previously evaluated accidents. The containment spray system will continue to function as originally designed and installed. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change would only revise containment spray nozzle surveillance frequency but will not reduce a margin of safety because the change has no effect on any safety analysis methods, scenarios, or assumptions. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Attorney for licensee: James M. Petro, Jr., Senior Nuclear Counsel, Indiana Michigan Power Company, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company, Inc. (SNC), Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant (VEGP), Units 1 and 2, Burke County, Georgia

Date of amendment request: June 15, 2010.

Description of amendment request: The proposed amendments request the adoption of an approved change to the standard technical specifications (STS) for Westinghouse Plants (NUREG–1431), to allow relocation of specific TS surveillance frequencies to a licensee-controlled program. The proposed change is described in Technical Specification Task Force (TSTF) Traveler, TSTF–425, Revision 3, "Relocate Surveillance Frequencies to Licensee Control—RITSTF Initiative

5b." (ADAMS Accession No. ML080280275) and was described in the Notice of Availability published in the **Federal Register** on July 6, 2009 (74 FR 31996). The proposed changes are consistent with NRC-approved TSTF–425, Revision 3. The proposed change relocates surveillance frequencies to a licensee-controlled program, the surveillance frequency control program (SFCP). This change is applicable to licensees using probabilistic risk guidelines contained in NRC-approved NEI 04–10, "Risk-Informed Technical Specifications Initiative 5b, Risk-Informed Method for Control of Surveillance Frequencies," (ADAMS Accession No. ML071360456).

The licensee affirmed the applicability to the VEGP of the model no significant hazards consideration (NSHC) determination provided in the **Federal Register** on July 6, 2009 (74 FR 31996) in its application dated June 15, 2010.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the analysis of the issue of no significant hazards consideration is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change relocates the specified frequencies for periodic surveillance requirements to licensee control under a new Surveillance Frequency Control Program. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the Technical Specifications for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new or different accidents result from utilizing the proposed change. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the final safety analysis report and bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, SNC will perform a probabilistic risk evaluation using the guidance contained in NRC-approved NEI 04–10, Rev. 1 in accordance with the TS SFCP. NEI 04–10, Rev. 1 methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed change to surveillance frequencies consistent with Regulatory Guide 1.177.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Branch Chief: Gloria J. Kulesa.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Exelon Generation Company, LLC, and PSEG Nuclear, LLC, Docket No. 50–277, Peach Bottom Atomic Power Station (PBAPS), Unit 2, York and Lancaster Counties, Pennsylvania

Date of application for amendments: May 27, 2010.

Brief description of amendment request: The proposed amendment would modify the PBAPS, Unit 2, Technical Specification Section 2.1.1 to revise Safety Limit Minimum Critical Power Ratio values.

Date of publication of individual notice in ***Federal Register:*** July 26, 2010 (FR 75 43574).

Expiration date of individual notice: August 25, 2010 (public comments) and September 24, 2010 (hearing requests).

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action *see* (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint

North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1 (800) 397–4209, (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov.*

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: July 1, 2009, as supplemented by letter dated May 20, 2010.

Brief description of amendments: The amendments revised the Technical Specification (TS) 3.3.1, "Reactor Trip System (RTS) Instrumentation" and TS 1.1, "Definitions." The amendments support plant modifications which would replace the existing source range and intermediate range excore detector systems with equivalent neutron monitoring systems. The new instrumentation will perform both the source range and intermediate range monitoring functions.

Date of issuance: August 2, 2010.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 258 and 253.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the licenses and the TSs.

Date of initial notice in in ***Federal Register:*** March 9, 2010 (75 FR 10826). The supplement dated May 20, 2010, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 2, 2010.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: October 29, 2009.

Brief description of amendments: The amendments deleted a license condition located in each of the unit's Renewed Facility Operating Licenses which restricts the maximum fuel rod average burnup. Deletion of this condition would allow the maximum fuel rod average burnup up to increase.

Date of issuance: August 5, 2010.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 259 and 254.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the licenses.

Date of initial notice in ***Federal Register:*** April 6, 2010 (75 FR 17441).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 5, 2010.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: September 3, 2009.

Brief description of amendments: The amendments revised the Technical Specification (TS) Section 3.7.10, "Control Room Area Ventilation System (CRAVS)," to allow movement of irradiated fuel with only one CRAVS train OPERABLE.

Date of issuance: August 9, 2010.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 260 and 255.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the licenses and the TSs.

Date of initial notice in ***Federal Register:*** June 1, 2010 (75 FR 30444).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 9, 2010.

No significant hazards consideration comments received: No.

Duke Power Company LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: July 1, 2009, as supplemented by letter dated May 20, 2010.

Brief description of amendments: The amendments revised the Technical Specification (TS) 3.3.1, "Reactor Trip System (RTS) Instrumentation." The amendments support plant modifications which would replace the existing source range and intermediate range excore detector systems with equivalent neutron monitoring systems. The new instrumentation will perform both the source range and intermediate range monitoring functions.

Date of issuance: August 2, 2010.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 257 and 237.

Renewed Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the licenses and the TSs.

Date of initial notice in ***Federal Register:*** March 9, 2010 (75 FR 10826). The supplement dated May 20, 2010, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 2, 2010.

No significant hazards consideration comments received: No.

Duke Power Company LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: October 29, 2009.

Brief description of amendments: The amendments deleted a license condition located in each of the unit's Renewed Facility Operating Licenses which restricts the maximum fuel rod average burnup. Deletion of this condition would allow the maximum fuel rod average burnup up to increase.

Date of issuance: August 5, 2010.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 258 and 238.

Renewed Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the licenses.

Date of initial notice in ***Federal Register:*** April 6, 2010 (75 FR 17441).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 5, 2010.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, and PSEG Nuclear, LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: August 7, 2008, as supplemented on May 7, 2009, and January 19, 2010.

Brief description of amendments: The August 7, 2008, submittal contained several areas of review that have been

dispositioned as separate amendment requests. The amendments associated with this notice revise the PBAPS Units 2 and 3 Technical Specifications (TS) to incorporate Technical Specification Task Force (TSTF) Traveler 439, "Elimination of Second Completion Times Limiting Time From Discovery of Failure To Meet an LCO [Limiting Condition for Operation]," Revision 2. The TS amendments modify Section 1.3 of the PBAPS Unit 2 and 3 TSs to alter the discussion contained in Example 1.3–3 to eliminate second completion times. Consistent with this change, the second completion times associated with TS 3.1.7, "Standby Liquid Control (SLC) System," required actions A.2 and B.1, TS 3.8.1, "AC Sources—Operating," required action A.3, and TS 3.8.7, "Distribution Systems—Operating," required actions C.1 and D.1 are also deleted.

Date of issuance: July 30, 2010.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 277 and 280.

Renewed Facility Operating License Nos. DPR–44 and DPR–56: Amendments revised the License and Technical Specifications.

Date of initial notice in ***Federal Register:*** May 5, 2009 (74 FR 20744).

The supplements dated May 7, 2009, and January 19, 2010, clarified the application, did not expand the scope of the application as originally noticed, and did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 2010.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: December 14, 2009, as supplemented by letters dated April 23, June 11, and July 2, 2010.

Brief description of amendments: The amendments approved the licensee's request to incorporate a revision to the Final Safety Analyses Report Update Section 3.7.1.3 to allow for the use of a damping value of 5 percent of the critical damping value for the structural dynamic qualification of the control rod drive mechanism pressure housings on the replacement reactor vessel head for the design earthquake, the double design earthquake, the Hosgri earthquake, and the loss-of-coolant accident loading conditions.

Date of issuance: July 30, 2010.

Effective date: As of its date of issuance and shall be implemented within 180 days from the date of issuance.

Amendment Nos.: Unit 1–207; Unit 2–209.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** March 23, 2010 (75 FR 13790). The supplemental letters dated April 23, June 11, and July 2, 2010, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 2010.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 13th day of August 2010.

For The Nuclear Regulatory Commission.

Robert A. Nelson,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–20694 Filed 8–23–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0281; Docket No. STN 50–530]

Arizona Public Service Company, Palo Verde Nuclear Generating Station, Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a temporary exemption from the requirements of Title 10 of the Code of Federal Regulations, part 50 (10 CFR 50), section 50.46, "Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors," and 10 CFR part 50, appendix K, "ECCS Evaluation Models," for Facility Operating License No. NPF–74, issued to Arizona Public Service Company (APS, the licensee), for operation of Palo Verde Nuclear Generating Station (PVNGS), Unit 3, located in Maricopa County, Arizona. Therefore, as required by 10 CFR 51.21, the NRC has performed an environmental assessment. Based on the results of the environmental assessment, the NRC is issuing a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action: The proposed action would permit the use of fuel rods with Optimized ZIRLO™ cladding to be inserted into PVNGS, Unit 3's core for Operating Cycles 16, 17, and 18. Since the requirements in 10 CFR 50.46, specifically, and 10 CFR part 50, appendix K, implicitly, refer to the use of zircaloy or ZIRLO cladding, a temporary exemption is required to allow the use of fuel rods clad with an advanced zirconium-based alloy that is neither zircaloy nor ZIRLO. The temporary exemption would allow up to eight lead fuel assemblies (LFAs) manufactured by Westinghouse with fuel rods clad with Optimized ZIRLO™ to be inserted into the PVNGS, Unit 3 core during the fall 2010 refueling outage. The temporary exemption would allow the LFAs to be used for up to three operating cycles (Cycles 16, 17, and 18).

The proposed action is in accordance with the licensee's application dated November 2, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML093160596), as supplemented by letter dated May 12, 2010 (ADAMS Accession No. ML101410262).

The Need for the Proposed Action: The proposed temporary exemption is needed by APS, as explained in its application dated November 2, 2009, in order "to evaluate cladding for future fuel assemblies that may need to be of a more robust design than current fuel assemblies to allow for possible higher duty and/or extended burnup." The regulations specify standards and acceptance criteria only for fuel rods clad with zircaloy or ZIRLO. Consistent with 10 CFR 50.46, a temporary exemption is required to use fuel rods clad with an advanced alloy that is not zircaloy or ZIRLO. Therefore, the licensee needs a temporary exemption to insert up to eight LFAs containing Optimized ZIRLO™ cladding material into the PVNGS Unit 3 core for up to three cycles of operation.

Environmental Impacts of the Proposed Action: The NRC has completed its evaluation of the proposed action and concludes that the proposed exemption will not present any undue risk to the public health and safety. The NRC-approved Westinghouse Electric Company LLC (Westinghouse) topical reports, WCAP–16500–P–A Revision 0, "CE [Combustion Engineering] 16x16 Next

Generation Fuel Core Reference Report" (Proprietary), dated August 2007, and WCAP–12610–P–A and CENPD–404–P–A, "Optimized ZIRLO™" (Proprietary), dated July 2006, have demonstrated that predicted chemical, mechanical, and material performance characteristics of the Optimized ZIRLO™ alloy cladding are bounded by those approved for zircaloy under anticipated operational occurrences (AOOs) and postulated accidents. The LFAs shall be placed in non-limiting core regions as required by PVNGS, Unit 3 Technical Specification 4.2.1, "Fuel Assemblies." Also, APS and Westinghouse utilize NRC approved methods for the reload design process for the PVNGS reload cores containing Optimized ZIRLO™ fuel rod cladding. Therefore, the environmental impact, due to the unlikely event of an LFA clad failure, would be minimal and would be bounded by the environmental impacts associated with previous accident analyses.

The details of the NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released offsite. There is no significant increase in the amount of any effluent released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

Based on the nature of the exemption, the proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. There are no impacts to the air or ambient air quality. There are no impacts to historic and cultural resources. There would be no noticeable effect on socioeconomic conditions in the region. Therefore, no changes or different types of non-radiological environmental impacts are expected as a result of the proposed action. Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action:

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources:

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Palo Verde Nuclear Generating Station, NUREG–0841, dated February 1982.

Agencies and Persons Consulted:

In accordance with its stated policy, on July 8, 2010, the NRC staff consulted with the Arizona State official, Aubrey Godwin of the Arizona Radiation Regulatory Authority regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 2, 2009, as supplemented by letter dated May 12, 2010. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 17th day of August 2010.

For the Nuclear Regulatory Commission.

Nageswaran Kalyanam,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–20915 Filed 8–23–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Development of U.S. Nuclear Regulatory Commission Safety Culture Policy Statement: Public Meeting

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of public meeting.

SUMMARY: The NRC plans to hold a public meeting on September 28, 2010, in its Las Vegas, Nevada hearing facility to solicit comments on the revision of its draft safety culture policy statement, including the revised definition and traits. The revision has been developed as a result of the NRC staff's evaluation of the public comments submitted in response to the draft policy statement (74 FR 57525, November 6, 2009; ML093030375), the results of the NRC's February 2010 workshop (February workshop) on safety culture, and additional comments that stakeholders and other interested parties have provided to the staff at the various outreach activities that have occurred since February. The draft policy statement focuses on the unique aspects of nuclear safety and security and highlights the Commission's expectations that the policy applies to individuals and organizations performing or overseeing NRC-regulated activities.

As part of the NRC staff's outreach activities which have focused on engaging a broad range of stakeholders including the Agreement States, the NRC held a 3-day Safety Culture Workshop in February 2010 at NRC headquarters in which participants were asked to reach alignment on (1) a common definition of safety culture and (2) high level descriptions or traits of areas important to safety culture. The February workshop also provided an additional venue for interested parties to provide comments on the draft policy statement that had been published in the **Federal Register**. Workshop panelists successfully aligned on a common definition of safety culture and developed a list of traits that they believe exist in a positive safety culture. Following the February workshop, the NRC staff participated in various industry forums in order to obtain

additional input from stakeholders and other interested parties to confirm that the draft definition and traits developed at the February workshop reflect a broad consensus view.

In preparation for the February workshop, the NRC staff noted that some stakeholders and interested parties who reside in the Western half of the US were unable to attend the workshop or participate remotely. Thus, the NRC hearing facility in Las Vegas, Nevada, with its excellent broadcast capabilities was chosen as the site for the upcoming meeting. Additionally, the meeting will be simultaneously broadcast to a location at NRC headquarters in Rockville, Md., and webstreamed so that individuals may participate remotely from their own personal computers (PCs). Please check the following NRC Web sites for any updates to the workshop schedules and/or information regarding this event: *http://www.nrc.gov/public-involve/public-meetings/index.cfm* and/or *http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html*.

The goal of the meeting is to provide an opportunity for stakeholders and other interested parties to offer their thoughts on the revised draft policy statement including the revised definition and traits. The revised draft policy statement has benefitted from public comments, the results of the February workshop, and additional comments that stakeholders and other interested parties have provided to the staff at the various outreach activities and will be used to focus much of the discussion at the September meeting. It will be published for a 30-day public comment period prior to the meeting on both the NRC's Safety Culture website at *http://www.nrc.gov/about-nrc/regulatory/enforcement/safety-culture.html* and in the **Federal Register**.

DATES: The meeting is planned for September 28, 2010. Additional information will be available on the NRC Public Meeting Schedule Web site at *http://www.nrc.gov/public-involve/public-meetings/index.cfm* at least ten days prior to the meeting.

Locations: The public meeting will be held at the NRC's hearing facility in Las Vegas, Nevada, and will be simultaneously broadcast to a location at NRC headquarters at 11555 Rockville Pike, Rockville, MD 20852. Additionally, the meeting will be webstreamed so that individuals may participate remotely from their own PCs. Regarding the NRC headquarters' location, because parking is extremely limited, the most convenient transportation to this location is via Metro's Red Line to the White Flint Station, which is directly across Marinelli Rd. from NRC headquarters. Please allow time at both locations to register with building security upon entering the buildings. The public meeting notice will provide specific details.

Document Accessibility: The documents referenced in this notice are publicly available. *NRC's Public Document Room (PDR):* The public may examine and have copied for a fee, publicly available documents at the NRC's PDR, Public File Area O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Jose Ibarra, telephone (301) 415–2581, or by email to *Jose.Ibarra@nrc.gov,* or Catherine Thompson, telephone (301) 415–3409, or by email to *Catherine.Thompson@nrc.gov*. Both of these individuals can also be contacted by mail at the U.S. Nuclear Regulatory Commission, Office of Enforcement, Concerns Resolution Branch, Mail Stop O–4 A15A, Washington, DC 20555–0001. Prior to the meeting, attendees are requested to register with one of the contacts listed in the meeting notice, so that sufficient accommodations can be made for their participation. Please let the contact know if special services are necessary, such as services for the hearing impaired, etc.

SUPPLEMENTARY INFORMATION:

1. Purpose of the Public Meeting

The NRC is working towards increasing the attention that is given to safety culture as part of its efforts to ensure the safe and secure possession and use of radioactive material within the NRC's jurisdiction. Additionally, the NRC has been working with the Agreement States to facilitate their consideration and support of this effort in their oversight programs for their materials licensees. The goal of this meeting is to provide an opportunity for stakeholders and other interested parties to offer their thoughts on the proposed revisions, including the revised definition and traits. The revised draft policy statement, definition and traits have benefitted from public comments, the results of the February workshop, and additional comments that have been provided to the staff at the various outreach activities.

2. Topics of Discussion

The NRC staff is planning to cover the following topics: (1) What is Safety Culture; (2) The NRC's Safety Culture Initiative; (3) The February Workshop; (4) Staff's Review of the Public Comments Received on the November 2009 **Federal Register** Notice; (5) Revisions to the Draft Policy Statement Including the Definition and Traits; (6) Update on INPO's Validation Study; and (7) Questions Regarding Next Steps.

3. Draft Agenda

The meeting is currently planned to begin at 8:30 a.m. and conclude at 4:15 p.m. The agenda will include introductory remarks briefly addressing the draft safety culture policy statement, the revised draft safety culture policy statement which will be published prior to the meeting including how the definition and traits have been revised, and the activities the NRC has engaged in to arrive at this point as well as what the next steps will be. This will be followed by sessions that address the topics provided in section 2 of this notice, in more depth.

Dated at Rockville, Maryland this 17th day of August, 2010.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Director, Office of Enforcement.

[FR Doc. 2010–20966 Filed 8–23–10; 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.

DATES: Weeks of August 23, 30, and September 6, 13, 20, 27, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of August 23, 2010

Friday, August 27, 2010

9:25 a.m. Affirmation Session (Public Meeting) (Tentative).

a. South Carolina Electric & Gas Co. and South Carolina Public Service Authority (Also Referred to as Santee Cooper) (Virgil C. Summer Nuclear Station, Units 2 and 3), Docket Nos. 52–027–COL & 52–028–COL; Appeal of Sierra Club & Friends of the Earth (MAR. 26, 2010), Challenging LBP–10–6 (MAR. 17, 2010) (Tentative).

b. Entergy Nuclear Generation Co. and Entergy Nuclear Operations, Inc. (Pilgrim Nuclear Power Station) Pilgrim Watch Motion for Disqualification of Judge Abramson (Tentative).

Week of August 30, 2010—Tentative

There are no meetings scheduled for the week of August 30, 2010.

Week of September 6, 2010—Tentative

There are no meetings scheduled for the week of September 6, 2010.

Week of September 13, 2010—Tentative

There are no meetings scheduled for the week of September 13, 2010.

Week of September 20, 2010—Tentative

There are no meetings scheduled for the week of September 20, 2010.

Week of September 27, 2010—Tentative

Wednesday, September 29, 2010

1 p.m.

Briefing on Resolution of Generic Safety Issue (GSI)—191, Assessment of Debris Accumulation on Pressurized Water Reactor (PWR) Sump Performance (Public Meeting). (Contact: Michael Scott, (301) 415–0565.

This meeting will be Webcast live at the Web address— *http://www.nrc.gov.*

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* 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.*

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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: August 19, 2010.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2010–21133 Filed 8–20–10; 4:15 pm]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12281 and #12282]

Washington Disaster #WA–00027

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of WASHINGTON dated 08/17/2010.

Incident: Lynnview Apartment Complex Fire.

Incident Period: 08/09/2010.

Effective Date: 08/17/2010.

Physical Loan Application Deadline Date: 10/18/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 05/17/2011.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Snohomish.

Contiguous Counties: Washington: Chelan, Island, King, Skagit.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.000
Homeowners Without Credit Available Elsewhere	2.500
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 & 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 12281 5 and for economic injury is 12282 0.

The State which received an EIDL Declaration # is Washington.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: August 17, 2010.

Karen G. Mills,

Administrator.

[FR Doc. 2010–20964 Filed 8–23–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12279 and #12280]

Iowa Disaster Number IA–00024

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–1930–DR), dated 08/14/2010.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 06/01/2010 and continuing.

DATES: *Effective Date:* 08/16/2010.

Physical Loan Application Deadline Date: 10/13/2010.

EIDL Loan Application Deadline Date: 05/16/2011.

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 Presidential disaster declaration for the State of Iowa, dated 08/14/2010 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Jasper, Mahaska, Polk.

Contiguous Counties: (Economic Injury Loans Only): Iowa, Keokuk, Poweshiek, Wapello.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Lisa Lopez-Suarez,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2010–20965 Filed 8–23–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62740; File No. SR–NASDAQ–2010–074]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rule 4753(c) as a Six Month Pilot in 100 NASDAQ-Listed Securities

August 18, 2010.

On June 18, 2010, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to adopt a volatility-based pause in trading in individual Nasdaq-listed securities traded on Nasdaq.[4]

Section 19(b)(2) of the Act [5] provides that, within thirty-five days of the publication of notice of the filing of a proposed rule change, or within such longer period as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall either approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved. The 35th day for this filing is August 19, 2010.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which relates to the adoption of a volatility-based trading pause in select Nasdaq-listed securities on a pilot basis, and the comment letters that have been submitted in connection with this filing.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 13, 2010, as the date by which the Commission should either approve or institute proceedings to determine whether to disapprove the proposed rule change.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–21001 Filed 8–23–10; 8:45 am]

BILLING CODE 8010–01–P

[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 Nos. 62468 (July 7, 2010), 75 FR 41258 (July 15, 2010). On June 25, 2010, Nasdaq filed Amendment No. 1 to the proposed rule change.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of approved projects.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: July 1, 2010, through July 31, 2010.

ADDRESSES: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436; e-mail: *rcairo@srbc.net* or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238–0423, ext. 304; fax: (717) 238–2436; e-mail: *srichardson@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and 18 CFR 806.22(f) for the time period specified above:

Approvals by Rule Issued Under 18 CFR 806.22(e)

1. Eastern Shore Natural Gas Company, Mainline Extension Interconnect Project, ABR–201007001, Salisbury Township, Lancaster County and West Sadsbury Township, Chester County, Pa.; Consumptive Use of up to 0.300 mgd; Approval Date: July 6, 2010.

Approvals by Rule Issued Under 18 CFR 806.22(f)

1. Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad G, ABR–201007002, Grugan Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 6, 2010, including a partial waiver of 18 CFR 806.15.
2. Ultra Resources, Inc.; Pad ID: Stewart 805, ABR–201007003, Elk Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 6, 2010.
3. Talisman Energy USA, Inc.; Pad ID: Shedden 01 075, ABR–201007004, Granville Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 6, 2010.
4. Chesapeake Appalachia, LLC; Pad ID: Redmond, ABR–201007005, Meshoppen Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 6, 2010.
5. Ultra Resources, Inc.; Pad ID: Fox 813, ABR–201007006, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 6, 2010.
6. Carrizo Marcellus, LLC; Pad ID: Solanick 5H, ABR–201007007, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 1.400 mgd; Approval Date: July 6, 2010.
7. Chief Oil & Gas, LLC; Pad ID: Squier Drilling Pad #1, ABR–201007008, Springville Township, Susquehanna County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 7, 2010.
8. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Synnestvedt 878, ABR–201007009, Osceola Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.
9. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Matz 824, ABR–201007010, Chatham Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.
10. Talisman Energy USA, Inc.; Pad ID: Noble 03 029, ABR–201007011, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 7, 2010.
11. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID:

Cochran 705, ABR–201007012, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 7, 2010.

12. Southwestern Energy Production Company, Pad ID: Greenzweig 1, ABR–20090437.1, Herrick Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: July 7, 2010.

13. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Frost 573, ABR–201007013, Covington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

14. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 513R, ABR–201007014, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

15. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Murdock 862, ABR–201007015, Deerfield Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

16. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Taylor 718, ABR–201007016, Liberty Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

17. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wesneski 724, ABR–201007017, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 8, 2010.

18. Chesapeake Appalachia, LLC; Pad ID: McCarty, ABR–201007018, Fox Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

19. Chesapeake Appalachia, LLC; Pad ID: Moose, ABR–201007019, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

20. Talisman Energy USA, Inc.; Pad ID: Nolt 01 082, ABR–201007020, Granville Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 9, 2010.

21. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sorensen 876, ABR–201007021, Osceola Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 9, 2010.

22. Chesapeake Appalachia, LLC; Pad ID: Forbes NEW, ABR–201007022, Asylum Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

23. Chesapeake Appalachia, LLC; Pad ID: Insinger, ABR–201007023, Forks Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

24. Chesapeake Appalachia, LLC; Pad ID: Coveytown, ABR–201007024, Cherry Township, Sullivan County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

25. Chesapeake Appalachia, LLC; Pad ID: Tiffany, ABR–201007025, Windham Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 9, 2010.

26. Hess Corporation, Pad ID: Miller, ABR–201007026, Scott Township, Wayne County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 12, 2010.

27. Hess Corporation, Pad ID: Steinberg, ABR–201007027, Preston Township, Wayne County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 12, 2010.

28. Chesapeake Appalachia, LLC; Pad ID: Jacobs, ABR–201007028, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.

29. Chesapeake Appalachia, LLC; Pad ID: Katzenstein NEW, ABR–201007029, Wysox Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.

30. Chesapeake Appalachia, LLC; Pad ID: Simpson, ABR–201007030, West Burlington Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 13, 2010.

31. Range Resources—Appalachia, LLC; Pad ID: Lone Walnut H.C. Unit #3H Drilling Pad, ABR–201007031, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 13, 2010.

32. Chief Oil & Gas, LLC; Pad ID: Kobbe Drilling Pad #1, ABR–201007032, Elkland Township, Sullivan County, Pa.: Consumptive Use of up 2.000 mgd; Approval Date: July 14, 2010.

33. Talisman Energy USA, Inc.; Pad ID: Yurkanin 03 014, ABR–201007033, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 14, 2010.

34. Chesapeake Appalachia, LLC; Pad ID: Milochik, ABR–201007034, Auburn Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.

35. Chesapeake Appalachia, LLC; Pad ID: Strope, ABR–201007035, Ulster Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.

36. Chesapeake Appalachia, LLC; Pad ID: Robinson NEW, ABR–201007036, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.

37. Chesapeake Appalachia, LLC; Pad ID: Breezy, ABR–201007037, Troy Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.

38. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Westerbaan 723, ABR–201007038, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 14, 2010.

39. Ultra Resources, Inc.; Pad ID: State 819 (rev); ABR–201007039, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.

40. Ultra Resources, Inc.; Pad ID: State 822; ABR–201007040, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.

41. Ultra Resources, Inc.; Pad ID: State 824; ABR–201007041, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.

42. Ultra Resources, Inc.; Pad ID: State 825; ABR–201007042, Gaines Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.

43. Ultra Resources, Inc.; Pad ID: State 826; ABR–201007043, Shippen Township, Tioga County, Pa.; Consumptive Use of up to 4.990 mgd; Approval Date: July 15, 2010, including a partial waiver of 18 CFR 806.15.

44. Gastem, Inc./Gastem-USA, Inc.; Pad ID: Sheckells 1, ABR–201007044, Cherry Valley Town, Otsego County, NY; Consumptive Use of up to 0.080 mgd; Approval Date: July 15, 2010.

45. Chief Oil & Gas, LLC; Pad ID: Lightner Drilling Pad #1, ABR–201007045, Juniata Township, Blair County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 15, 2010.

46. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Maneval 296, ABR–201007046 Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 15, 2010.

47. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Taft 851, ABR–201007047, Middlebury Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 15, 2010.

48. Chesapeake Appalachia, LLC; Pad ID: Barnes, ABR–201007048, Smithfield Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 15, 2010.

49. Anadarko E&P Company, LP; Pad ID: Robert C. Ulmer Pad A, ABR–201007049, Watson Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 16, 2010.

50. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Thomas 503, ABR–201007050, Sullivan and Rutland Townships, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 16, 2010.

51. Energy Corporation of American, Pad ID: Coldstream Affiliates #1MH, ABR 201007051, Goshen Township, Clearfield County, Pa.; Consumptive Use of up to 1.980 mgd; Approval Date: July 16, 2010.

52. Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad D, ABR–201007052, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 16, 2010, including a partial waiver of 18 CFR 806.15.

53. Anadarko E&P Company, LP; Pad ID: COP Tract 343 Pad B, ABR–201007053, Beech Creek Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 19, 2010, including a partial waiver of 18 CFR 806.15.

54. Talisman Energy USA, Inc.; Pad ID: McMurray 01 031, ABR–201007054, Canton Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 19, 2010.

55. Hess Corporation, Pad ID: Medved, ABR–201007055, Preston Township, Wayne County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 19, 2010.

56. Hess Corporation, Pad ID: Galiardo, ABR–201007056, Starrucca Borough, Wayne County, Pa.; Consumptive Use of up to 5.000 mgd; Approval Date: July 19, 2010.

57. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Reese 289, ABR–201007057, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 19, 2010.

58. Chief Oil & Gas, LLC; Pad ID: M & L Beinlich South Drilling Pad #1, ABR–201007058, Elkland Township, Sullivan County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 19, 2010.

59. Chief Oil & Gas, LLC; Pad ID: M & L Beinlich North Drilling Pad #1, ABR–201007059, Overton Township, Bradford County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 19, 2010.

60. Southwestern Energy Production Company, Pad ID: Ball, ABR–201007060, Stevens Township, Bradford County, Pa.; Consumptive Use of up to 4.999 mgd; Approval Date: July 19, 2010.

61. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sawyer 376, ABR–201007061, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 19, 2010.

62. Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad C, ABR–201007062, Grugan Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 19, 2010, including a partial waiver of 18 CFR 806.15.

63. Chesapeake Appalachia, LLC; Pad ID: Dewees, ABR–201007063, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 20, 2010.

64. Carrizo Marcellus, LLC; Pad ID: Shaskas, ABR–201007064, Jessup Township, Susquehanna County, Pa.; Consumptive Use of up to 1.400 mgd; Approval Date: July 20, 2010.

65. Chesapeake Appalachia, LLC; Pad ID: Pieszala, ABR–201007065, Windham Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 20, 2010.

66. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Harsell 883, ABR–201007066, Nelson Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 20, 2010.

67. Chief Oil & Gas, LLC; Pad ID: Davis Drilling Pad #1, ABR–201007067, West St. Clair Township, Bedford County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 21, 2010.

68. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Baldwin 881, ABR–201007068, Farmington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 21, 2010.

69. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 874, ABR–201007069, Deerfield Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 21, 2010.

70. Anadarko E&P Company, LP; Pad ID: Jason M Phillips Pad A, ABR–201007070, Cogan House Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010.

71. Anadarko E&P Company, LP; Pad ID: Ann M Mercier Pad A, ABR–201007071, Cogan House Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010.

72. Anadarko E&P Company, LP; Pad ID: COP Tract 357 Pad B, ABR–201007072, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR 806.15.

73. Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad A, ABR–201007073, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR 806.15.

74. Anadarko E&P Company, LP; Pad ID: COP Tract 285 Pad E, ABR–201007074, Grugan Township, Clinton County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR 806.15.

75. Anadarko E&P Company, LP; Pad ID: COP Tract 357 Pad A, ABR–201007075, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 21, 2010, including a partial waiver of 18 CFR 806.15.

76. Anadarko E&P Company, LP; Pad ID: Clearview HC Pad A, ABR–201007076, Gamble Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 22, 2010.

77. Chesapeake Appalachia, LLC; Pad ID: Schlick NEW, ABR–201007077, Rush Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 22, 2010.

78. Chesapeake Appalachia, LLC; Pad ID: Delima, ABR–201007078, Albany Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 22, 2010.

79. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Smith 140, ABR–201007079, Charleston Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 22, 2010.

80. Talisman Energy USA, Inc.; Pad ID: 05 080 Young, ABR–201007080, Warren Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 22, 2010.

81. Williams Production Appalachia, LLC; Pad ID: M. Martin 1V, ABR–201007081, Sugarloaf Township, Columbia County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 22, 2010.

82. Talisman Energy USA, Inc.; Pad ID: Thorpe 03 049, ABR–201007082, Wells Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 23, 2010.

83. Talisman Energy USA, Inc.; Pad ID: Szumski 03 022, ABR–201007083, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

84. Talisman Energy USA, Inc.; Pad ID: Watson 03 051, ABR–201007084, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

85. Williams Production Appalachia, LLC; Pad ID: Alder Run Land LP #5H, ABR–201007085, Cooper Township, Clearfield County, Pa.; Consumptive Use of up to 2.000 mgd; Approval Date: July 26, 2010.

86. Talisman Energy USA, Inc.; Pad ID: 05 006 Ugliuzza L, ABR–201007086, Pike Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

87. Norse Energy Corporation USA, Pad ID: Thornhill #1, ABR–201007087, Colesville Town, Broome County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 26, 2010.

88. Talisman Energy USA, Inc.; Pad ID: Cummings 01 081, ABR–201007088, Troy Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

89. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Cleveland 616, ABR–201007089, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010

90. Talisman Energy USA, Inc.; Pad ID: 05 047 Kipp, ABR–201007090, Warren Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 26, 2010.

91. Talisman Energy USA, Inc.; Pad ID: Kirkowski 01 066, ABR–201007091, Canton Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

92. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Hedrick 702, ABR–201007092, Union Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.

93. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Gee 848V, ABR–201007093, Middlebury Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.

94. Talisman Energy USA, Inc.; Pad ID: Feusner 03 044, ABR–201007094, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

95. Talisman Energy USA, Inc.; Pad ID: Feusner 03 045, ABR–201007095, Columbia Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

96. Talisman Energy USA, Inc.; Pad ID: Walters 05 001, ABR–201007096, Herrick Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

97. Anadarko E&P Company, LP; Pad ID: COP Tract 231 Pad E, ABR–201007097, Boggs Township, Centre County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 27, 2010, including a partial waiver of 18 CFR 806.15.

98. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wolfe 1114, ABR–201007098, Nelson Township, Tioga, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 27, 2010.

99. Talisman Energy USA, Inc.; Pad ID: 05 004 Cooley P, ABR–201007099, Orwell Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 27, 2010.

100. Chesapeake Appalachia, LLC; Pad ID: Lopatofsky NEW, ABR–201007100, Washington Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

101. Chesapeake Appalachia, LLC; Pad ID: Rowe, ABR–201007101, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

102. Chesapeake Appalachia, LLC; Pad ID: Scheffler, ABR–201007102, Standing Stone Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

103. Chesapeake Appalachia, LLC; Pad ID: Bluegrass, ABR–201007103, Rush Township, Susquehanna County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

104. Chesapeake Appalachia, LLC; Pad ID: Wilmot, ABR–201007104, Rome Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

105. Chesapeake Appalachia, LLC; Pad ID: Champluvier, ABR–201007105, Tuscarora Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

106. Chesapeake Appalachia, LLC; Pad ID: Van DeMark, ABR–201007106, Windham Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 27, 2010.

107. Norse Energy Corporation USA, Pad ID: Knapp, J. #1, ABR–201007107, Colesville Town, Broome County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

108. Norse Energy Corporation USA, Pad ID: Klecha, M. #1, ABR–201007108, Coventry Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

109. Norse Energy Corporation USA, Pad ID: Norse East #1, ABR–201007109, Afton Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

110. Norse Energy Corporation USA, Pad ID: Norse West #1, ABR–201007110, Afton Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

111. Norse Energy Corporation USA, Pad ID: Anderson, C. #1, ABR–201007111, Coventry Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 27, 2010.

112. Norse Energy Corporation USA, Pad ID: Norse #3, ABR–201007112, Colesville Town, Broome County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 28, 2010

113. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Sticklin 610, ABR–201007113, Delmar Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

114. Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad I, ABR–201007114, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 28, 2010, including a partial waiver of 18 CFR 806.15.

115. Seneca Resources Corporation, Pad ID: Lehmann Pad K, ABR–201007115, Covington Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

116. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Wood 499, ABR–201007116, Sullivan Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

117. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Hamblin 860, ABR–201007117, Middlebury Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

118. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Foti 721, ABR–201007118, McNett Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

119. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Clegg 722, ABR–201007119, McNett Township, Lycoming County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

120. Cabot Oil & Gas Corporation, Pad ID: DavisG P1, ABR–201007120, Gibson Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: July 28, 2010.

121. Cabot Oil & Gas Corporation, Pad ID: AdamsJ P1, ABR–201007121,

Harford Township, Susquehanna County, Pa.; Consumptive Use of up to 3.575 mgd; Approval Date: July 28, 2010.

122. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Seeley 524, ABR–201007122, Rutland Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 28, 2010.

123. Chesapeake Appalachia, LLC; Pad ID: Covington, ABR–201007123, Sheshequin Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 28, 2010.

124. Anadarko E&P Company, LP; Pad ID: COP Tract 356 Pad F, ABR–201007124, Cummings Township, Lycoming County, Pa.; Consumptive Use of up to 3.000 mgd; Approval Date: July 29, 2010, including a partial waiver of 18 CFR 806.15.

125. Chesapeake Appalachia, LLC; Pad ID: EDF NEW, ABR–201007125, Mehoopany Township, Wyoming County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.

126. Chesapeake Appalachia, LLC; Pad ID: Petty, ABR–201007126, Leroy Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.

127. Chesapeake Appalachia, LLC; Pad ID: Faith New, ABR–201007127, Sheshequin Township, Bradford County, Pa.; Consumptive Use of up to 7.500 mgd; Approval Date: July 29, 2010.

128. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Dewey Hollow Rod & Gun Club 601, ABR–201007128, Sullivan Township, Tioga County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 29, 2010.

129. East Resources Management, LLC (Formerly East Resources, Inc.); Pad ID: Swingle 725, ABR–201007129, Canton Township, Bradford County, Pa.; Consumptive Use of up to 4.000 mgd; Approval Date: July 29, 2010.

130. Talisman Energy USA, Inc.; Pad ID: 05 002 Warner W, ABR–201007130, Pike Township, Bradford County, Pa.; Consumptive Use of up to 6.000 mgd; Approval Date: July 29, 2010.

131. Norse Energy Corporation USA, Pad ID: Stone #1, ABR–201007131, Afton Township, Chenango County, N.Y.; Consumptive Use of up to 0.150 mgd; Approval Date: July 30, 2010.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: August 13, 2010.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2010–20943 Filed 8–23–10; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0286]

Notice of Request To Revise a Currently-Approved Information Collection Request: Request for Revocation of Authority Granted

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), FMCSA announces its plan to submit to the Office of Management and Budget (OMB) its request to revise a currently-approved information collection request (ICR) entitled "Request for Revocation of Authority Granted" covered by OMB Control Number 2126–0018. This ICR provides FMCSA information about a voluntary request by a motor carrier, freight forwarder, or property broker to amend or revoke its registration of authority granted. FMCSA will seek OMB's review and approval of this revised IC and invites public comment on this request.

DATES: We must receive your comments on or before October 25, 2010.

ADDRESSES: You may submit comments bearing the Department of Transportation (DOT) Docket Management System (DMS) Docket Number FMCSA–2010–0286 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or post card or print the acknowledgement page that appears after submitting them on-line.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Ms. Tura Gatling, Customer Support Team Leader, Commercial Enforcement Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. *Telephone Number:* (202) 385–2412; *E-mail Address: tura.gatling@dot.gov.* Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Request for Revocation of Authority Granted.

OMB Approval Number: 2126–0018.

Type of Request: To revise a currently-approved information collection.

Form Number: OCE–46.

Respondents: Motor carriers, freight forwarders and property brokers.

Estimated Number of Respondents: 3,700.

Estimated Time per Response: 15 minutes.

Expiration Date: February 28, 2011.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 925 hours [3,700 annual Form OCE–46 filers × 15 minutes/60 minutes per filing = 925].

Background: Title 49 of the United States Code (U.S.C.) authorizes the Secretary of Transportation (Secretary) to promulgate regulations governing the registration of for-hire motor carriers of regulated commodities (49 U.S.C. 13902), surface transportation freight forwarders (49 U.S.C. 13903), and property brokers (49 U.S.C. 13904).

Under 49 U.S.C. 13905, each registration is effective from the date specified and remains in effect for such period as the Secretary determines appropriate by regulation. Section 13905(c) grants the Secretary the authority to amend or revoke a registration at the registrant's request. On complaint, or on the Secretary's own initiative, the Secretary may also suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with the regulations, an order of the Secretary, or a condition of its registration.

Form OCE–46 is used by transportation entities to voluntarily apply for revocation of their registration authority in whole or in part. FMCSA uses the form to seek information concerning the registrant's docket number, name and address, and the reasons for the revocation request. This ICR is being revised due to an increase in the estimated number of annual respondents from 3,250 to 3,700.

Public Comments Invited: You are asked to comment on any aspect of this revised information collection request, including: (1) The necessity and usefulness of the information collection for FMCSA to meet its goal in reducing truck crashes; (2) the accuracy of the estimated burdens; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued on: August 17, 2010.

Kelly Leone,

Director, Information Technology.

[FR Doc. 2010–21008 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. EP 699]

Assessment of Mediation and Arbitration Procedures

AGENCY: Surface Transportation Board (Board), DOT.

ACTION: Notice and request for comments.

SUMMARY: The Board seeks comments on matters relating to the use of mediation and arbitration as effective means of resolving disputes that are subject to the Board's jurisdiction. Depending upon the Board's assessment of the comments received, the Board may propose revisions to its current rules or propose new rules in order to encourage the use of mediation and arbitration in the resolution of disputes. If so, the proposed changes or new rules would be published and made available for review and comment in a subsequent notice.

DATES: Comments are due on October 25, 2010.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 699, 395 E Street, SW., Washington, DC 20423–0001. Copies of written comments will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site.

FOR FURTHER INFORMATION CONTACT: Julia Farr at 202–245–0359. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Board favors private sector resolutions of disputes as an alternative to its formal processes where possible. To that end, the Board has rules in place that allow for mediation and arbitration of matters subject to its jurisdiction. The Board's mediation rules are set forth at 49 CFR 1109.1, 1109.4, 1111.2, 1111.9, and 1111.10. Its arbitration rules are set forth at 49 CFR 1108, 1109.1, 1109.2, and 1115.8.

The Board seeks input regarding measures it can implement to encourage greater use of mediation and arbitration procedures, including changes to the Board's existing rules and establishment of new rules. The Board also seeks input regarding possible changes to its rules to permit the use of Board-facilitated mediation procedures without the filing of a formal complaint. In addition to being reviewed by the Board, the Railroad-Shipper Transportation Advisory Council (RSTAC) will review the comments and prepare a report to the Board reflecting the input of its members on this issue.[1]

Based upon the comments from interested persons and RSTAC's input, the Board will decide whether to issue a Notice of Proposed Rulemaking (NPRM) at a later date. We will invite comment on the NPRM before issuance of any final rule.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Comments as described above are due by October 25, 2010.

2. This decision is effective on its date of service.

Decided: August 18, 2010.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2010–20924 Filed 8–23–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Bus and Bus Facilities Discretionary Program Funds

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Bus and Bus Facilities Livability program announcement of project selections.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects funded with Bus and Bus Facilities program funds in support of DOT's Livability Initiative, which was announced in the Bus

[1] RSTAC is an advisory board established by Federal law to advise the U.S. Congress, the U.S. Department of Transportation, and the Board on issues related to rail freight, with particular attention to issues of importance to small shippers and railroads. By statute, RSTAC members are appointed by the Board's chairman. Representatives of rail customers, Class I railroads, and small railroads sit on RSTAC. The Board's members and the U.S. Secretary of Transportation are RSTAC *ex officio,* nonvoting members. (49 U.S.C. 726.)

Livability Initiative notice of funding availability on December 8, 2009. The Livability Bus program makes funds available to public transit providers to finance capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private non-profit organizations.

FOR FURTHER INFORMATION CONTACT: Successful and unsuccessful applicants should contact the appropriate FTA Regional office (Appendix) for specific information regarding applying for the funds or proposal specific questions. For general program information on the Bus and Bus Facilities program, contact Kimberly Sledge, Office of Program Management, at (202) 366–2053, *e-mail: kimberly.sledge@dot.gov,* or Henrika Buchanan-Smith, Office of Program Management, at (202) 366–2053, *e-mail: henrika.buchanan-smith@dot.gov.*

SUPPLEMENTARY INFORMATION: A total of $162,685,618 was available for FTA's Bus and Bus Facilities Livability Initiative. A total of 281 applicants requested $2.1 billion, indicating significant demand for funds. Project proposals were evaluated based on the criteria detailed in the December 8, 2009 Notice of Funding Availability. The projects selected and shown in Table 1 will provide mobility choices, improve economic competitiveness, support existing communities, create partnership and enhance the value of communities and neighborhoods.

Grantees selected for competitive discretionary funding should work with their FTA regional office to finalize the application in FTA's Transportation Electronic Award Management system, (TEAM) so that funds can be obligated expeditiously. Funds must be used for the purposes specified in the competitive application. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TEAM application. Selected projects have pre-award authority as of July 8, 2010.

Post-award reporting requirements include submission of the Financial Federal Report and Milestone reports in TEAM as appropriate (see FTA.C.5010.1D).

The grantee must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out the project supported by the FTA grant. Funds allocated in this announcement must be obligated in a grant by September 30, 2012.

Issued in Washington, DC, this 18th day of August, 2010.

Peter Rogoff,

Administrator.

Appendix

FTA Regional and Metropolitan Offices

Mary E. Mello, Deputy Regional Administrator, Region 1–Boston, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142–1093, Tel. 617–494–2055.

States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode, Island, and Vermont.

Brigid Hynes-Cherin, Regional Administrator, Region 2–New York, One Bowling Green, Room 429, New York, NY 10004–1415, Tel. 212–668–2170.

States served: New Jersey, New York.

New York Metropolitan Office, Region 2–New York, One Bowling Green, Room 428, New York, NY 10004–1415, Tel. 212–668–2202.

Letitia Thompson, Regional Administrator, Region 3–Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7100.

States served: Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and District of Columbia.

Philadelphia Metropolitan Office, Region 3–Philadelphia, 1760 Market Street, Suite 500, Philadelphia, PA 19103–4124, Tel. 215–656–7070.

Washington, DC Metropolitan Office, 1990 K Street, NW., Room 510, Washington, DC 20006, Tel. 202–219–3562.

Yvette Taylor, Regional Administrator, Region 4–Atlanta, 230 Peachtreet Street, NW., Suite 800, Atlanta, GA 30303, Tel. 404–865–5600.

States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North, Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.

Marisol Simon, Regional Administrator, Region 5–Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.

States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Chicago Metropolitan Office, Region 5–Chicago, 200 West Adams Street, Suite 320, Chicago, IL 60606, Tel. 312–353–2789.

Robert C. Patrick, Regional Administrator, Region 6–Ft. Worth, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, Tel. 817–978–0550.

States served: Arkansas, Louisiana, Oklahoma, New Mexico and Texas.

Mokhtee Ahmad, Regional Administrator, Region 7–Kansas City, MO, 901 Locust Street, Room 404, Kansas City, MO 64106, Tel. 816–329–3920.

States served: Iowa, Kansas, Missouri, and Nebraska.

Terry Rosapep, Regional Administrator, Region 8–Denver, 12300 West Dakota Ave., Suite 310, Lakewood, CO 80228–2583, Tel. 720–963–3300.

States served: Colorado, Montana, North Dakota, South Dakota, Utah, and, Wyoming.

Leslie T. Rogers, Regional Administrator, Region 9–San Francisco, 201 Mission Street, Room 1650, San Francisco, CA 94105–1926, Tel. 415–744–3133.

States served: American Samoa, Arizona, California, Guam, Hawaii, Nevada, and the Northern Mariana Islands.

Los Angeles Metropolitan Office, Region 9–Los Angeles, 888 S. Figueroa Street, Suite 1850, Los Angeles, CA 90017–1850, Tel. 213–202–3952.

Rick Krochalis, Regional Administrator, Region 10–Seattle, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174–1002, Tel. 206–220–7954.

States served: Alaska, Idaho, Oregon, and Washington.

Table I

BUS LIVABILITY PROJECT SELECTIONS

State	Project ID	Recipient	Project Description	Allocation
AZ	D2010-BLIV-09001	City of Phoenix	11th St Pedestrian Improvement Project	$2,400,000
CA	D2010-BLIV-06001	Orange County Transportation Authority	Anaheim Regional Transportation Intermodal Center	$5,000,000
CA	D2010-BLIV-09002	San Francisco Municipal Transportation Agency	Phelan Loop Bus Facility Project	$6,822,106
CA	D2010-BLIV-09003	San Joaquin Regional Transit District	Metro Express: Hammer Lane Corridor Bus Rapid Transit (BRT) project	$5,227,161
CA	D2010-BLIV-09004	Union City Transit	East Plaza Transit Loop Road	$1,909,974
CO	D2010-BLIV-05003	Colorado Department of Transportation	South Central COG Transit Center	$152,500
CO	D2010-BLIV-09005	Colorado Department of Transportation	Montrose/ All Points Transit Buses	$160,000
CO	D2010-BLIV-09006	RTD - Denver	Mall Shuttle for 16th Street Mall	$5,200,000
CT	D2010-BLIV-06002	Stamford, CT	Stamford Urban Transitway Project	$16,000,000
CT	D2010-BLIV-09007	Greater Hartford Transit District	Storrs Center Intermodal Transportation Hub and Transit Pathway	$4,940,000
FL	D2010-BLIV-06003	Broward County Transportation Department	Broward Boulevard Livable Mobility Plan	$8,034,017
FL	D2010-BLIV-09008	LYNX - Orlando	Urban Trail Project	$1,233,132
IA	D2010-BLIV-09009	Des Moines Area Regional Transit Authority	Sustainable Multi-Modal Transit Hub	$6,500,000
ID	D2010-BLIV-09010	Shoshone-Bannock Tribes Department of Transportation	Bus Garage	$125,000
IL	D2010-BLIV-05001	Chicago Transit Authority	Jeffery BRT Pilot Corridor	$11,000,000
KY	D2010-BLIV-09011	KY Transportation Cabinet	Transit Hub Downtown Revitalization Project	$5,043,760
MA	D2010-BLIV-09012	Massachusetts Bay Transportation Authority	Boston Bike Share Project	$3,003,051
MA	D2010-BLIV-09013	Pioneer Valley Transit Authority	Interactive Passenger Information System	$745,689
MD	D2010-BLIV-04002	Maryland Transit Administration	City of Baltimore, Westport Transit Oriented Development	$516,000
MD	D2010-BLIV-09014	Maryland Transit Administration	South County Circulator Project	$4,126,227
MD	D2010-BLIV-09015	Maryland Transit Administration	Howard Street Livable Communities Project	$260,000
MN	D2010-BLIV-09016	Metropolitan Council	Transit Signal Priority & RTS	$1,248,000
MO	D2010-BLIV-08002	City of Joplin Metro Area Public transit System	ITS Enhancements	$244,032
MO	D2010-BLIV-08003	Kansas City Area TA	Bus Stop & Access Improvement Program	$250,000
MO	D2010-BLIV-08004	Kansas City Area TA	JCT Maintenance Facility Improvement	$374,150
MT	D2010-BLIV-08005	Montana Department of Transportation	Missoula Transfer Center Renovation	$119,000
NC	D2010-BLIV-06004	City of Asheville	Fleet Replacement	$428,000
NH	D2010-BLIV-09017	Manchester Transit Authority	Health Care Circulator Project	$300,000

State	Project ID	Recipient	Project Description	Allocation
NM	D2010-BLIV-09018	City of Albuquerque Transit Department	Montaño Intermodal Center	$6,722,800
NV	D2010-BLIV-09019	Regional Transportation Commission of Southern Nevada	UNLV Transit Center	$2,763,200
NY	D2010-BLIV-04001	NYC DOT	Bus Rapid Transit Facility Project -34th Street, Manhattan	$18,379,510
NY	D2010-BLIV-08001	Central New York Regional Transportation Authority	Transfer Hub Project	$8,500,000
OH	D2010-BLIV-09020	Stark Area Regional Transit Authority	Mahoning Transit Corridor	$2,774,400
OK	D2010-BLIV-09021	Choctaw Nation of Oklahoma	Bus Purchase	$132,000
OR	D2010-BLIV-09022	Lane Transit District	Gateway Park and Ride Project	$2,000,000
OR	D2010-BLIV-09023	Trimet	Hybrid Bus Project	$2,000,000
PA	D2010-BLIV-05004	SEPTA	Wayne Junction Intermodal Facility Rehabilitation Project	$3,980,000
PA	D2010-BLIV-09027	Pennsylvania Department of Transportation	Transportation Technology Project	$5,000,000
RI	D2010-BLIV-03001	Rhode Island Public Transit Authority	Customer Service Enhancements	$700,000
SC	D2010-BLIV-05002	South Carolina DOT	Multi-use trail, pedestrian connectors, buses, shelters, signage	$3,100,000
TX	D2010-BLIV-06005	City of Brownsville	Brownville Multimodal Terminal	$3,871,909
UT	D2010-BLIV-05005	Utah Transit Authority	Provo Intermodal Center	$5,000,000
UT	D2010-BLIV-09025	Utah Transit Authority	3900 South TRAX light rail station TOD	$400,000
VA	D2010-BLIV-09026	GRTC Transit System - Richmond, VA	Bus Replacement Program	$420,000
WA	D2010-BLIV-06006	Skagit Transit	Chuckanut Park and Ride Facility	$2,800,000
WA	D2010-BLIV-09024	City of Seattle	Seattle Intermodal Hub Improvement Projects	$2,400,000
WI	D2010-BLIV-05006	City of Racine, Wisconsin	Bus Shelter Construction and Improvements	$380,000
			Total	**$162,685,618**

[FR Doc. 2010–20952 Filed 8–23–10; 8:45 am]
BILLING CODE 4910–57–C

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Special Permits Applications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: Delmer F. Billings, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington, DC 20590–0001, (202) 366–4535.

Key to "Reason for Delay"

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of special permit applications.

Meaning of Application Number Suffixes

N—New application.
M—Modification request.
PM—Party to application with modification request.

Issued in Washington, DC, on August 18, 2010.

Donald Burger,
Chief, Special Permits and Approvals Branch.

Application No.	Applicant	Reason for delay	Estimated date of completion
	Modification to Special Permits		
14167–M	Trinityrail, Dallas, TX	4	03–31–2011
6293–M	ATK Space Systems, Inc. (Former Grantee: ATK Thiokol, Inc.), Corine, UT	4	03–31–2011
14741–M	Weatherford International, Fort Worth, TX	4	03–31–2011
8826–M	Phoenix Air Group, Inc., Cartersville, GA	4	03–31–2011
14650–M	Air Transport International, L.L.C., Little Rock, AR	4	03–31–2011
14926–M	Lynden Air Cargo, Anchorage, AK	4	11–30–2010
14808–M	Amtrol, Inc., West Warwick, RI	4	03–31–2011
8826–M	Phoenix Air Group, Inc., Cartersville, GA	4	03–31–2011
10869–M	Norris Cylinder Company, Longview, TX	4	03–31–2011
13736–M	ConocoPhillips, Anchorage, AK	4	03–31–2011
	New Special Permit Applications		
14810–N	Olin Corporation, Chlor Alkai Products Division, Cleveland, TN	4	03–31–2011
14813–N	Organ Recovery Systems, Des Plaines, IL	4	03–31–2011
14832–N	Trinity Industries, Inc., Dallas, TX	4	03–31–2011
14835–N	The Reusable Industrial Packaging Assoc., Washington, DC	4	03–31–2011
14839–N	Matheson Tri-Gas, Inc., Basking Ridge, NJ	3	11–30–2010
14851–N	Alaska Air Group, Inc., Seattle, WA	4	03–31–2011
14868–N	Wal-Mart Stores, Inc., Bentonville, AR	4	03–31–2011
14878–N	Humboldt County Waste Management Authority, Eureka, CA	4	03–31–2011
14872–N	Arkema, Inc., Philadelphia, PA	4	03–31–2011
14921–N	ERA Helicopters LLE, Lake Charles, LA	4	11–30–2010
14899–N	MGH Management Group, LLC	4	03–31–2011
14929–N	Alaska Island Air, Inc., Togiak, AK	4	11–30–2010
14933–N	Tobin Scientific, a division of Tobin & Sons Moving and Storage, Inc., Peabody, MA	4	03–31–2011
14940–N	Crown Aerosol Packaging, Philadelphia, PA	4	11–30–2010
14945–N	Vulcan Construction Materials LP SE, db/a Vulcan Materials Company, Atlanta, GA	4	03–31–2011
14951–N	Lincoln Composites, Lincoln, NE	1	11–30–2010
14952–N	Mebrom NV, Ertvelde-Rieme	1	11–30–2010
14960–N	Cheltec, Inc., Sarasota, FL	4	03–31–2011
14965–N	JiangXi Oxygen Plant Co., Ltd., Jiangxi Province	4	11–30–2010
14972–N	Air Products and Chemicals, Allentown, PA	4	11–30–2010
14977–N	Air Products and Chemicals, Inc., Allentown, PA	4	03–31–2011
14980–N	Boehlke Bottled Gas Corp., Cedarburg, WI	4	03–31–2011

[FR Doc. 2010–20911 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee–Public Teleconference

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee Teleconference.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a teleconference of the Space Transportation Operations Working Group (STOWG) of the Commercial Space Transportation Advisory Committee (COMSTAC). The teleconference will take place on Friday, September 17, 2010, starting at 11 a.m. Eastern Daylight Time. Individuals who plan to participate should contact Susan Lender, DFO, (the Contact Person listed below) by phone or e-mail for the teleconference call in number.

The proposed agenda for this teleconference is to continue the group's review of the Concept of Operation for Global Space Vehicle Debris Threat Management report. This is one of the action items from the May 19, 2010 meeting held at the National Housing Center, 1201 15th Street, NW., Washington, DC 20005.

Interested members of the public may submit relevant written statements for the COMSTAC members to consider under the advisory process. Statements may concern the issues and agenda items mentioned above or additional issues that may be relevant for the U.S. commercial space transportation industry. Interested parties wishing to submit written statements should contact Susan Lender, DFO, (the Contact Person listed below) in writing (mail or e-mail) by September 10,2010, so that the information can be made available to COMSTAC members for their review and consideration before the September 17, 2010, teleconference. Written statements should be supplied in the following formats: one hard copy with original signature or one electronic copy via e-mail.

An agenda will be posted on the FAA Web site at *http://www.faa.gov/go/ast.*

Individuals who plan to participate and need special assistance should inform the Contact Person listed below in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Susan Lender (AST–100), Office of Commercial Space Transportation (AST), 800 Independence Avenue, SW., Room 331, Washington, DC 20591, telephone (202) 267–8029; e-mail *susan.lender@faa.gov.* Complete information regarding COMSTAC is available on the FAA Web site at: *http://www.faa.gov/about/office_org/headquarters_offices/ast/advisory_committee/.*

Issued in Washington, DC on August 13, 2010.

George C. Nield,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 2010–20520 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Brownsville & Rio Grande International Railroad

[Waiver Petition Docket Number FRA–2010–0100]

The Brownsville & Rio Grande International (BRG) seeks a waiver of compliance with certain requirements of 49 CFR part 232 —*Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of Train Devices* and CFR Part 215—*Railroad Freight Car Safety Standards.* Specifically, BRG seeks relief to permit trains transferred by the Union Pacific Railroad (UP) under waiver petition Docket Number FRA–2007–28340 from the U.S./Mexico border at Brownsville, Texas, from the Kansas City Southern De Mexico Railway (KCSM), to move from BRG's interchange point with UP without performing the regulatory tests and inspections specified in 49 CFR part 215 and § 232.205(a)(1) at that location. BRG proposes moving the trains from the interchange at Milepost (MP) 4.48 to the BRG inspection point between MP 8.0 and 9.0 under 49 CFR 232.211, a distance of 6.5 miles where required FRA inspections will be performed.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0100) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Page 19477) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC on August 17, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–20980 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Union Pacific Railroad Company

[Waiver Petition Docket Number FRA–2007–28340]

The Union Pacific Railroad Company (UP) seeks a modification to its waiver of compliance with certain requirements of 49 CFR part 232 —*Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of Train Devices* and CFR Part 215—*Railroad Freight Car Safety Standards.* Specifically, UP seeks to modify the current waiver to allow it to move freight cars received in interchange from Kansas City Southern de Mexico (KCSM) for the Brownsville and Rio Grande International Railroad (BRG) an additional 4 miles beyond its Olmito Yard for interchange with BRG without performing the regulatory tests and inspections specified in 49 CFR part 215 and 232.205(a)(1).

UP proposes moving the trains from the border at Milepost (MP) 0.7 on the Brownsville subdivision, to the UP interchange with BRG at MP 4.48, a distance of 11.5 miles. BRG will then move the cars to a location, and FRA inspections will be performed as outlined in BRG's Waiver Petition under Docket Number FRA–2010–0100.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2007–28340) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications

concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Page 19477) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC on August 17, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–20982 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Trackside Investments

[Docket Number FRA–2010–0012]

The Trackside Investments, LLC (Trackside) petitioned FRA for relief from the requirements of 49 CFR 223.15(c) *Existing passenger cars* for ten (10) passenger cars. All of the passenger cars carry the same reporting mark (OHCR) and are numbered: 3208, 5443, 5444, 5499, 5582, 5583, 5584, 5595, 5642, and 9300. They were built by the Canadian Car and Foundry Company in 1954, and used by VIA Rail Canada until the mid-1990's, in long distance passenger service.

The equipment does not meet the definition of "antiquated" equipment. FRA's long-standing definition of "antiquated" applies to equipment to built prior to the end of World War II. In this case, even though the above listed equipment is used on in tourist/excursion/educational service, relief from the Federal safety glazing requirements is required because the cars were built in 1954. The cars are equipped with double pane, sealed laminated safety glass, with certain windows marked as emergency exits. Also, the cars have emergency tools and instructional signage to break the marked windows, as installed by VIA Rail.

The above referenced passenger cars and cabooses have occasionally been leased for excursion service purposes to similar organizations in the Midwest region of the United States, and Trackside proposes to continue this practice in the future. In all instances, the excursion trains operate through urban, rural and wooded areas. The coaches are used at speeds up to and including 45 mph. There have been no reported incidents of stoning or acts of vandalism against the excursion trains. Trackside believes that the cost to retrofit these cars is not economically feasible due to the limited annual use of the cars and low exposure to vandalism. For example, the average use of these cars over the past 24 months was approximately 30 service days.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2010–0012) and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or at *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, on August 17, 2010.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory and Legislative Operations.

[FR Doc. 2010–20979 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–6156; FMCSA–2000–7006; FMCSA–2001–9561; FMCSA–2001–10578; FMCSA–2001–11426; FMCSA–2002–11714; FMCSA–2002–13411; FMCSA–2003–16241; FMCSA–2003–16564; FMCSA–2004–17195; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–23099; FMCSA–2005–23238; FMCSA–2006–23773; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2006–25246; FMCSA–2008–0021]

Qualification of Drivers; Exemption Renewals; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 60 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on July 28, 2010 (75 FR 36778).

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 60 renewal applications, FMCSA renews the Federal vision exemptions for Jawad K. Al-Shaibani, Harold J. Bartley, Jr., Delmas C. Bergdoll, Kenneth J. Bernard, Allen G. Bors, Brad T. Braegger, Michael C. Branham, John E. Breslin, Trixie L. Brown, Raymond L. Brush, Scott F. Chalfant, Leroy A. Chambers, Harvis P. Cosby, Rodney D. Curtis, Ronald D. Danberry, Norman J. Day, Michael D. DeBerry, John K. DeGolier, Francisco Espinal, William L. Foote, Daniel R. Franks, David W. Grooms, Walter D. Hague, Jr., Spencer N. Haugen, Edward J. Hess, Jr., William G. Hix, Ralph E. Holmes, Bruce A. Homan, Timothy B. Hummel, Fredrick C. Ingles, Lerry L. Jarvis, Michael S. Johannsen, Charles E. Johnston, Harry L. Jones, Mearl C. Kennedy, Aaron C. Lougher, William F. Mack, Patrick E. Martin, Bennet G. Maruska, Leland K. McAlhaney, Bobby G. Minton, Charles J. Morman, Larry A. Nienhuis, Corey L. Paraf, John H. Pribanic, Ronald M. Price, John P. Raftis, Scott D. Russell, Alton M. Rutherford, Charles L. Schnell, Andrew W. Shollett, Joseph B. Shaw, Jr., Wolfgang V. Spekis, Sandra J. Sperling, Ryan K. Steelman, Robert L. Swartz, Jr., Roger A. Thein, Jr., Duane L. Tysseling, Kenneth E. Walker and Richard G. Wendt.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: August 11, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–20974 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5578; FMCSA–1999–6480; FMCSA–2001–11426; FMCSA–2003–14223; FMCSA–2003–16564; FMCSA–2004–17195; FMCSA–2006–24015; FMCSA–2006–24783; FMCSA–2008–0021]

Qualification of Drivers; Exemption Renewals; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA previously announced its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 13 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The comment period ended on August 2, 2010 (75 FR 38602).

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 13 renewal applications, FMCSA renews the Federal vision exemptions for Manuel A. Almeida, Ronald B. Brown, Thomas L. Corey, Lawrence M. Daley, Brian G. Hagen, Alfred G. Jeffus, Christopher P. Lefler, Michael G. Martin, Charles R. Murphy, Willard L. Riggle, Robert H. Rogers, Jose M. Suarez and Barney J. Wade.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: August 11, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–20973 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7006; FMCSA–7165; FMCSA–2002–12294; FMCSA–2004–17194; FMCSA–2006–24783; FMCSA–2008–0106; FMCSA–2008–0174]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal

Motor Carrier Safety Regulations for 37 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 21, 2010. Comments must be received on or before September 23, 2010.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2000–7006; FMCSA–7165; FMCSA–2002–12294; FMCSA–2004–17194; FMCSA–2006–24783; FMCSA–2008–0106; FMCSA–2008–0174, using any of the following methods.

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202)-366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 37 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 37 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

John W. Arnold, Derric D. Burrell, Jack D. Clodfelter, Tommy J. Cross, Jr., Stephen R. Daugherty, Eric L. Dawson, III, Richard L. Derick, Craig E. Dorrance, Joseph A. Dunlap, Calvin J. Eldridge, Shawn B. Gaston, James F. Gereau, Eric M. Giddens, Sr., Ronald E. Goad, Esteban G. Gonzalez, Reginald I. Hall, Gary J. Hambrick, James O. Hancock, Sherman W. Hawk, Jr., Lance G. James, Robert C. Jeffres, Alfred C. Jewell, Jr., Leslie A. Landschoot, John C. Lewis, Lewis V. McNeice, Kevin J. O'Donnell, Gregory M. Preves, James M. Rafferty, Paul C. Reagle, Sr., Daniel Salinas, Lee R. Sidwell, David L. Slack, David M. Smith, James C. Smith, Roger R. Strehl, Jeffrey D. Wilson, Richard A. Yeager.

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 37 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 20245; 65 FR 57230; 67 FR 57266; 69 FR 52741; 71 FR 53489; 73 FR 51337; 65 FR 33406; 65 FR 57234; 67 FR 46016; 67 FR 57267; 69 FR 51346; 71 FR 50970; 69 FR 17263; 69 FR 31447; 71 FR 27033; 73 FR 48269; 71 FR 43556; 73 FR 52451; 71 FR 32183; 71 FR 41310; 73 FR 52451; 73 FR 35194; 73 FR 48273; 73 FR 38497; 73 FR 48271). Each of these 37 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate

commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by September 23, 2010.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 37 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: August 17, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–21009 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2008–0231]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 15 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 23, 2010. Comments must be received on or before September 23, 2010.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2008–0231, using any of the following methods.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 15 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 15 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

William C. Ball, Terrence L. Benning, Robert S. Bowen, Dennis R. Buszkiewicz, Larry Byrley, Eldon D. Cochran, James R. Corley, Alfred A. Constantino, Larry D. Curry, Kelly M. Greene, John H. Holmberg, Garry R.

Lomen, Leonardo Lopez, Jr., James A. Rapp, Thomas P. Shank.

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 15 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (73 FR 46973; 73 FR 54888) Each of these 15 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by September 23, 2010.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 15 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: August 17, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–20986 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2010 0075]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel BLUE HEAVEN.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2010–0075 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

DATES: Submit comments on or before September 23, 2010.

ADDRESSES: Comments should refer to docket number MARAD–2010–0075. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version

of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BLUE HEAVEN is:

Intended Commercial Use of Vessel: "Carrying 6 passengers along the coastal waters of the southeastern states."

Geographic Region: "Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland."

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: August 13, 2010.

By Order of the Maritime Administrator.

Christine Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010–20947 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–50: OTS Nos. 17972 and H4743]

SharePlus Federal Bank, Plano, TX; Approval of Conversion Application

Notice is hereby given that on August 12, 2010, the Office of Thrift Supervision approved the application of SharePlus Federal Bank, Piano, Texas, to convert to the stock form of organization. Copies of the application are available for inspection by appointment (*phone number:* (202) 906–5922 or *e-mail: public.info@ots.treas.gov*) at the Public Reading Room, 1700 G Street, NW., Washington, DC 20552, and the OTS Western Regional Office, 225 East John Carpenter Freeway, Suite 500, Irving, Texas 75062–2326.

Dated: August 17, 2010.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. 2010–20812 Filed 8–23–10; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0212]

Proposed Information Collection (Veterans Mortgage Life Insurance Statement) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to decline Veterans Mortgage Life Insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 25, 2010.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0212" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Mortgage Life Insurance Statement, VA Form 29–8636.

OMB Control Number: 2900–0212.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans complete VA Form 29–8636 to decline Veterans Mortgage Life Insurance (VMLI) or to provide information upon which the insurance premium can be based. VMIL provides financial protection to cover eligible veterans' outstanding home mortgage in the event of his or her death. VMIL is available only to disabled veterans, who, because of their disability, have received a specially adapted housing grant from VA.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,000.

Dated: August 18, 2010.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2010–20904 Filed 8–23–10; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0249]

Agency Information Collection (Loan Service Report) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits

Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 23, 2010.

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0249" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@va.gov.* Please refer to "OMB Control No. 2900–0249" in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Loan Service Report, VA Form 26–6808.

OMB Control Number: 2900–0249.

Type of Review: Extension of a currently approved collection.

Abstract: VA personnel complete VA Form 26–6806 during personal contact with delinquent obligors. VA will use the information collected to determine whether a loan default is insoluble or whether the obligor has reasonable prospects for curing the default and maintaining the mortgage obligation in the future. The information will also be used to intercede with the holder of the loan to accept a specially arranged repayment plan or other forbearance aimed at assisting the obligor in retaining his or her home.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 15, 2010, at page 33899.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,167 hours.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 10,000.

Dated: August 18, 2010.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2010–20905 Filed 8–23–10; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0539]

Proposed Information Collection (Application for Supplemental Service Disabled Veterans Insurance) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine a claimant's eligibility for disability insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 25, 2010.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0539" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Supplemental Service Disabled Veterans Insurance (SRH), VA Form 29–0188 and 29–0189, and Application for Supplemental Service Disabled Veterans (RH) Life Insurance, VA Form 29–0190.

OMB Control Number: 2900–0539.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 29–0188, 29–0189 and 29–0190 are completed by veterans to apply for Supplemental Service Disabled Veterans Insurance. VA uses the information collected to establish veterans' eligibility for insurance coverage.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,333 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10,000.

Dated: August 18, 2010.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2010–20906 Filed 8–23–10; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0011]

Proposed Information Collection (Application for Reinstatement (Insurance Lapsed More than 6 Months), and Application for Reinstatement (Non Medical—Comparative Health Statement)) Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to reinstate a claimant's Government Life Insurance and/or Total Disability Income Provision.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 25, 2010.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to "OMB Control No. 2900–0011" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Application for Reinstatement (Insurance Lapsed More than 6 Months), Government Life Insurance and/or Total Disability Income Provision, VA Form 29–352, and Application for Reinstatement (Non Medical—Comparative Health Statement), Government Life Insurance, VA Form 29–353.

OMB Control Number: 2900–0011.

Type of Review: Extension of a currently approved collection.

Abstract: VA Forms 29–352 and 29–353 are used to apply for reinstatement of insurance and/or Total Disability Income Provision that has lapsed for more than six months. VA uses the information collected to establish the applicant's eligibility for reinstatement.

Estimated Annual Burden:

a. VA Form 29–352—500 hours.

b. VA Form 29–353—375 hours.

Estimated Average Burden Per Respondent:

a. VA Form 29–352—20 minutes.

b. VA Form 29–353—15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VA Form 29–352—1,500.

b. VA Form 29–353—1,500.

Dated: August 18, 2010.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2010–20907 Filed 8–23–10; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Tuesday,
August 24, 2010

Part II

Department of Transportation

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, et al.

Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 172, 173, 175, 176, 178, and 180

[Docket Nos. PHMSA–2009–0126 (HM–215K)]

RIN 2137–AE45

Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: PHMSA proposes to amend the Hazardous Materials Regulations to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the Hazardous Materials Regulations with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations.

DATES: Comments must be received by October 25, 2010.

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

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

Fax: 1–202–493–2251.

Mail: Docket Management System; U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

Hand Delivery: To U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

Instructions: Include the agency name and docket number PHMSA–2009–0126 (HM–215K) or RIN 2137–AE45 for this rulemaking at the beginning of your comment. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov.*

Docket: You may view the public docket through the Internet at *http://www.regulations.gov* or in person at the Docket Operations office at the above address (*See* **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Michael Stevens, Office of Hazardous Materials Standards, telephone (202) 366–8553, or Shane Kelley, International Standards, telephone (202) 366–0656, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., 2nd Floor, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background
II. ANPRM
III. Harmonization Proposals in This NPRM
IV. Amendments Not Being Considered for Adoption in This NPRM
V. Section-by-Section Review
VI. Regulatory Analyses and Notices
A. Statutory/Legal Authority for the Rulemaking
B. Executive Order 12866 and DOT Regulatory Policies and Procedures
C. Executive Order 13132
D. Executive Order 13175
E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies
F. Paperwork Reduction Act
G. Regulatory Identifier Number (RIN)
H. Unfunded Mandates Reform Act
I. Environment Assessment
J. Privacy Act
K. International Trade Analysis

I. Background

In a final rule published December 21, 1990 (Docket HM–181; 55 FR 52402), the Research and Special Programs Administration (RSPA), the predecessor agency to the Pipeline and Hazardous Materials Safety Administration (PHMSA), comprehensively revised the Hazardous Materials Regulations (HMR; 49 CFR Parts 171 to 180) to harmonize U.S. hazardous materials transportation requirements with the United Nations Recommendations on the Transport of Dangerous Goods (UN Model Regulations). The UN Model Regulations are not regulations, but rather are recommendations issued by the UN Committee of Experts on the Transport of Dangerous Goods (UNSCOE) and the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). These Model Regulations are amended and updated biennially by the UNSCOE and serve as the basis for national, regional, and international modal regulations, including the International Maritime Organization's International Maritime Dangerous Goods Code (IMDG Code) and International Civil Aviation Organization Technical Instructions (ICAO TI) for the Transport of Dangerous Goods by Air.

Since publication of the 1990 rule, we have issued eight additional international harmonization rules (Dockets HM–215A, 59 FR 67390; HM–215B, 62 FR 24690; HM–215C, 64 FR 10742; HM–215D, 66 FR 33316; HM–215E, 68 FR 44992; HM–215G, 69 FR 76044; HM–215I, 71 FR 78595; and HM–215J, 74 FR 2200) based on the corresponding biennial updates of the UN Model Regulations, the IMDG Code, and the ICAO TI.

To maintain alignment of the HMR with international requirements, in this NPRM, we are proposing to incorporate changes based on the Sixteenth revised edition of the UN Model Regulations, Amendment 35–10 to the IMDG Code, and the 2011–2012 ICAO TI, which becomes effective January 1, 2011 (the IMDG Code is effective January 1, 2012).

Federal law and policy strongly favor the harmonization of domestic and international standards for hazardous materials transportation. The Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*) permits PHMSA to depart from international standards in order to promote safety or other overriding public interest, but otherwise requires PHMSA to align the HMR with international transport standards and requirements to the extent practicable (*see* 49 U.S.C. 5120). Harmonization facilitates international trade by minimizing the costs and other burdens of complying with multiple or inconsistent safety requirements for transportation of hazardous materials to and from the United States and becomes increasingly important as the volume of hazardous materials transported in

international commerce grows. By facilitating compliance, harmonization also tends to enhance safety for international movements, but only if the international standards themselves provide an appropriate level of safety. To that end, PHMSA actively participates in the development of international standards for the transportation of hazardous materials, frequently advocating the adoption in international standards of particular HMR requirements.

When considering the adoption of international standards under the HMR, we review and evaluate each amendment on its own merit, on the basis of its overall impact on transportation safety, and the economic implications associated with its adoption into the HMR. Our goal is to harmonize without diminishing the level of safety currently provided by the HMR and without imposing undue burdens on the regulated public.

II. ANPRM

On October 21, 2009, PHMSA published an advance notice of proposed rulemaking (ANPRM; 74 FR 53982) highlighting issues under consideration for harmonization with international standards and requesting comments as to whether the HMR should be amended to incorporate specific international standards and the potential benefits and costs of doing so. The following companies and organizations submitted comments in response to the ANPRM:

(1) Institute of Makers of Explosives (IME; PHMSA–2009–0126–0003);

(2) United Parcel Service (UPS; PHMSA–2009–0126–0005);

(3) Sporting Arms and Ammunition Manufacturers' Institute (SAAMI; PHMSA–2009–0126–0006);

(4) Dangerous Goods Advisory Council (DGAC; PHMSA–2009–0126–0007);

(5) Reusable Industrial Packaging Association (RIPA; PHMSA–2009–0126–0008);

(6) Association of Hazmat Shippers, Inc. (AHS; PHMSA–2009–0126–0009);

(7) U.S. Fuel Cell Council (USFCC; PHMSA–2009–0126–0010);

(8) The Council on Safe Transportation of Hazardous Articles, Inc. (COSTHA; PHMSA–2009–0126–0011);

(9) Federal Express (FedEx; PHMSA–2009–0126–0012);

(10) American Petroleum Institute (API; PHMSA–2009–0126–0013);

(11) American Coatings Association, Inc. (ACA; PHMSA–2009–0126–0014);

(12) PPG Industries, Inc. (PPG; PHMSA–2009–0126–0016);

(13) E.I. DuPont de Nemours and Company (DuPont; PHMSA–2009–0126–0018);

(14) The Alliance of Special Effects and Pyrotechnics Operators, Inc. (ASEPO; PHMSA–2009–0126–0020).

Comments on specific harmonization issues are discussed below.

A. Classification of Sour Crude Oil

Transportation of sour crude oil may pose risks due to its inherent potential of evolving hydrogen sulfide, a highly toxic and flammable gas. Sour crude oil, commonly found in North America, contains a high concentration of sulfur. The evolution of hydrogen sulfide vapors from crude oil is dependent on temperature, packaging confinement, transport conditions (*e.g.,* sloshing), bacteria, and sulfur concentration, among many other potential factors. Based on the risk of toxic vapors, the UN Model Regulations were amended by assigning a new identification number and shipping description for sour crude oil with a flammable primary hazard and a toxic subsidiary hazard. Additionally, a new special provision was added specifying the assignment of a Packing Group (PG) based on the degree of danger presented by either the flammability or toxicity hazard of the sour crude oil. For example, sour crude oil meeting flammability criteria for Class 3, PG II, and toxicity criteria for Division 6.1, PG I, poisonous-by-inhalation, would be classified as a Class 3, PG I material.

In the ANPRM, PHMSA invited commenters to provide data and information concerning the impact on domestic shippers and carriers if these requirements are adopted in the HMR. The agency also asked for comments addressing which hazard communication methods (*e.g.,* package markings, shipping papers) and/or packaging requirements are most cost-effective for communicating the hazards and reducing the risks of transporting sour crude oil.

We received two comments (API, DGAC) opposing adoption of the UN amendments for the description and classification of sour crude oil into the HMR. DGAC recommends against requiring domestic use of the new proper shipping name for sour crude oil with a Division 6.1 subsidiary risk and recommends that use be limited to international transport. The DGAC states:

> [T]he new [proper shipping name] would introduce impracticalities into the collection and transport of crude oil * * * Crude oil carriers, who currently use flammable liquid placards displaying UN1267 and who typically use permanent shipping papers, would now be required to assess the inhalation hazard of each crude oil batch they transport and switch to other placards and shipping papers based on their assessment. In addition, § 173.244 would suggest that some of these crude oils with a Division 6.1 subsidiary risk would be required to be transported in higher integrity bulk packagings. We consider this highly inappropriate. The concentration of [hydrogen sulfide] in the liquid crude oil phase under classification conditions will not predict the hydrogen sulfide concentration in the headspace during transport. It is not possible to use existing UN classification criteria for [D]ivision 6.1 in classifying crude oils as inhalation hazard substances or assigning the packing group. We also noted that classification on the basis of the possible evolution of [hydrogen sulfide] vapors is unprecedented and that there are other substances with the potential to evolve hydrogen sulfide vapors * * * Exposure to high concentrations of [hydrogen sulfide] is most likely when the cargo tank truck is opened or when a tank is reloaded * * * The hazard is essentially a workplace hazard. For purposes of the HMR, DGAC recommends limiting the provisions to cargo tank truck [loading and unloading] operations.

DGAC recommends that PHMSA require drivers engaged in the loading and unloading of sour crude oil to wear a hydrogen sulfide monitoring device and have respiratory protection accessible, and require warning signs at the cargo tank manhole and area of operation.

In its comments, API recognizes that hydrogen sulfide is a hazard, but suggests that classification of crude oil at the time of shipment may not reflect the toxicity of hydrogen sulfide in the vapor space of a cargo tank or other packaging after the crude oil has been in transportation. API also notes that there are best industry practices already in place. API states:

> [C]reation of a new classification scheme with the addition of a new [proper shipping name] for sour crude oil, and leaving the current classification and [proper shipping name] for "other" crude oils, will increase risks at this time, DOT should not harmonize the HMR with the new amendments in the UN Model Regulations regarding classification of sour crude. Before changing the HMR, criteria for sour crude should be defined and a valid test methodology should be developed * * * the occurrence of hazardous levels of [hydrogen sulfide] cannot be predicted from the liquid state [of crude oil]. Safe transport of these materials * * * is best accomplished through training, proper handling procedures, monitoring, and use of proper personal protective equipment, and not a separate identification number, shipping description, or packing group for sour crude oils * * * Until an accurate and accepted method for predicting [hydrogen sulfide] evolution [into the vapor space of packaging] and a corresponding toxicity and

hazard during transport is available. * * * The U.S. government should not propose adoption of the [UN] classification scheme in the HMR.

API adds that the Occupational Safety and Health Administration (OSHA) has requirements in place to communicate the hazards of hydrogen sulfide in the workplace. API supports other means of hazard communication to ensure that workers are aware of the hazards of hydrogen sulfide such as a marking on a bulk packaging.

Currently, petroleum crude oil is listed as a Class 3 flammable liquid in the § 172.101 Hazardous Materials Table (HMT). PHMSA is aware that, in some instances, petroleum crude oil may evolve hydrogen sulfide gas, a toxic-by-inhalation material. When transported in bulk packagings such as cargo tanks, the evolved hydrogen sulfide gas may build up in the vapor space of the packaging, posing a potential risk, in particular, during loading and unloading. The following table illustrates the dangerous effects of hydrogen sulfide gas exposure to humans:

EFFECTS OF HYDROGEN SULFIDE ON HUMANS [1]

Effect	Concentration (ppm)
Detectable odor	0.2
Maximum allowable concentration for daily 8-hour exposure	20
Eye and respiratory irritation	50
Olfactory nerve paralysis	150
Exposure may cause pulmonary edema	250
Systemic symptoms occur in ½ hour	500
Quickly unconscious; death without rescue	750
Rapid collapse; respiratory paralysis	1,000
Immediate death	5,000

The agency agrees with the commenters that a new proper shipping name is not necessary and that there are more cost-effective ways to communicate the potential inhalation hazard risk to transport workers. Therefore, in this NPRM, PHMSA proposes to include the new proper shipping name in the UN Model Regulations—"Petroleum sour crude oil, flammable, toxic"—with the letter "I" in Column (1) of the HMT indicating that this description may be used for international transportation. However, PHMSA is not proposing to require use of the new proper shipping name for domestic transportation. Additionally, PHMSA is proposing a new marking be applied to bulk packagings containing sour crude in order to communicate the potential inhalation risk in transportation. *See* Section 172.327 for a discussion of proposed marking requirements.

B. Classification of Division 1.4S Explosives

For eight Division 1.4 explosive articles (UN0323, UN0366, UN0441, UN0445, UN0455, UN0456, UN0460, and UN0500), the UN Model Regulations have been amended to require a Type 6(d) test to determine whether an article may be assigned to Compatibility Group S. The test is performed on a single package containing an explosive substance or explosive article to determine if the package is capable of containing any hazardous effects in the event of an accidental initiation or ignition of its contents. The amendments include revisions to the explosives testing standards in the UN Manual of Tests and Criteria and include a new special provision that would allow the use of the above mentioned identification numbers only if the results of test Type 6(d) successfully demonstrate that any hazardous effects are confined within a package. In the ANPRM, we invited commenters to provide data and information concerning the possible safety impacts of the new test provisions and compliance costs that would be incurred if the new test is adopted in the HMR. In addition, we invited commenters to provide suggestions or recommendations concerning whether to apply the test to already-approved explosives.

We received several comments both supporting (COSTHA, DGAC, and IME) and opposing (ASEPO and SAAMI) adoption of the Type 6(d) test to determine whether a Division 1.4 explosive article may be assigned to Compatibility Group S. All the commenters who addressed this issue indicate that, if adopted, the test must be applied to previously-approved articles in a manner that is reasonable and not overly broad. A suggestion by both DGAC and IME is to allow the classification of previously-approved explosive articles to be based on results of testing of product groups by a PHMSA-approved laboratory or based on results of self-testing and video documentation by the manufacturer.

Concerning compliance costs, IME states:

> [D]epending upon the laboratory, the cost of performing the test will range from $1,000 to $5,000 per article tested. This estimate includes the cost of samples consumed in testing, the cost of transporting those samples to the laboratory, and the cost of set up, performance, and evaluation of the test. In the case of already approved explosives, if self-testing is allowed, the cost per article tested might be somewhat reduced. Also, the cost of the test will be influenced by the extent to which testing is required * * * If the current practice of family classifications is maintained, where "worst-case" representative samples are allowed for evaluation of groups of similar articles, the number of tests and the cost of those tests will be reduced.

ASEPO and SAAMI oppose adoption of the Type 6(d) test. SAAMI suggests that more research on the practical effect of this testing requirement is necessary and that the lack of grandfathering criteria for products already approved as Division 1.4S explosives (*e.g.,* power device cartridges) is impractical, expensive, and impedes commerce. Concerning compliance costs, ASEPO states:

> [O]ur organization has contacted all the authorized laboratories regarding the cost of conducting the testing. While the "several thousand dollars" figure for testing alone often associated with discussions of such inquiries is not inaccurate, it is important to note that we also received a detailed proposal

[1] References: Milby T. Baselt R. Hydrogen sulfide poisoning. Clarification of some controversial issues. *Am J Ind Med.* 1999; 35: 192–195. Beauchamp R, Bus J, Popp J, Boreiko C, Andjelkovich D. A critical review of the literature on hydrogen sulfide toxicity. *CRC Crit Rev Toxicol.* 1984; 13:25–97. Deng J. Hydrogen sulfide. In: Sullivan J, Kreiger G, eds. *Hazardous Materials Toxicology: Clinical Principles of Environmental Health.* Baltimore: Williams and Wilkins; 1997: 711–717. National Institute for Occupational Safety and Health. *Criteria for a Recommended Standard for Occupational Exposure to Hydrogen Sulfide.* Washington, DC: U.S. Government Printing Office; 1977: 23. DHEW (NIOSH) Publication No. 77–158.

from one laboratory for $10,000 and one for $13,000 for this [Type 6(d)] test.

ASEPO also indicates concern regarding the cost of articles consumed in testing in addition to the cost of pre-testing or redesign of an article by a manufacturer to ensure passing the Type 6(d) test, but did not quantify these costs.

While PHMSA understands that additional required tests usually result in increased research and development costs, we believe there is merit to additional required tests when there is a credible and measureable increase in safety. Consequently, PHMSA proposes to require the incremental testing of all new and previously approved designs, depending on the intended mode of transport, under the newly adopted criteria for those affected articles expected to obtain or retain a Division 1.4S classification. For newly produced explosive articles, a person who successfully performs the Type 6(d) test would not be required to also perform the Type 6(a) test. PHMSA believes such initiatives will greatly reduce research and development costs without compromising safety.

In this NPRM, PHMSA proposes to require the Type 6(d) test as prescribed in Section 16.7 of the Fifth revised edition of the UN Manual of Tests and Criteria in the new § 172.102(c)(1), Special provision 347. PHMSA is proposing that for affected articles intended for transportation by aircraft, the effective date of this new requirement is April 1, 2011. If a manufacturer or approval holder of affected articles that previously classed and approved an article as Division 1.4S chooses to continue offering such shipments by aircraft, the articles must be successfully tested under Test Series 6(d) and a new approval obtained from PHMSA. Additionally, a previously classed and approved Division 1.4S article that is not successfully tested under Test Series 6(d) must be assigned to a compatibility group other than "S" (*e.g.,* B, C, or D) prior to the April 1, 2011 effective date if intended for transportation by aircraft on or after that date. PHMSA is also proposing that the effective date of testing to maintain Division 1.4S classification or reclassification to a higher compatibility group other than "S" is no later than January 1, 2014 for Division 1.4S articles approved prior to January 1, 2012 and are intended for domestic highway or rail transportation. For previously-approved affected articles transported by highway, rail and vessel, reclassification to a compatibility group other than "S" may be accomplished by using existing data and when recommended by an authorized examination and testing agency approved by PHMSA. For international highway, rail and vessel transportation, the proposed effective date of Type 6(d) testing requirements or reclassification for new and previously produced affected articles is January 1, 2012 (*i.e.,* the compliance date of a final rule under this docket, if adopted as proposed).

C. IBC Rebottling

Under both the UN Model Regulations and the HMR, replacement of the rigid plastic receptacle of a composite IBC is considered a "repair" under certain conditions and, thus, not subject to design qualification testing as a new or different design. The UN Model Regulations were amended to specify that a replacement bottle (*i.e.,* rigid plastic receptacle) must be of the original tested design type and limits the replacement to a bottle from the original manufacturer. In the ANPRM, we invited comments on this amendment and how, if adopted in the HMR, it would impact the use of IBCs in domestic or international commerce.

All commenters who addressed this issue (DGAC, DuPont, and RIPA) support the adoption of the UN Model Regulations definition of "repair" for IBC rebottling purposes. The comments include a request for an extended compliance date of January 1, 2012, to provide users and manufacturers of composite IBCs adequate time to implement the provision and not place them at an economic disadvantage with international counterparts. In this NPRM, we are proposing to adopt the revised definition of "repair" for composite IBCs consistent with international standards. Additionally, to address commenter concern, PHMSA reminds them of the proposed compliance date of a final rule under this docket would be no earlier than January 1, 2012. *See* Section 180.350 for a discussion of the proposed revision.

D. Limited Quantities and Consumer Commodities

PHMSA has long recognized the need to authorize limited exceptions for the transportation of certain hazardous materials described as limited quantities or consumer commodities. Considerable efforts have recently been made internationally to harmonize multi-modal standards with regard to the transport of limited quantities, including consumer commodities. PHMSA held public meetings on this issue in February, 2006 and March, 2008 to discuss potential impacts on domestic stakeholders. Additionally, this issue was discussed during the agency's pre-UN public meetings held in 2006 and 2007. There was considerable domestic interest in pursuing further harmonization internationally due to the potential for substantial savings in transportation costs and improved transportation efficiency. In the ANPRM, PHMSA invited comments on this issue with regard to aligning the HMR with the UN Model Regulations for the domestic and international transport of limited quantities and consumer commodities. Of particular concern, was any potential negative impact on the domestic transportation of hazardous materials reclassed as Consumer commodity, ORM–D. While some changes adopted in the UN Model Regulations are similar to those currently in the HMR (*e.g.,* inner packaging limits and authorized use of non-specification outer packagings), some changes are not (*e.g.,* marking, labeling and package gross mass). PHMSA suggested that, depending on comments received and our own evaluation, the agency may determine that the significance of any amendments on this issue may warrant a separate rulemaking action.

We received several comments (ACA, AHS, COSTHA, DGAC, DuPont, FedEx, PPG, SAAMI, and UPS) supporting adoption of the UN Model Regulation limited quantity provisions into the HMR. UPS urges PHMSA to move to adopt the Limited Quantity provisions as contained in the UN Model Regulations, stating:

> [B]y * * * phasing out the current provisions of 49 CFR on a well-publicized schedule, PHMSA will improve the general understanding * * * [I]t is the understanding of UPS that PHMSA may be contemplating replacement of the current ORM–D classifications with the Limited Quantity provisions of the UN Model Regulations. UPS supports such a change * * * The U.S. is unique in its use of the ORM–D classification; other countries do not always recognize the meaning of the ORM–D marking, which means that packages intended for global commerce must be marked in more than one way. While PHMSA has held that such dual (or multiple) markings are authorized, multiple markings complicate hazard communication and have the potential to confuse both shipper and carrier personnel.

AHS adds:

> To cut back to one system, using one mark, without shipping documents and descriptions for each separate inner receptacle, would enhance compliance and comprehension throughout the transportation system.

However, several commenters (ACA, DGAC, DuPont, and SAAMI) express concern that this should not be done at

the expense of the ORM–D provisions currently in the HMR. ACA opposes the elimination of the existing provisions for ORM–D materials as part of HM–215K and recommends that any changes to the requirements be made through a separate rulemaking. SAAMI states:

[SAAMI] welcome[s] changes to the Limited Quantities (LQ) system which will reduce the regulatory burden for lower hazard products in consumer sized packages * * * and government and industry need time to use the new system and work out any bugs. If in the future LQ is shown to have all the benefits of ORM–D, then ORM–D can be phased out. Meanwhile, the ORM–D system in the US should remain unchanged.

DGAC notes:

[S]ome items eligible for ORM–D classification are not permitted as limited quantities (*e.g.,* small arms ammunition). In addition, we note that ORM–D provisions in § 173.156 important to retail sale of consumer commodities are not applicable to limited quantities of hazardous materials. We also note that the US Postal Service regulations allow some ORM–D materials to be transported by mail. Eliminating ORM–D provisions could adversely impact use of the mail for packages of some ORM–D materials (*e.g.,* recycling of small spent fuel cell devices).

PHMSA believes that aligning the existing limited quantity provisions in the HMR with the international standards will substantially enhance safety. The agency emphasizes that the proposals in this NPRM do not include the immediate or short-term removal of the existing "limited quantity" provisions in the HMR (including Consumer commodities, Cartridges, small arms and Cartridges, power device in the ORM–D hazard class). Because the limited quantity provisions in the UN Model Regulations and the IMDG Code are closely aligned with those already contained in the HMR, domestic alignment for highway, rail and vessel transportation will result in minimal impact and regulatory burden. And, because of the inherent risk unique to air transportation, we believe full harmonization with the ICAO TI (where appropriate) is necessary with regard to the materials authorized and quantity limits for limited quantities (including consumer commodities) intended for transport by air. The following table is used to illustrate the differences that exist between the HMR and corresponding international modal standards regarding limited quantities and consumer commodities:

LIMITED QUANTITIES AND CONSUMER COMMODITIES

Requirement	HMR LQ	HMR ORM–D	UN LQ	ICAO TI LQ	IMDG CODE LQ
Marking	PSN or UN diamond/ID# (§§ 172.301 and 172.315).	"ORM–D" or "ORM–D–AIR" "Consumer commodity" (§ 172.316).	UN diamond/ID# unless consumer commodity (ID# not required).	PSN, ID# or diamond and "LTD QTY."	UN diamond/ID# unless consumer commodity (ID# not required). Exception includes MARPOL.
Labeling	None unless Division 6.1, Packing Groups II and III.	None	None	Required	None (Placard-size CTU LQ mark required).
Documentation	Required	ORM–D–AIR only unless RQ, waste or MARPOL.	Required unless a consumer commodity.	Required	Required unless consumer commodity.
Material Authorizations	PSN entry must cite exception section in Column (8A) of HMT, typically one of the following: • Divisions 2.1 and 2.2 (gases and aerosols). • Class 3 (PG II, III). • Division 4.1 (Flam solids), PG II, III. • Division 4.3, PG II, III. • Division 5.1, PG II, III. • Division 5.2, Types B, C, D, E, F. • Division 6.1, PG II, III. • Class 8, PG II, III. • Class 9 Compared to UNMR the HMR: • Permits (23) PG I Class 3 materials as LQ.. • Permits (11) Class 9 materials as LQ.	Generally, all materials authorized LQ except for Division 6.1, PG II (unless drug or medicine).	Similar to HMR except as follows: • Division 2.2 only (except aerosols). • Certain Class 9 materials not authorized LQ. Compared to HMR, the UNMR: • Permits (9) PG I Class 3 materials as LQ. • Permits (10) Class 9 materials as LQ.	• Aerosols (Divisions 2.1, 2.1 w/sub risks) and Small receptacles (Divisions 2.1, 2.2 w/o sub risks). • Class 3, PG II, III.. • Division 4.1, PG II, III (no self-reactives). • Division 4.3, PG II, III (solids only). • Division 5.1, PG II,III. • Division 5.2, Types C, D, E, F when part of PRK, FAK or CK. • Division 6.1, PG II, III. • Class 8, PG II, III excluding 2794, 2795, 2803, 2809 and 3028 (batteries, gallium, mercury). • Class 9 (1941, 1990, 2071, 3077, 3082, 3316 only).	Generally, aligned with UNMR with minor vessel-unique requirements.

LIMITED QUANTITIES AND CONSUMER COMMODITIES—Continued

Requirement	HMR LQ	HMR ORM–D	UN LQ	ICAO TI LQ	IMDG CODE LQ
LQ Quantity Limits	• Aerosols more restrictive than UNMR, ICAO TI and IMDG Code. • Classes and Divisions 3–9 generally aligned w/int'l codes except for materials w/primary or sub risk of Division 6.1, PG II and III.	ORM–D–AIR inner packaging quantity limits are specified in § 173.27 and are based on Column (9A) and (9B) values in the HMT, or, in §§ 173.150–173.155 and 173.306, whichever value is more restrictive. They normally exceed the ICAO TI inner packaging quantity limit values for LQ.	Generally, aligned with HMR w/minor differences (*e.g.,* Division 6.1 and Class 9 materials).	• Aerosols/Small receptacles: 30 Kg G. • Inner and outer packaging quantity limits generally aligned with UNMR.	Generally, aligned with UNMR with minor vessel-unique requirements.

Based on the favorable comments received in response to the ANPRM, PHMSA proposes to adopt limited quantities provisions into the HMR based on the UN Model Regulations, IMDG Code and the ICAO TI that include a transitional period sufficient in length to allow stakeholders adequate time to comply with the new requirements. We are proposing to authorize immediate voluntary compliance with the new requirements upon the effective date of any final rule. Additionally, we are proposing to eliminate the ORM–D and ORM–D–AIR hazard class limited quantities described as "Consumer commodities" after three years, effective January 1, 2014, if the amendments proposed in this notice are adopted in a final rule. Such materials or articles would simply become limited quantities based on risk rather than their intended end-use. Additionally, for transportation by domestic highway or rail, alignment of the HMR with international standards actually increases the number of exceptions provided to limited quantities and consumer commodities when compared to current HMR requirements for such materials and articles. To address comments regarding exceptions provided by the HMR to consumer commodities under § 173.156, we are proposing to extend the exceptions to all limited quantities regardless of their end-use. To address the comment regarding the U.S. Postal Service (USPS) allowing certain packages classed as ORM–D in the postal system, we intend to work very closely with our USPS counterparts to ensure a seamless transition to the new HMR requirements and assist them in any way we can.

For Cartridges, small arms and Cartridges, power device in the ORM–D hazard class, we are proposing to also continue authorizing such articles indefinitely under the exceptions provided in § 173.63 of the HMR for domestic transportation by highway or rail. For more discussion of proposed amendments to the HMR as a result of the further alignment with international standards, *see* the detailed discussion in the affected sections under the "Section-by-Section Review." The following sections are affected by the amendments proposed in this NPRM regarding limited quantities and consumer commodities:

- § 172.203 Additional description requirements.
- § 172.315 Packages containing limited quantities.
- § 172.316 Packages containing materials classed as ORM–D.
- § 172.500 Applicability of placarding requirements.
- § 173.25 Authorized packagings and overpacks.
- § 173.27 General requirements for transportation by aircraft.
- § 173.63 Packaging exceptions.
- § 173.144 Other regulated materials (ORM)—Definitions.
- § 173.150 Exceptions for Class 3 (flammable and combustible liquids).
- § 173.151 Exceptions for Class 4.
- § 173.152 Exceptions for Division 5.1 (oxidizers) and Division 5.2 (organic peroxides).
- § 173.153 Exceptions for Division 6.1 (poisonous materials).
- § 173.154 Exceptions for Class 8 (corrosive materials).
- § 173.155 Exceptions for Class 9 (miscellaneous hazardous materials).
- § 173.156 Exceptions for ORM materials.
- § 173.161 Chemical kits and first aid kits.
- § 173.165 Polyester resin kits.
- § 173.167 Consumer commodities.
- § 173.230 Fuel cell cartridges containing hazardous material.
- § 173.306 Limited quantities of compressed gases.

E. Metal Hydride Storage Systems in Conveyances

A metal hydride storage system is a single complete hydrogen storage system that includes a receptacle, metal hydride, a pressure relief device, a shut-off valve, service equipment, and internal components. The HMR currently do not prescribe specific packaging or shipping methods for metal hydride storage systems containing hydrogen. However, PHMSA has issued a number of special permits to allow the use of these systems for transport. The UN Model Regulations, in new Packing Instruction P205, prescribe standards for the construction, qualification, marking and requalification of such systems. In the ANPRM, PHMSA invited comments on whether similar standards should be adopted in the HMR.

One commenter (DGAC) supports adoption of the standards for the construction, qualification, marking, and requalification of metal hydride storage systems containing hydrogen. Thus, in this NPRM, PHMSA is proposing to adopt the standards for the construction, qualification, marking and requalification of hydrogen in metal hydride storage systems adopted in the UN Model Regulations. *See* Section 173.311 for a detailed discussion of proposed requirements.

F. In Vitro Testing for Corrosivity

In 1993, RSPA (the predecessor agency to PHMSA) began recognizing an alternative test method (*i.e., in vitro* testing) to determine the corrosivity of a hazardous material for transportation purposes under the terms and conditions specified in a special permit (DOT–SP 10904). Similar *in vitro* test

methods are prescribed in the following Organization for Economic Cooperation and Development (OECD) *Guidelines for the Testing of Chemicals* and were adopted in the UN Model Regulations:

- No. 430, *In Vitro* Skin Corrosion: Transcutaneous Electrical Resistance Test (TER) (2004);
- No. 431, *In Vitro* Skin Corrosion: Human Skin Model Test (2004); and,
- No. 435, *In Vitro* Membrane Barrier Test Method for Skin Corrosion (2006).

Because methods 430 and 431 can be used to determine corrosivity for other than transportation purposes, they cannot be used to determine the Packing Group (PG) assignment of a material that tests positive for corrosivity for the purposes of hazardous materials transportation. A negative result for corrosivity under methods 430 and 431 can, however, preclude further testing to determine the PG assignment using method 404, the current OECD Guideline involving *in vivo* testing or, method 435, the newly adopted OECD Guideline involving *in vitro* testing.

We received three comments (DGAC, DuPont, and PPG) supporting adoption and use of the OECD *in vitro* test methods for determining corrosivity on the basis of reducing the number of tests requiring live animals.

Based on the overwhelming support for adoption in the HMR, in this NPRM PHMSA is proposing to adopt and authorize the use of the OECD *in vitro* methods. *See* § 173.137 for further discussion of such methods.

III. Harmonization Proposals in This NPRM

In this NPRM, PHMSA is proposing the following amendments to harmonize the HMR with the most recent revisions to the UN Model Regulations, ICAO TI, and the IMDG Code:

- *Hazardous Materials Table (HMT):* Amendments to the HMT to add, revise, or remove certain proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, bulk packaging requirements, passenger and cargo aircraft maximum quantity limitations, and vessel stowage provisions.
- *Limited Quantity Exceptions:* Amendments for the highway, rail, and vessel transportation of limited quantities are based on the recently adopted limited quantity provisions in the UN Model Regulations and IMDG Code. Amendments for the air transportation of limited quantities are based on the 2011–2012 revision of the ICAO TI. In addition, amendments are proposed to provide a transition period for complete alignment of the HMR limited quantity eligibility (including consumer commodities and certain articles of Class 2 and Division 1.4S reclassed as ORM–D), when transported by all modes (domestic and international), in accordance with HMR requirements that are based on international standards for limited quantities and consumer commodities.
- *Organic Peroxide Tables:* Amendments to the Organic Peroxide Tables to add, revise, or remove certain hazardous materials and provisions.
- *Incorporation by Reference:* Amendments to incorporate by reference the 2011–2012 ICAO TI, Amendment 35–10 to the IMDG Code, and the Sixteenth Revised Edition of the UN Model Regulations. Additionally, we are proposing to update our incorporation by reference of the Canadian Transportation of Dangerous Goods Regulations to include Amendment 6 (SOR/2008–34) February 7, 2008 (pertains to miscellaneous amendments); and Amendment 7 (SOR/2007–179) August 22, 2007 (pertains to highway cargo tanks). This incorporation by reference augments the broad reciprocity provided in 171.12 where the HMR allow the use of the Canadian TDG Regulations under certain conditions when transporting hazardous materials to or from Canada by highway or rail.
- *Petitions for Rulemaking:* We are addressing one petition for rulemaking: P–1550, from the People for the Ethical Treatment of Animals (PETA) requesting that PHMSA incorporate by reference OECD Guidelines 430, 431 and 435 into the HMR that prescribe *in vitro* testing methods for determining corrosivity.
- *Classification of Sour Crude Oil: See* ANPRM comment summary for discussion of issue and PHMSA proposal.
- *Classification of Certain Division 1.4S Explosives: See* ANPRM comment summary for discussion of issue and PHMSA proposal.
- *IBC Rebottling: See* ANPRM comment summary for discussion of issue and PHMSA proposal.
- *Metal Hydride Storage Systems in Conveyances: See* ANPRM comment summary for discussion of issue and PHMSA proposal.

IV. Amendments Not Being Considered for Adoption in This NPRM

This NPRM proposes changes to the HMR based on amendments made in the UN Model Regulations (Sixteenth revised edition), IMDG Code (Amendment 35–10) and the ICAO TI (2011–2012), which become effective January 1, 2011 (the IMDG Code is effective January 1, 2012). We are not, however, proposing to adopt all the amendments made to the various international standards into the HMR. In many cases, amendments to the international recommendations and regulations have not been adopted because the framework or structure of the HMR makes adoption unnecessary. In other cases, we have handled, or will be handling, the amendments in separate rulemaking proceedings. If we have inadvertently omitted an amendment in this NPRM, we will attempt to include the omission in the final rule. However, our ability to make changes in a final rule is limited by requirements of the Administrative Procedure Act (5 U.S.C. 553). In some instances, we can adopt a provision inadvertently omitted in the NPRM if it is clearly within the scope of changes proposed in the notice, does not require substantive changes from the international standard on which it is based, and imposes minimal or no cost impacts on persons subject to the requirement. Otherwise, in order to provide opportunity for notice and comment, the change must first be proposed in an NPRM.

One of the goals of this rulemaking is to continue to maintain consistency between the HMR and the international requirements. We are not striving to make the HMR identical to the international regulations but rather to remove or avoid potential barriers to international transportation.

Below is a listing of those significant amendments to the international regulations that we are not proposing to adopt in this NPRM, with a brief explanation of why the amendment was not included:

Requirements for Radioactive Materials. Notwithstanding two minor shipping paper and labeling amendments, we are not proposing to adopt provisions pertaining to the transportation of Class 7 (radioactive) materials. Amendments to requirements pertaining to the transportation of Class 7 (radioactive) materials are based on changes contained in the International Atomic Energy Agency (IAEA) publication, "IAEA Safety Standards: Regulations for the Safe Transport of Radioactive Materials." Due to their complexity, these changes are being addressed in a separate rulemaking.

Requirements for Lithium Batteries. On January 11, 2010, we published an NPRM (HM–224F; 75 FR 1302). The NPRM includes provisions to ensure all lithium batteries are packaged to reduce the possibility of damage that could lead to a catastrophic incident, and minimize the consequences of an incident should one occur. In addition, PHMSA

proposed to require lithium battery shipments to be accompanied by hazard communication that ensures appropriate and careful handling by air carrier personnel, including the flight crew, and informs both transport workers and emergency response personnel of actions to be taken in an emergency. The NPRM, which PHMSA developed in close coordination with our colleagues in the Federal Aviation Administration, is the latest in a series of actions PHMSA has taken to address the very serious risks posed by lithium batteries in transportation. The NPRM includes revisions to the HMR that are based on lithium battery provisions in the Sixteenth revised edition of the UN Model Regulations. Therefore, except for wheelchairs powered by lithium ion batteries, we are not proposing to adopt new provisions pertaining to the transportation of lithium cells and batteries in this rulemaking. The docket for the lithium battery rulemaking can be found elsewhere at *http://www.regulations.gov* under *PHMSA–2009–0095.*

Requirements for Air Packaging. We are not proposing to adopt provisions pertaining to certain packagings offered for transportation by aircraft under this rulemaking. PHMSA is considering certain amendments to the HMR related to requirements for the packaging of hazardous materials intended for transportation by aircraft under a separate docket (HM–231A). These would include amendments based on the reformatted packing instructions in the 2011–2012 ICAO TI. PHMSA published an ANPRM on July 7, 2008 (73 FR 38361) and, on May 14, 2010, an NPRM (75 FR 27273). *See http://www.regulations.gov* under PHMSA–2007–29364 for more information.

V. Section-by-Section Review

Following is a section-by-section review of the amendments proposed in this NPRM:

Part 171

Section 171.7

The "National Technology Transfer and Advancement Act of 1996" directs agencies to use voluntary consensus standards. According to the Office of Management and Budget (OMB), Circular A–119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities," government agencies must use voluntary consensus standards wherever practical in the development of regulations. Agency adoption of industry standards promotes productivity and efficiency in government and industry, expands opportunities for international trade, conserves resources, improves health and safety, and protects the environment.

To these ends, PHMSA actively participates in the development and updating of consensus standards through representation on more than 20 consensus standard bodies. PHMSA regularly reviews updated consensus standards and considers their merit for inclusion in the HMR.

Section 171.7 lists all standards incorporated by reference into the HMR. For this rulemaking, we evaluated updated international consensus standards pertaining to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements and determined that the revised standards provide an enhanced level of safety without imposing significant compliance burdens. These standards have a well-established and documented safety history; their adoption will maintain the high safety standard currently achieved under the HMR. Therefore, we propose to update by adding and revising the incorporation by reference materials under the following organizations:

- The *American Society for Testing and Materials (ASTM)*
  - ASTM D56–05, Standard Test Method for Flash Point by Tag Closed Tester (Referenced in § 173.120(c)(1)(i)(A); Added to § 171.7).
  - ASTM D86–07a, Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure (Added; Referenced in § 173.121).
  - ASTM D93–08, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester (Referenced in § 173.120(c)(1)(ii)(A); Added to § 171.7).
  - ASTM D1078–05, Standard Test Method for Distillation Range of Volatile Organic Liquids (Added; Referenced in § 173.121).
  - ASTM D3278–96(2004)e1, Standard Test Methods for Flash Point of Liquids by Small Scale Closed-Cup Apparatus (Referenced in § 173.120(c)(1)(i)(B); Added to § 171.7).
  - ASTM D3828–07a, Standard Test Methods for Flash Point by Small Scale Closed cup Tester (Referenced in § 173.120(c)(1)(i)(C); Added to § 171.7).
- The *International Civil Aviation Organization (ICAO)* Technical Instructions for the Safe Transport of Dangerous Goods by Air, 2009–2010 Edition would be revised to incorporate 2011–2012 Edition.
- The *International Convention for the Safety of Life at Sea (SOLAS)* Amendments 2002, Chapter II–2/Regulation 19, Consolidated Edition 2004 would be revised to incorporate the 2009 Edition.
- The *International Maritime Organization (IMO)* International Maritime Dangerous Goods Code, 2008 Edition, Incorporating Amendment 33–08, English Edition, Volumes 1 and 2 would be revised to incorporate Amendment 35–10.
- The *International Organization for Standardization (ISO)*
  - ISO 1516:2002 Determination of flash/no flash—Closed cup equilibrium method (Added; Referenced in § 173.120).
  - ISO 1523:2002 Determination of flash point—Closed cup equilibrium method (Added; Referenced in § 173.120).
  - ISO 2719:2002 Determination of flash point—Pensky-Martens closed cup method (Added; Referenced in § 173.120).
  - ISO 3405:2000 Petroleum products—Determination of distillation characteristics at atmospheric pressure (Added; Referenced in § 173.121).
  - ISO 3679:2004 Determination of flash point—Rapid equilibrium closed cup method (Added; Referenced in § 173.120).
  - ISO 3680:2004 Determination of flash/no flash—Rapid equilibrium closed cup method (Added; Referenced in § 173.120).
  - ISO 3924:1999 Petroleum products—Determination of boiling range distribution—Gas chromatography method (Added; Referenced in § 173.121).
  - ISO 4626:1980 Volatile organic liquids—Determination of boiling range of organic solvents used as raw materials (Added; Referenced in § 173.121).
  - ISO 4706:2008, Gas cylinders—Refillable welded steel cylinders—Test pressure 60 bar and below (Added; Referenced in § 178.71).
  - ISO 10297:1999, Gas cylinders—Refillable gas cylinder valves—Specification and type testing, First edition, May 1999, (E) (Revised to incorporate 2006 Edition).
  - ISO 10461:2005, Gas cylinders—Seamless aluminum-alloy gas cylinders, Periodic inspection and testing, Second edition, February 2005, (E) (Revised to incorporate Addendum 1 (2006)).
  - ISO 10692–2:2001 Gas cylinders—Gas cylinder valve connections for use in the micro-electronics industry—Part 2: Specification and type testing for valve to cylinder connections (Added; Referenced in § 173.40).

○ ISO 13736:2008 Determination of flash point—Abel closed-cup method (Added; Referenced in § 173.120).

○ ISO 16111:2008 Transportable gas storage devices — Hydrogen absorbed in reversible metal hydride (Added; Referenced in §§ 173.311, 178.71).

○ ISO 18172–1:2007, Gas cylinders—Refillable welded stainless steel cylinders—Part 1: Test pressure 6 MPa and below (Added; Referenced in § 178.71).

○ ISO 20703:2006, Gas cylinders—Refillable welded aluminum-alloy cylinders—Design, construction and testing (Added; Referenced in § 178.71).

• *Organization for Economic Cooperation and Development (OECD)*

○ Guidelines for the Testing of Chemicals, No. 430, *In Vitro* Skin Corrosion: Transcutaneous Electrical Resistance Test (TER) (2004) (Added; Referenced in § 173.137);

○ Guidelines for the Testing of Chemicals, No. 431, *In Vitro* Skin Corrosion: Human Skin Model Test (2004) (Added; Referenced in § 173.137); and,

○ Guidelines for the Testing of Chemicals, No. 435, *In Vitro* Membrane Barrier Test Method for Skin Corrosion (2006) (Added; Referenced in § 173.137).

• *Transport Canada,* Transportation of Dangerous Goods Regulations, including Clear Language Amendments 1 through 5 (Revised to add Amendments 6 and 7).

• *The United Nations Recommendations on the Transport of Dangerous Goods— Model Regulations,* Fifteenth revised edition (2007), Volumes I and II (Revised to incorporate the Sixteenth revised edition).

Section 171.8

This section defines terms generally used throughout the HMR that have broad or multi-modal applicability. PHMSA is proposing to add the following defined terms based on their adoption in the UN Model Regulations:

Metal hydride storage system. This term means a single complete hydrogen storage system that includes a receptacle, metal hydride, pressure relief device, shut-off valve, service equipment and internal components used for the transportation of hydrogen only.

Open cryogenic receptacle. This term means a transportable thermally insulated receptacle for refrigerated liquefied gases maintained at atmospheric pressure by continuous venting of the refrigerated gas.

Oxidizing gas. In this NPRM, PHMSA proposes to amend the definition of *Oxidizing gas. Oxidizing gas* is now defined as a gas that may, by providing oxygen, cause or contribute to combustion of other material more than air does. We are proposing to revise the definition to specify that an oxidizing gas is a pure gas or gas mixture with an oxidizing power greater than 23.5% as determined by a method specified in ISO 10156:1996 or 10156–2:2005. *See also* discussion of changes to the HMT entries "Air, compressed, UN1002" and "Compressed gas, n.o.s., UN1956" in Sections 172.101 and 173.115(k).

Section 171.23

Section 171.23 prescribes the conditional requirements for specific materials and packages transported under the various international standards as permitted by the HMR. In this NPRM, except for transportation by aircraft, we are proposing to remove the condition in § 171.23(b)(9) that stipulates certain Division 6.1 materials transported as limited quantities are not excepted from labeling as specified in § 173.153(b). This proposed change aligns the labeling requirements in the HMR for limited quantities with the international standards without compromising safety. This is accomplished by the current inner packaging quantity limits for Division 6.1 materials in Packing Group (PG) II that are packaged under the exceptions provided for such materials in §§ 173.150–173.156 of the HMR.

Section 171.25

Section 171.25 prescribes the additional requirements for specific materials and packages transported under the IMDG Code as permitted by the HMR. In this notice, we are proposing to delete paragraphs (c)(5) and (d)(3) because the IMDG Code now requires cryogenic materials to be stowed on deck.

Effective January 1, 1997, vehicles and mechanical equipment containing internal combustion engines were no longer subject to the IMDG Code as conditionally designated under Amendment 28–96. Effective January 1, 2012, such articles will once again be subject to the IMDG Code under Amendment 35–10. Because the new requirements in the IMDG Code are more stringent than requirements for similar articles in the HMR, PHMSA is proposing to amend Section 171.25 by revising paragraph (b)(1) and adding a new paragraph (b)(4) permitting use of the IMDG Code or the HMR to prepare and stow vehicles and mechanical equipment containing internal combustion engines when offered for transport by vessel.

Part 172

Section 172.101

Introductory text to the § 172.101 HMT contains explanatory text for each of the columns that comprise the HMT. Currently, § 172.101(c)(10) provides specific requirements regarding the selection of an appropriate proper shipping name for mixtures and solutions containing more than one hazardous material of the same hazard class. In many cases, such mixtures and solutions are best described by a generic or "not otherwise specified" entry (*i.e.,* an "n.o.s." entry). For example, a solution containing two or more flammable liquid constituents may best be described under the entry "Flammable liquids, n.o.s., UN1993." However, in some cases where two or more hazardous materials may be present, a single hazardous material may predominate where the other hazardous materials may be present in only trace amounts. In such cases, a description applicable to the predominant material may be more appropriate. A recent incident underscores the importance of using the most specific and appropriate shipping description. In that incident, an aluminum cylinder containing 99.9% pure ethyl chloride ruptured in storage incidental to transport. It was determined that the root cause was a reaction between the cylinder's contents and the aluminum. The relevant construction standard for the cylinder indicated that ethyl chloride was reactive with aluminum and that aluminum was not recommended for the transport of ethyl chloride. However, the shipper selected a generic compressed gas shipping description rather than the ethyl chloride name due to the presence of trace amounts of other hazardous materials. While we note that the general requirements for packagings still broadly address the responsibility of the shipper in selecting a packaging that is compatible with its lading, and that these requirements were also applicable and apparently overlooked, the incident nonetheless highlights the benefit of using a more specific description, where appropriate, to help ensure that the most appropriate transport provisions are followed.

To address this issue, the UN Model Regulations were amended to require, except as otherwise specified, that a mixture or solution of a single predominant hazardous material containing only traces of one or more additional hazardous materials listed by name in the HMT or additional non-hazardous constituents be assigned the UN number and proper shipping name

of the predominant material contributing to the overall hazard classification of the mixture or solution. Adopting a similar provision in the HMR will enhance a shipper's ability to select the most appropriate shipping description. Therefore, in this NPRM, PHMSA is proposing to add a new paragraph § 172.101(c)(10)(iv) outlining the authorization to describe the mixture or solution based on the predominant material contributing to the hazard classification.

Identification Numbers Preceded by the Letters "ID"

Paragraph (e) of § 172.101 provides explanations for the letters that precede identification numbers assigned to proper shipping names in the HMT. In this NPRM, PHMSA is proposing to add an explanation for identification numbers associated with those descriptions recognized under the ICAO Technical Instructions only and are preceded by the letters "ID." Additionally, PHMSA is proposing to recognize the international air description, "ID8000, Consumer commodity, 9" in the HMT with material and article eligibility for use of the description based on Special provision A112 and Packing Instruction Y963 of the 2011–2012 ICAO Technical Instructions.

Hazardous Materials Table (HMT)

In this NPRM, PHMSA is proposing to make various amendments to the HMT. Readers should review all changes for a complete understanding of the amendments. For purposes of the Government Printing Office's typesetting procedures, proposed changes to the HMT appear under three sections of the Table, "remove," "add," and "revise." Certain entries in the HMT, such as those with revisions to the proper shipping names, appear as a "remove" and "add." Proposed amendments to the HMT include, but are not limited to the following:

New HMT Entries

UN3482 Alkali metal dispersions, flammable *or* Alkaline earth metal dispersions, flammable.

UN3496 Batteries, nickel-metal hydride.

This new HMT entry for UN3496 would include a "W" in Column (1) to indicate use of this hazardous materials description would be limited to vessel transport. PHMSA also proposes to include additional language in Column (2) to refer shippers transporting nickel-metal hydride batteries by modes other than vessel to the HMT entry "Batteries, dry, sealed, n.o.s." for instruction on the transport requirements for these batteries.

UN3485 Calcium hypochlorite, dry, corrosive *or* Calcium hypochlorite mixtures, dry, corrosive *with more than 39% available chlorine (8.8% available oxygen).*

UN3487 Calcium hypochlorite, hydrated, corrosive *or* Calcium hypochlorite, hydrated mixture, corrosive *with not less than 5.5% but not more than 16% water.*

UN3486 Calcium hypochlorite mixture, dry, corrosive *with more than 10% but not more than 39% available chlorine.*

ID8000 Consumer commodity.

This description would be added to the HMT as a Class 9 miscellaneous hazardous material to be used for the air transportation of limited quantities of certain Class 2 materials (non-toxic aerosols only), Class 3 materials (PG II and III only), Division 6.1 (PG III only), UN3077, UN3082, and UN3175 provided such materials do not have a subsidiary risk and are authorized aboard a passenger-carrying aircraft.

UN3484 Hydrazine aqueous solution, flammable, *with more than 37% hydrazine, by mass.*

UN3495 Iodine.

Iodine is transported globally under a number of different shipping descriptions dependent on the shipper. In the interest of reducing risks associated with transport of iodine under various descriptions and therefore, varied packaging, we are proposing to add this unique UN number and shipping description to provide for specific packaging requirements and faster identification and access to emergency response information.

UN1471 Lithium hypochlorite, dry *or* Lithium hypochlorite mixture, Division 5.1, PG III.

Lithium hypochlorite is a common commercial product used as a disinfectant that is often mixed with other non-hazardous organic salts. Currently, the HMT only provides for a Division 5.1, PG II designation for this material, yet testing conducted in accordance with the UN Manual of Tests and Criteria has indicated that some common commercial mixtures meet the criteria for classification in Division 5.1, PG III. Therefore, PHMSA is proposing to add a line to the current entry to allow for classification of mixtures of lithium hypochlorite in PG III, where appropriate.

UN3483 Motor fuel anti-knock mixtures, flammable.

UN3494 Petroleum sour crude oil, flammable, toxic.

This entry would be authorized for international transportation only.

UN3492 Toxic-by-inhalation liquid, corrosive, flammable, n.o.s. *with an inhalation toxicity lower than or equal to 200 ml/m³ and saturated vapor concentration greater than or equal to 500 LC_{50}*

UN3493 Toxic-by-inhalation liquid, corrosive, flammable, n.o.s. *with an inhalation toxicity lower than or equal to 1000 ml/m³ and saturated vapor concentration greater than or equal to 10 LC_{50}*

UN3488 Toxic-by-inhalation liquid, flammable, corrosive, n.o.s. *with an inhalation toxicity lower than or equal to 200 ml/m³ and saturated vapor concentration greater than or equal to 500 LC_{50}*

UN3489 Toxic-by-inhalation liquid, flammable, corrosive, n.o.s. *with an inhalation toxicity lower than or equal to 1000 ml/m³ and saturated vapor concentration greater than or equal to 10 LC_{50}*

UN3490 Toxic-by-inhalation liquid, water-reactive, flammable, n.o.s. *with an inhalation toxicity lower than or equal to 200 ml/m³ and saturated vapor concentration greater than or equal to 500 LC_{50}*

UN3491 Toxic-by-inhalation liquid, water-reactive, flammable, n.o.s. *with an inhalation toxicity lower than or equal to 1000 ml/m³ and saturated vapor concentration greater than or equal to 10 LC_{50}*

Amendments to the Column (1) symbols.

The entries "Elevated temperature liquid, flammable, n.o.s., *with flash point above 37.8 °C, at or above its flash point,* UN3256," "Elevated temperature liquid, n.o.s., *at or above 100 °C and below its flash point (including molten metals, molten salts, etc.),* UN3257," and "Elevated temperature solid, n.o.s., *at or above 240 °C,* UN3258" would be revised by adding the symbol G. The symbol G identifies proper shipping names for which a technical name of the hazardous material is required in parentheses in association with the basic description. Requiring the technical name(s) for certain elevated temperatures materials will help emergency responders in selecting the proper materials for extinguishing a fire involving these hazardous materials and will aid in estimating the temperature properties of the materials (*e.g.,* the melting point).

The entries "Metal catalyst, dry, UN2881" and "Metal catalyst, wetted *with a visible excess of liquid,* UN1378" would be revised by adding the symbol G. The symbol G identifies proper

shipping names for which a technical name of the hazardous material is required in parentheses in association with the basic description. Requiring the technical name(s) for metal catalysts will aid emergency responders in selecting the proper fire suppressant (*e.g.,* CO_2) in the event the hazardous material is involved in a fire or in identifying other materials the metal catalyst could react with.

The entry "Powder, smokeless, UN0509," would be revised by deleting the symbol D. The symbol D identifies a proper shipping name for domestic use only. This entry has been adopted into the UN Model Regulations, the ICAO TI, and the IMDG Code. This proposed deletion is consistent with our final rule published January 14, 2009 (HM–215J) (74 FR 2200) in which we indicate our intent to remove the symbol D in a future rulemaking upon adoption of the entry into international regulations.

For the following Division 5.1 (oxidizer) materials and Division 6.1 (toxic) materials, the entries would be revised by adding the symbol G. The symbol G identifies proper shipping names for which one or more technical names of the hazardous material must be entered in parentheses in association with the basic description on a shipping paper. Knowledge of the technical name of toxic materials may aid emergency responders with implementing more appropriate first aid measures:

UN3141 Antimony compounds, inorganic, liquid, n.o.s.
UN1549 Antimony compounds, organic, liquid, n.o.s.
UN1556 Arsenic compounds, liquid, n.o.s. *inorganic, including arsenates, n.o.s.; arsenates, n.o.s.; arsenic sulfides, n.o.s.; and organic compounds of arsenic, n.o.s.*
UN1557 Arsenic compounds, solid, n.o.s. *inorganic, including arsenates, n.o.s.; arsenates, n.o.s.; arsenic sulfides, n.o.s.; and organic compounds of arsenic, n.o.s.*
UN1564 Barium compounds, n.o.s.
UN1566 Beryllium compounds, n.o.s.
UN3213 Bromates, inorganic, aqueous solution, n.o.s.
UN1450 Bromates, inorganic, n.o.s.
UN2570 Cadmium compounds
UN3210 Chlorates, inorganic, aqueous solution, n.o.s.
UN1461 Chlorates, inorganic, n.o.s.
UN1462 Chlorites, inorganic, n.o.s.
UN1583 Chloropicrin mixtures, n.o.s.
UN3362 Chlorosilanes, toxic, corrosive, flammable, n.o.s.
UN3361 Chlorosilanes, toxic, corrosive, n.o.s.
UN1935 Cyanide solutions, n.o.s.
UN2856 Fluorosilicates, n.o.s.
UN3212 Hypochlorites, inorganic, n.o.s.
UN2291 Lead compounds, soluble, n.o.s.
UN2024 Mercury compounds, liquid, n.o.s.
UN2025 Mercury compounds, solid, n.o.s.
UN3144 Nicotine compounds, liquid, n.o.s. *or* Nicotine preparations, liquid, n.o.s.
UN1665 Nicotine compounds, solid, n.o.s. *or* Nicotine preparations, solid, n.o.s.
UN3219 Nitrites, inorganic, aqueous solution, n.o.s.
UN2627 Nitrites, inorganic, n.o.s.
UN3214 Permanganates, inorganic, aqueous solution, n.o.s.
UN1482 Permanganates, inorganic, n.o.s.
UN2026 Phenylmercuric compounds, n.o.s.
UN2630 Selenates *or* Selenites.
UN3440 Selenium compound, liquid, n.o.s.
UN3283 Selenium compound, solid, n.o.s.
UN3284 Tellurium compound, solid, n.o.s.
UN3285 Vanadium compound, solid, n.o.s.

Amendments to the Column (2) hazardous materials descriptions and proper shipping names.

The proper shipping name for the entry "Detonator, assemblies, non-electric, *for blasting,* UN0500," would be revised by removing the comma after "Detonator" to read "Detonator assemblies, non-electric, *for blasting.*" This revision appears as a "Remove/Add" in this rulemaking.

The proper shipping name for the entry "Engines, internal combustion, *flammable gas powered,* UN3166," would be revised to read "Engines, internal combustion *or* Engines, fuel cell, *flammable gas powered.*" This revision appears as a "Remove/Add" in this rulemaking.

The proper shipping name for the entry "Engines, internal combustion, *flammable liquid powered,* UN3166," would be revised to read "Engines, internal combustion *or* Engines, fuel cell, *flammable liquid powered.*" This revision appears as a "Remove/Add" in this rulemaking.

The proper shipping names "Formaldehyde, solutions, flammable, UN1198" and "Formaldehyde, solutions, *with not less than 25 percent formaldehyde,* UN2209" would be revised to remove an errant comma between the words "Formaldehyde" and "solutions." This revision appears as a "Remove/Add" in this rulemaking.

The proper shipping name for the entry "1–Hydroxybenzotriazole, anhydrous, wetted *with not less than 20 percent water, by mass,* UN3474" would be revised to read "1–Hydroxybenzotriazole, monohydrate." This revision appears as a "Remove/Add" in this rulemaking.

The proper shipping name for the entry "Nitric acid *other than red fuming, with less than 65 percent nitric acid,* UN2031" would be revised to read "Nitric acid *other than red fuming, with more than 20 percent and less than 65 percent nitric acid,* UN2031." The proper shipping name for the Packing Group I entry "Nitric acid *other than red fuming, with more than 70 percent nitric acid,* UN2031" is added to the HMT. In a final rule published on January 14, 2009 (HM–215J; 74 FR 2200), errors were made to both nitric acid entries and in this NPRM, PHMSA proposes to align them correctly in accordance with the various international standards. Additionally, we are proposing to remove the outdated Packing Group II entry "Nitric acid *other than red fuming, with not more than 70 percent nitric acid,* UN2031" that should have been removed from the HMT in the same final rule.

The proper shipping name for the entry "Tars, liquid *including road asphalt and oils, bitumen and cut backs,* UN1999" would be revised to read "Tars, liquid *including road oils and cutback bitumens.*" The entries in the HMT applicable to transport of bitumen may cause confusion with respect to the proper classification of the material. The entries include "Combustible liquid, n.o.s., NA1993, combustible liquid" and "Tars, liquid *including road asphalt and oils, bitumen and cut backs,* UN1999, 3," and the entries "Elevated temperature liquid, flammable, n.o.s., UN3256, 3" and "Elevated temperature liquid, n.o.s., UN3257, 9," when the material is heated and offered for transport. Bitumen is a hydrocarbon material derived from crude oil having a flashpoint of 160 °C or greater. Bitumens typically do not meet the classification for a Class 3 flammable liquid except for cutback bitumens which are blended with a flammable material such as kerosene. Also, road asphalt is bitumen mixed with sand and fillers which also does not meet the classification for a Class 3 flammable liquid. Therefore, we propose to revise the proper shipping name "Tars, liquid *including road asphalt and oils, bitumen and cut backs*" by removing reference to asphalt and clarifying applicability to cutback bitumens to read "Tars, liquid *including road oils and cutback bitumens.*" This

revision appears as a "Remove/Add" in this rulemaking.

The proper shipping name for the entry "Trinitro-meta-cresol, UN0216" would be revised to read "Trinitro-m-cresol." This revision appears as a "Remove/Add" in this rulemaking.

The proper shipping name for the entry "Vehicle, flammable gas powered, UN3166," would be revised to read "Vehicle, flammable gas powered *or* Vehicle, fuel cell, flammable gas powered." This revision appears as a "Remove/Add" in this rulemaking.

The proper shipping name for the entry "Vehicle, flammable liquid powered, UN3166," would be revised to read "Vehicle, flammable liquid powered *or* Vehicle, fuel cell, flammable liquid powered." This revision appears as a "Remove/Add" in this rulemaking.

Amendments to the Column (3) hazard class or division.

PHMSA is proposing to revise the classification of a number of entries to Division 6.1 toxic-by-inhalation primary hazards for consistency with the adoption of classification changes into the 16th revised edition of the UN Model Regulations. The changes are based on data provided from a thorough review of literature on toxic-by-inhalation materials. The review of literature is provided in Informal Document UN/SCETDG/33/INF.8 submitted to the 33rd session of the UN Sub-Committee of Experts on the Transport of Dangerous Goods which is available at *http://www.unece.org/trans/main/dgdb/dgsubc/c3inf33.html.*

For the entry "Tetranitromethane, UN1510," the Class 5 oxidizer primary hazard would be revised to a Division 6.1 toxic-by-inhalation material primary hazard to read 6.1.

For the following Class 3 flammable liquid materials, the Class 3 primary hazard would be revised to a Division 6.1 toxic-by-inhalation material primary hazard to read 6.1.

UN2481 Ethyl isocyanate.
UN2486 Isobutyl isocyanate.
UN2483 Isopropyl isocyanate.
UN3079 Methacrylonitrile, stabilized.
UN2605 Methoxymethyl isocyanate.

For the following Class 8 corrosive materials, the Class 8 primary hazard would be revised to a Division 6.1 toxic-by-inhalation material primary hazard to read 6.1.

UN1810 Phosphorous oxychloride.
UN1834 Sulfur chloride.
UN1838 Titanium tetrachloride.

Amendments to the Column (5) packing group (PG).

The entry "Carbon dioxide, solid *or* Dry ice, UN1845" would be revised by deleting the PG III designation. In general, the PG assigned to a material identifies the degree of hazard the material represents and determines the performance level of the packaging required for the material. For example, a PG II material (*i.e.,* a moderate hazard material) is considered more hazardous and requires more stringent packaging than a PG III material (*i.e.,* a low hazard material). Dry ice presents minimal risk during transport except where concentrations may build up in a confined space. Therefore, in this NPRM, PHMSA proposes to delete the PG III designation from the entry.

For the following Division 6.1 toxic-by-inhalation materials, the PG would be revised to read "I".

UN2668 Chloroacetonitrile.
UN1810 Phosphorous oxychloride.
UN2474 Thiophosgene.
UN1838 Titanium tetrachloride .

PHMSA is proposing this revision to the PG assignment for these entries for consistency with the adoption of changes into the Revised 16th edition of the UN Model Regulations. The changes are based on data provided from a thorough review of literature on toxic-by-inhalation materials. The review of literature is provided in Informal Document UN/SCETDG/33/INF.8 submitted to the 33rd session of the UN Sub-Committee of Experts on the Transport of Dangerous Goods which is available at *http://www.unece.org/trans/main/dgdb/dgsubc/c3inf33.html.*

Amendments to the Column (6) label(s).

For the following hazardous material entries, PHMSA is proposing to revise the labels for consistency with changes made to the classification of these materials under amendments to Column (3) (*see* above). The Class 3 (flammable liquid), Class 8 (corrosive), or Division 5.1 (oxidizer) primary hazard labels, as appropriate, and the Division 6.1 subsidiary hazard label would be revised to a Division 6.1 toxic-by-inhalation material primary hazard label and Class 3, Class 8, or Division 5.1 subsidiary hazard label to read "6.1, 3," "6.1, 8," or "6.1, 5.1," as appropriate."

UN2481 Ethyl isocyanate.
UN2486 Isobutyl isocyanate.
UN2483 Isopropyl isocyanate.
UN3079 Methacrylonitrile, stabilized.
UN2605 Methoxymethyl isocyanate.
UN1810 Phosphorous oxychloride.
UN1510 Tetranitromethane.
UN1838 Titanium tetrachloride.

Amendments to the Column (7) special provisions.

The entry "Compressed gas, n.o.s., UN1956" would be revised by deleting Special provision 77 which authorizes the use of this entry for mixtures of gases with less than 23.5% oxygen when no other oxidizing gases are present. Because we are proposing to modify the definition of oxidizing gas in § 171.8 of the HMR to indicate that "a gas which may, by providing oxygen, cause or contribute to the combustion of other material more than air does means pure gases or gas mixtures with an oxidizing power greater than 23.5% oxygen" and because the entry "Compressed gas, oxidizing, n.o.s., UN3156" is currently available in the HMT, the Special provision is redundant and no longer necessary.

The entry "1–Hydroxybenzotriazole, monohydrate, UN3474" would be revised by deleting Special provision 162. Special provision 162 requires that for the material to be transported as a Division 4.1 desensitized material, it must be transported in such a manner that at no time during the course of transportation does the percentage concentration of water fall below 20%. Anhydrous hydroxybenzotriazole rapidly converts to the monohydrate form in the presence of water, that is, the thermally stable form of the substance. Additionally, tests have indicated that the monohydrate maintains its water content under temperature conditions encountered in storage and transport over extended periods of time. This conforms to the intent of the provisions specified in Special provision 162 and therefore, we are proposing to delete Special provision 162 from the entry.

The entry "Motor fuel anti-knock mixtures, UN1649" would be revised by deleting Special provision 151. Special provision 151 requires that if this material also meets the definition of a Class 3 (flammable liquid) under § 173.120 of the HMR, a FLAMMABLE LIQUID label is required and the basic description on the shipping paper must indicate the Class 3 subsidiary hazard. However, because of the proposed addition of the new entry "Motor fuel anti-knock mixtures, flammable, UN3483" which indicates a Class 3 subsidiary hazard, we believe it is no longer necessary to assign Special provision 151 to this entry.

The entry "Nitrogen, refrigerated liquid cryogenic liquid, UN1977" would be revised by adding new Special provisions 345 and 346. *See Section 172.102 Special Provisions* for a discussion of new Special provisions 345 and 346.

The entry "Oxygen, compressed, UN1072" would be revised by adding Special provision 110 authorizing an actuating cartridge (*e.g.,* power device cartridges of Division 1.4, compatibility groups C and S) to be installed on a

cylinder containing oxygen without changing the classification of Division 2.2. *See Section 172.102 Special provisions* for a detailed discussion of our proposed revision to Special provision 110.

The entry "Pentaerythrite tetranitrate *or* Pentaerythritol tetranitrate *or* PETN, *with not less than 7 percent wax by mass*" would be revised by assigning Special provision 120 to the entry. A final rule published in the **Federal Register** on May 6, 1997, under Docket HM–215B (62 FR 24689), added Special provision 120 to § 172.102(c)(1) of the HMR and assigned it to one of the phlegmatized HMT entries for PETN (UN0411). In this notice, PHMSA is reassigning Special provision 120 to UN0411 in Column 7 of the HMT because it never appeared in the subsequent HMR when printed but remains valid.

The entry "Petroleum crude oil, UN1267" would be revised by adding new Special provision 357 instructing a shipper, if applicable, to use the entry "Petroleum sour crude oil, flammable, toxic, UN3494" for petroleum crude oil containing hydrogen sulfide in sufficient concentration that vapors evolved from the crude oil can present an inhalation hazard when offered for transportation internationally.

The entry "Zinc ammonium nitrate, UN1512" would be revised by deleting Special provision IP2 which requires IBCs other than metal or rigid plastic IBCs to be offered for transportation in a closed freight container or a closed transport vehicle.

The following Division 1.4, Compatibility Group S (1.4S) explosive substance and article entries in the HMT would be revised by adding new Special provision 347 which limits the use of the entries to only those substances and articles that have passed Test series 6(d) of Part I of the UN Manual of Tests and Criteria. *See Section 172.102 Special Provisions* for a discussion of new Special provision 347.

UN0323 Cartridges, power device.
UN0460 Charges, bursting, plastics bonded.
UN0445 Charges, explosive, commercial *without detonator.*
UN0441 Charges, shaped, *without detonator.*
UN0500 Detonator assemblies, non-electric, *for blasting.*
UN0456 Detonators, electric *for blasting.*
UN0366 Detonators for ammunition.
UN0455 Detonators, non-electric, *for blasting.*

The following Division 6.1 toxic-by-inhalation materials entries would be revised by replacing the portable tank instruction T Code T22 with T20. The UN Committee of Experts on the Transport of Dangerous Goods revised the T Code assignment for a number of Division 6.1 toxic-by-inhalation materials from T14 to T20. Assigning T20 requires a higher pressure for the periodic hydrostatic test (6 bar to 10 bar) and a thicker minimum shell thickness (6 mm to 8 mm). This change is consistent with the T Code assigned to the same materials in the HMT. However, for the materials listed below, we assigned a T Code T22 which requires a minimum shell thickness of 10 mm. We do not believe there would be a safety risk in reducing the minimum shell thickness for these materials from 10 mm to 8 mm. Therefore, for consistency with revisions made to the T Code assignments under the 16th revised edition of the UN Model Regulations as well as consistency with the current assignment of T20 to a number of other Division 6.1 toxic-by-inhalation material entries, the T Code T20 would be assigned for the following materials.

UN2484 tert-Butyl Isocyanate.
UN2481 Ethyl isocyanate.
UN2486 Isobutyl isocyanate.
UN2483 Isopropyl isocyanate.
UN2482 n-Propyl isocyanate.

The following Division 6.1 toxic-by-inhalation materials would be revised by adding the portable tank special provision TP13 as a conforming amendment to the proposed changes to the PG assignment for these materials (*see* Amendments to Column (5) above). Special provision TP13 requires the use of self-contained breathing apparatus when the hazardous material is transported by vessel:

UN2668 Chloroacetonitrile.
UN1810 Phosphorous oxychloride.
UN1834 Sulfur chloride.
UN2474 Thiophosgene.

The following Division 5.1 oxidizers would be revised by adding new Special provision W1. Special provision W1 would except these materials from regulation for vessel transport when transported in non-friable prill or granule form. The material must be accompanied by a certificate from an accredited laboratory stating that the product has been tested in accordance with the UN Manual of Tests and Criteria.

UN1486 Potassium nitrate.
UN1498 Sodium nitrate.
UN1499 Sodium nitrate and potassium nitrate mixtures.

Amendments to the Column (8) packaging authorizations.

The four flammable liquid entries "Alcohols, n.o.s., UN1987," "Ethanol, UN1170," "Formaldehyde solutions, flammable, UN1198" and "Isopropanol, UN1219" would be revised in Column (8A) by adding section "4b" to the exceptions column. Section 173.4b prescribes the requirements for *de minimis* quantities of hazardous materials offered for transportation and transported by all modes, domestic or international. We are proposing to add a paragraph (b) to allow non-infectious specimens (*e.g.,* museum specimens) preserved with small amounts of certain Class 3 materials not to be subject to the HMR as recently adopted in the international standards. This amendment is consistent with previous interpretations we have issued on this matter.

The entry "Hydrogen in a metal hydride storage system *or* Hydrogen in a metal hydride storage system contained in equipment *or* Hydrogen in a metal hydride storage system packed with equipment, UN3468" would be revised in Column (8B) by deleting the current reference to § 173.214 for authorized non-bulk packaging and adding new section reference § 173.311. (*See* the Section 173.311 summary for a discussion of authorized packaging provisions for hydrogen in a metal hydride storage system.)

The entry "Polyester resin kit, UN3269" would be revised by amending Columns (8A) and (8B) to read 173.165. Currently, Column (8A) for the entry refers to § 173.152 and Column (8B) refers to § 173.225. For clarity and consistency, such articles should be incorporated in their own packing instruction.

Amendments to the Column (9) quantity limitations.

Maximum quantities per package by passenger air and rail are prescribed in Column (9A). Consistent with an amendment made to the 2011–2012 ICAO Technical Instructions, the quantity limitation for the entry "Silicon tetrachloride, UN1818" would be revised from "1 L" to read "Forbidden."

Columns 10 and 11 of Table 3–1 in the ICAO TI have long indicated the limited quantity packing instruction and net quantity per package, respectively, for substances and articles eligible to be packaged and transported as a limited quantity by air. The ICAO TI identify a limited quantity packing instruction with the letter "Y" preceding the three-digit packing instruction number. PHMSA is considering revising Column (9A) of the HMT in a future rulemaking by placing the letter "Y" following the net quantity per package authorized aboard a passenger-carrying aircraft for those substances or articles eligible to be packaged and transported as a limited

quantity by air under the HMR. We believe this simple and straightforward revision to the HMT will assist both shippers and carriers, while not adding length or bulk to the HMT or the HMR.

Amendments to the Column (10) vessel stowage requirements.

Vessel stowage location (10A). For the following materials, we propose to revise the authorized stowage locations in Column (10A) by revising the stowage category to "D." Assignment of stowage category "D" means the material must be stowed "on deck only" on a cargo vessel and on a passenger vessel carrying a number of passengers limited to not more than the larger of 25 passengers or one passenger per each 3 meters of overall vessel length. The material is prohibited on passenger vessels in which the limiting number is exceeded:

UN1951 Argon, refrigerated liquid *(cryogenic liquid).*
UN2187 Carbon dioxide, refrigerated liquid.
UN1143 Crotonaldehyde *or* Crotonaldehyde, stabilized.
UN1963 Helium, refrigerated liquid *(cryogenic liquid).*
UN1970 Krypton, refrigerated liquid *(cryogenic liquid).*
UN1647 Methyl bromide and ethylene dibromide mixtures, liquid.
UN2644 Methyl iodide.
UN2477 Methyl isothiocyanate.
UN2606 Methyl orthosilicate.
UN1913 Neon, refrigerated liquid *(cryogenic liquid).*
UN2201 Nitrous oxide, refrigerated liquid.
UN2337 Phenyl mercaptan.
UN1810 Phosphorous oxychloride.
UN1834 Sulfur chloride.
UN2474 Thiophosgene.
UN1838 Titanium tetrachloride.
UN2591 Xenon, refrigerated liquid *(cryogenic liquids).*

Vessel stowage codes (10B). For the following hazardous materials, we propose to remove from Column (10B) stowage code "18" (stowage code "143" for UN3392) which prohibits the material from being transported on any vessel carrying explosives (except Division 1.4S explosives), and we propose to add in its place stowage code 78 which requires the materials to be stowed "separated longitudinally by an intervening complete compartment or hold from" explosives.

UN1131 Carbon disulfide.
UN1259 Nickel carbonyl.
UN3392 Organometallic substance, liquid, pyrophoric.
UN3394 Organometallic substance, liquid, pyrophoric, water-reactive.
UN3194 Pyrophoric liquid, inorganic, n.o.s.
UN2845 Pyrophoric liquids, organic, n.o.s.

Section 172.102 Special Provisions

Section 172.102 lists special provisions applicable to the transportation of specific hazardous materials. Special provisions contain packaging requirements, prohibitions, and exceptions applicable to particular quantities or forms of hazardous materials. PHMSA is proposing the following revisions to the § 172.102, Special provisions:

Special provision 15 would be revised by removing extraneous and redundant regulatory text applicable to "Chemical kits, UN3316" and "First aid kits, UN3316."

Special provision 40 would be revised to indicate that "Polyester resin kit, UN3269" requires specification outer packaging based on the PG assigned to the base (Class 3) material unless excepted as a limited or excepted quantity. This revision is a clarification of the existing requirement.

Special provision 77 would be deleted. Special provision 77 allows use of the entry "Compressed gas, n.o.s., UN1956" for mixtures of gases with less than 23.5% oxygen when no other oxidizing gases are present. PHMSA is proposing to modify the definition of oxidizing gas in § 171.8 to state that "a gas which may, by providing oxygen, cause or contribute to the combustion of other material more than air does," meaning, pure gases or gas mixtures with an oxidizing power greater than 23.5% oxygen. Because of the availability of the entry "Compressed gas, oxidizing, n.o.s., UN3156" in the HMT, we believe Special provision 77 is redundant and no longer necessary.

Special provision 78 would be revised to direct shippers to use the entry "Compressed gas, oxidizing, n.o.s., UN3156" to describe compressed air that contains pure gases or gas mixtures with an oxidizing power greater than 23.5% oxygen. PHMSA is proposing to modify the definition of oxidizing gas in § 171.8 of the HMR to indicate that "a gas which may, by providing oxygen, cause or contribute to the combustion of other material more than air does," meaning, pure gases or gas mixtures with an oxidizing power greater than 23.5% oxygen. Therefore, we believe this Special provision should also be revised to emphasize the proposed revised definition and use of the proper shipping description.

Special provision 110 would be revised to include oxygen cylinders for emergency use. Currently, fire extinguishers (UN1044) are assigned Special provision 110 which authorizes the installation of a cartridge power device (of Divisions 1.4C and S) on the fire extinguisher without changing its classification as Division 2.2 provided the actuating cartridge does not contain deflagrating (propellant) explosives exceeding 3.2 g. Many of these types of fire extinguishers are used in commercial aircraft applications where the actuating cartridge is necessary for remote activation to discharge the fire suppressant contained in the cylinder. Similarly, commercial aircraft are being designed to incorporate small oxygen cylinders in the overhead panels above passenger seats to provide emergency oxygen in the event of a depressurization. The design of the system is that a small actuating cartridge attached to each cylinder will be initiated once the passenger starts breathing into the mask, which will allow the flow of oxygen from these cylinders. In connection with the manufacturing and maintenance of the aircraft, it is necessary for these small cylinders to be transported with the actuator installed. The principal hazard presented by these oxygen cylinders remains that of Division 2.2, and not the Division 1.4 explosive hazard of the actuating cartridge; therefore, in this NPRM, PHMSA is proposing to authorize the transport of oxygen cylinders for emergency use with an installed actuating cartridge without changing the classification of Division 2.2 provided that the total quantity of deflagrating (propellant) explosives does not exceed 3.2 g per oxygen cylinder and further provided that the cylinders have an effective means of preventing inadvertent activation.

For conformance with the addition of new proper shipping name(s) for UN3166, Special provision 134 would be revised to specify that a battery-powered vehicle or equipment that also contains an internal combustion engine must be consigned under the entry "Engine, internal combustion, flammable gas powered" or "Engine, internal combustion, flammable liquid powered" or "Vehicle, flammable gas powered" or "Vehicle, flammable liquid powered," as appropriate. These entries include hybrid electric vehicles powered by both an internal combustion engine and batteries. Furthermore, a battery-powered vehicle or equipment that contains a fuel cell engine must be consigned under the entries "Engine, fuel cell, flammable gas powered" or "Engine, fuel cell, flammable liquid powered" or "Vehicle, fuel cell, flammable gas powered" or "Vehicle, fuel cell, flammable liquid powered, as appropriate. These entries include

hybrid electric vehicles powered by a fuel cell, an internal combustion engine, and batteries.

Special provision 135 would be revised to specify that an internal combustion engine installed in a vehicle must be consigned to the entries "Vehicle, flammable gas powered" or "Vehicle, flammable liquid powered," as appropriate. These entries include hybrid electric vehicles powered by both an internal combustion engine and wet, sodium or lithium batteries installed. If a fuel cell engine is installed in a vehicle, the vehicle must be consigned using the entries "Vehicle, fuel cell, flammable gas powered" or "Vehicle, fuel cell, flammable liquid powered," as appropriate. These entries include hybrid electric vehicles powered by a fuel cell, an internal combustion engine, and batteries.

Special provision 149 would be revised to indicate that the exception provided may not be used for transportation by aircraft. This special provision authorizes an increased amount of certain Class 3 (flammable liquid) materials in PG II that are also consumer commodities and is not consistent with the limited quantities authorized for air transportation in § 173.27(f) of the HMR.

Special provision 157 would be deleted because the language of this provision has been combined with the language of revised Special provision 135. Special provision 157 is currently assigned to the entries "Vehicle, fuel cell, flammable gas powered" and "Vehicle, fuel cell, flammable liquid powered" and instructs shippers that these entries include hybrid electric vehicles powered by both an internal combustion engine and wet, sodium or lithium batteries installed.

Special provision 167 would be revised to require metal hydride storage system(s) installed in conveyances, *etc.*, to be approved by the competent authority before acceptance for transport. Special provision 167 would also be applicable, where appropriate, to UN3166 entries powered by fuel cells.

Special provision 198 would be revised to include "Perfumery products, UN1266" among the list of products that nitrocellulose solutions containing not more than 20% nitrocellulose can be transported as. PHMSA is also proposing to revise this provision to clarify that the nitrocellulose may not contain more that 12.6% nitrogen by dry mass.

A new Special provision 340 would be added to provide special instruction for the vessel transport of nickel-metal hydride batteries (including cells). Except for nickel-metal hydride button cells or nickel-metal hydride cells or batteries packed with or contained in equipment, nickel-metal hydride cells or batteries would be required to be securely packed and protected against short circuits in the same manner as batteries transported as "Batteries, dry, sealed, n.o.s." Additionally, when loaded in a vessel cargo transport unit in a total quantity of 100 kg gross mass or more, nickel-metal hydride batteries would be subject to the shipping paper and dangerous cargo manifest requirements under § 176.30 of the HMR.

A new Special provision 343 would be added and assigned to new HMT entry "Petroleum sour crude oil, flammable, toxic, UN3494" indicating that for international transportation, this entry in the HMT must be used for petroleum crude oil containing hydrogen sulfide in sufficient concentration that vapors evolved from the crude oil can present an inhalation hazard. As discussed in detail in response to comments submitted to the ANPRM, for domestic transportation only, consideration of vapor toxicity levels would not be required and the appropriate non-toxic petroleum description may be used. However, a bulk packaging when used for the domestic transport of petroleum crude oil would be required to be marked in accordance with the new marking prescribed in § 172.327 of the HMR to provide warning of the potential hazard from inhalation of hydrogen sulfide vapors.

A new Special provision 345 would be added excepting from the requirements of the HMR "Nitrogen, refrigerated liquid *cryogenic liquid*, UN1977" transported in open cryogenic receptacles with a maximum capacity of 1 L. The receptacles must be constructed with glass double walls having the space between the walls vacuum insulated and each receptacle must be transported in an outer packaging with sufficient cushioning and absorbent materials to protect the receptacle from damage.

A new Special provision 346 would be added excepting from the requirements of the HMR "Nitrogen, refrigerated liquid *cryogenic liquid*, UN1977" transported in accordance with the requirements for open cryogenic receptacles in § 173.320 of the HMR. The receptacle must contain no hazardous materials other than the liquid nitrogen which must be fully absorbed in a porous material in the receptacle.

A new Special provision 347 would be added restricting the use of certain HMT entries classed as Division 1.4S explosive materials to those substances and articles passing Test series 6(d) of Part I of the UN Manual of Tests and Criteria (*see Section 172.101 Hazardous Materials Table (HMT)* for the list of proper shipping names that would be assigned Special provision 347). A Division 1.4 explosive is defined as an explosive that presents a minor explosion hazard such that hazardous effects are confined to a package and no projection of fragments of appreciable size or range are expected; and that an external fire must not cause virtually instantaneous explosion of almost the entire contents of a package containing a Division 1.4 explosive. Under § 173.58 of the HMR, an explosive substance or article is subjected to Test series 6(a), 6(b), and 6(c) for assignment to an appropriate division (*e.g.* Division 1.4). Explosive substances or articles are assigned to Division 1.4, Compatibility Group S (1.4S) if hazardous effects are confined within a package or the blast and projection effects do not significantly hinder emergency response efforts. Test series 6(a), 6(b), and 6(c) address hazard effects from exposure of the package to a fire but do not address whether hazardous effects from functioning of the substance or articles is confined within the package. PHMSA is concerned that there is a possibility that products classified as Division 1.4S based on behavior in a fire according to test procedures of Type 6(c) may still produce a hazardous effect that, when initiated, is not confined to a package. Initiation or ignition as a result of fire, after the package is degraded, may produce different results from functioning with the intended means of ignition or initiation. Knowledge of the behavior of the article or substance in both cases is needed to allow proper classification.

As discussed in the comment summary in response to the ANPRM, PHMSA is proposing to require the Type 6(d) test as prescribed in Section 16.7 of the Fifth revised edition of the UN Manual of Tests and Criteria in the new Special provision 347. PHMSA is proposing that for affected articles intended for transportation by aircraft, the effective date of this new requirement is April 1, 2011. If a manufacturer or approval holder of affected articles previously classed and approved as Division 1.4S chooses to continue offering such shipments by aircraft, the articles must be successfully tested under Test Series 6(d) and a new approval obtained from PHMSA. Additionally, a previously classed and approved Division 1.4S article that is not successfully tested under Test Series

6(d) must be assigned to a compatibility group other than "S" (*e.g.*, B, C, or D) prior to the April 1, 2011 effective date if intended for transportation by aircraft on or after that date. PHMSA is also proposing that for Division 1.4S articles approved prior to January 1, 2012 and, are intended for domestic highway or rail transportation, the effective date of testing to maintain Division 1.4S classification or reclassification to a higher compatibility group other than "S" is no later than January 1, 2014. For previously approved affected articles, for transportation other than by aircraft, reclassification to a compatibility group other than "S" may be accomplished by using existing data and when recommended by an authorized examination and testing agency approved by PHMSA. For international highway, rail and vessel transportation, the proposed effective date of Type 6(d) testing requirements or reclassification for new and previously produced affected articles is January 1, 2012.

A new Special provision 349 would be added and assigned to "Hypochlorites, inorganic, n.o.s., UN3212" to specify that transport of mixtures of hypochlorite and an ammonium salt is forbidden.

A new Special provision 350 would be added and assigned to "Bromates, inorganic, n.o.s., UN1450" and "Bromates, inorganic, aqueous solution, n.o.s., UN3213" to specify that transport of ammonium bromate and its aqueous solutions and mixtures of a bromate and an ammonium salt is forbidden.

A new Special provision 351 would be added and assigned to "Chlorates, inorganic, n.o.s., UN1461" and "Chlorates, inorganic, aqueous solution, n.o.s., UN3210" to specify that transport of ammonium chlorate and its aqueous solutions and mixtures of a chlorate and an ammonium salt is forbidden.

A new Special provision 352 would be added and assigned to "Chlorites, inorganic, n.o.s., UN1462" to specify that transport of ammonium chlorite and its aqueous solutions and mixtures of a chlorite and an ammonium salt is forbidden.

A new Special provision 353 would be added and assigned to "Permanganates, inorganic, n.o.s., UN1482" and "Permanganates, inorganic, aqueous solution, n.o.s., UN3214" to specify that transport of ammonium permanganate and its aqueous solutions and mixtures of a permanganate and an ammonium salt is forbidden.

A new Special provision 357 would be added and assigned to the entry "Petroleum crude oil, UN1267" to clarify that when transported internationally, petroleum crude oil containing hydrogen sulfide in sufficient concentration that vapors evolved from the crude oil can present an inhalation hazard must be transported under the entry "Petroleum sour crude oil, flammable, toxic, UN3494." As discussed in detail in response to comments submitted to the ANPRM, for domestic transportation, use of the toxic description is not required; however, a bulk package would be required to be marked in accordance with the requirement of new § 172.327 of the HMR. *See Section 173.327* for a discussion of the proposed marking requirement.

Special provision A59 would be revised consistent with amendments made to Special provision A131 of the 2011–2012 ICAO TI. Special provision A59 allows for sterilization devices containing ethylene oxide to be offered for transportation and transported by air (and thereby all modes) under the excepted quantity provisions of § 173.4a of the HMR. In this NPRM, PHMSA is proposing to revise Special provision A59 to clarify that it is only applicable to glass inner packagings, such as ampoules or capsules, intended for use in sterilization devices and containing ethylene oxide. Currently, the special provision does not explicitly limit the material of construction to glass for inner packagings as intended.

A new Special provision A112 would be added authorizing the transportation of certain IBCs by passenger and cargo-only aircraft that contain up to a maximum net quantity of 1,000 kg of a Environmentally hazardous substance, solid, n.o.s. (UN3077). This amendment is consistent with the authorization in the 2011–2012 ICAO TI.

In paragraph (c)(4), Table 1 (IBC Codes) would be editorially revised to remove UN Specifications 31A, 31B and 31N from IBC Codes IB4, IB5, IB6, IB7, and IB8. This revision is consistent with amendments to international standards and removes the specifications from the indicated codes in the table because IBC Codes IB4 through IB8 are assigned to solids whereas, UN Specifications 31A, 31B, and 31N are authorized for transportation of liquids in IBC Codes IB1 through IB3 and assigned to liquid materials.

A new portable tank special provision TP36 would be added authorizing the use of fusible elements in the vapor space of portable tanks with a gauge test pressure that exceeds 265 kPa (38.4 psig/2.65 bar). *See Section 178.275* for a detailed discussion. This portable tank special provision is only applicable to the following organometallic materials:

UN3391 Organometallic substance, solid, pyrophoric.
UN3392 Organometallic substance, liquid, pyrophoric.
UN3393 Organometallic substance, solid, pyrophoric, water-reactive.
UN3394 Organometallic substance, liquid, pyrophoric, water-reactive.
UN3395 Organometallic substance, solid, water-reactive.
UN3396 Organometallic substance, solid, water-reactive, flammable.
UN3397 Organometallic substance, solid, water-reactive, self-heating.
UN3398 Organometallic substance, liquid, water-reactive.
UN3399 Organometallic substance, liquid, water-reactive, flammable.
UN3400 Organometallic substance, solid, self-heating.

A new Special provision W1 would be added indicating that the hazardous materials "Potassium nitrate, UN1486," "Sodium nitrate, UN1498," and "Sodium nitrate and Potassium nitrate mixtures, UN1499" are not subject to the HMR when transported by vessel in non-friable prills or granules form. The material would be required to be accompanied by a certificate from an accredited laboratory stating that the product has been properly sampled and tested by the laboratory according to the UN Manual of Tests and Criteria.

Section 172.203

Section 172.203 specifies additional hazardous materials description requirements on shipping papers. Paragraph (b) is revised to indicate that when a shipping paper is required, a limited quantity must be indicated as such. This revision is necessary due to the shipping paper exception proposed in this notice for limited quantities intended for transportation by highway or rail.

Section 172.300

Section 172.300 prescribes the applicability of the HMR marking requirements incorporated in subpart D. Paragraph (l)(1) of § 172.101 authorizes up to a one-year transition period for compliance when new amendments are made to the HMT. This transition period allows the continued use of preprinted shipping paper and marked packaging stock until depleted or for one year, whichever comes first. Consistent with the transition period authorized in § 172.101(l)(1), in this NPRM we propose to amend § 172.300 of the HMR to authorize the continued use of preprinted packaging stock for one-year or until depleted (whichever is less) regardless of whether the amendment is the result of a change made to the HMT, such as an amendment made to the text

of a required marking in a packaging section. This proposed amendment allows the continued use of preprinted packaging stock that is marked before the effective date of any final rule with markings in accordance with the manner previously authorized.

Section 172.312

Section 172.312 prescribes the required orientation markings for non-bulk packages containing liquids. PHMSA is proposing to amend paragraph (c)(5) to clarify that the exception only applies to a hermetically sealed inner packaging or receptacle not exceeding 500 mL each.

Section 172.315

Section 172.315 specifies the markings required on a package containing limited quantities of hazardous materials. These new markings are consistent with the UN Model Regulations, ICAO TI and IMDG Code and are required on packages of limited quantities offered for transportation by highway, rail, air and vessel. Additionally, PHMSA received positive comments submitted in response to the ANPRM concerning the new marking because the requirement specifies minimum dimensions on each side (100 mm) that substantially increases the visibility of the marking when compared with the current ORM–D marking prescribed in § 172.316 of the HMR. Commenters stated that increased visibility of the mark will enhance safety while reducing regulatory burden.

For limited quantities intended for transportation by vessel, this new marking with minimum dimensions of 250 mm on each side is required on cargo transport units containing limited quantities. For limited quantities intended for transportation by aircraft, the marking requirements are in accordance with the 2011–2012 ICAO TI (*i.e.,* "Y" mark on a white square on point) in addition to any required labels.

Section 172.316

Section 172.316 prescribes marking requirements for packages containing materials classed as ORM–D and ORM–D–AIR. If adopted in a final rule, the marking prescribed in this section will no longer be authorized for limited quantities three years after the effective date of the final rule.

Section 172.322

Section 172.322 prescribes marking requirements for packages containing marine pollutants. PHMSA is proposing to add an exception from the marking requirement in new paragraph (d)(2)(iii) for packages of limited quantities marked in accordance with § 172.315.

Section 172.324

Section 172.324 prescribes marking requirements for packages containing hazardous substances in non-bulk packagings. PHMSA is proposing to revise paragraph (b) for packages containing hazardous substances marked in accordance with the limited quantity marking prescribed in § 172.315.

Section 172.326

Section 172.326 prescribes the marking requirements for portable tanks. In this notice, we are proposing to revise paragraph (a) to align the minimum height for a proper shipping name marked on a portable tank to 65 mm when offered for transportation and transported by vessel. This amendment is in response to a revision made in Amendment 35–10 of the IMDG Code.

Section 172.327

New section 172.327 specifies the marking required for a bulk packaging containing petroleum crude oil to warn of the potential toxic inhalation hazard from vapors evolved from hydrogen sulfide present in the crude oil. PHMSA is proposing to require placement of the marking used for toxic materials under the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) in the immediate vicinity of any location on a bulk packaging, such as loading heads and manholes that could pose a health risk to transportation workers if exposed to hydrogen sulfide vapors emitted from that location. This proposed hazard communication marking requirement is applicable to bulk packagings in domestic transportation only. The new hazardous materials description for "Petroleum sour crude oil, flammable, toxic, UN3494" proposed to be added to the HMT would be used for international transportation of petroleum crude oil with hydrogen sulfide in sufficient concentration that vapors evolved from the crude oil present an inhalation hazard (for both bulk and non-bulk packagings).

Section 172.500

Section 172.500 specifies the applicability of placarding requirements to certain materials. PHMSA is proposing an amendment to paragraph (b)(3) to clarify that limited quantities marked in accordance with revised § 172.315 of the HMR are not subject to placarding requirements.

Section 172.502

Section 172.502 specifies prohibited and permissive placarding requirements. In this NPRM, PHMSA proposes to revise the exceptions provided in paragraph (b)(2) to include the sour crude oil marking and the limited quantity marking in §§ 172.315 and 172.327 of the HMR, respectively.

Part 173

Section 173.4

Section 173.4 prescribes the requirements for small quantities of hazardous materials offered for transportation and transported by domestic highway or rail. PHMSA is proposing to revise paragraph (a) and add new paragraph (a)(1)(v) to allow Division 2.2 (non-flammable, non-poisonous, compressed gas) material without a subsidiary hazard (except for aerosols) without applying for an approval from the Associate Administrator as prescribed under paragraph (c) of this section. Other Class 2 materials, including Division 2.2 aerosols, will still require approval under § 173.4(c) of the HMR. These amendments are consistent with the authorization under § 173.4a(b)(1) for Division 2.2 gases without a subsidiary hazard as well as our proposal to exclude aerosols from authorized materials in § 173.4a of the HMR. *See Section 173.4a* for a discussion of revisions proposed for excepted quantities of hazardous materials.

Section 173.4a

Section 173.4a prescribes the requirements for excepted quantities of hazardous materials offered for transportation and transported by all modes, domestic or international. PHMSA is proposing to amend paragraph (a) by adding a new paragraph (a)(4) for pressure differential capability for packages intended for transportation by aircraft in accordance with § 173.27(c) of the HMR. PHMSA is also proposing to amend paragraph (b)(1) to clarify that the authorization for Division 2.2 (non-flammable, non-poisonous, compressed gas) excludes aerosols as an excepted quantity material. Such articles are authorized as a limited quantity under both domestic and international standards. Additionally, PHMSA is proposing to revise paragraph (b)(5) to add polyester resin kits to the types of Division 5.2 (organic peroxide) material authorized as an excepted quantity and to revise paragraph (d)(3) by correcting the outer packaging aggregate quantity limit for Division 5.2 liquids from 250 mL to 500 mL.

Section 173.4b

Section 173.4b prescribes the requirements for *de minimis* quantities of hazardous materials offered for transportation and transported by all modes, domestic or international. Consistent with the international standards, PHMSA is proposing to add a new paragraph (b) to except non-infectious specimens preserved with small amounts of certain Class 3 (flammable liquid) materials for scientific purposes from the requirements of the HMR. This amendment is also consistent with previous interpretations we have issued on this matter indicating these specimens do not pose a risk to safety during the course of transportations.

Section 173.25

Section 173.25 prescribes the requirements for certain authorized packagings and overpacks. Consistent with the international standards, PHMSA is proposing to require an overpack containing packages of limited quantity material marked with the new limited quantities marking proposed in this NPRM (*see* the *Section 172.315* discussion) to be marked with the word "OVERPACK" if the markings are not visible, in addition to all other required package markings. This mark is an indication that the packages contained within the overpack are in accordance with the HMR. Additionally, for excepted quantities (*see* the *Section 173.4a* discussion) where the required package markings are not visible inside an overpack, the excepted quantities marking must also be placed on the overpack. An overpack containing packages of excepted quantities is not required to be marked with the word "OVERPACK."

Section 173.27

Section 173.27 prescribes the general requirements for packaging offered or intended for air transportation. In this NPRM, PHMSA is proposing to amend paragraph (f) by adding a new Table 3 that outlines the requirements for limited quantities intended for air transportation consistent with the 2011–2012 ICAO TI where appropriate.

Section 173.40

Section 173.40 specifies the general packaging requirements for toxic materials packaged in cylinders. PHMSA is proposing to amend paragraph (c)(1) concerning closure requirements by requiring the valve connections on UN Specification cylinders to be made by a taper thread or some other means in accordance with ISO Standard 10692–2:2001.

Section 173.59

Section 173.59 provides definitions of explosive terms and are intended for information only. The UN recently defined the term "phlegmatized" as applying to the addition of a substance to an explosive to enhance its safety in handling and transport. In this NPRM, PHMSA is proposing to adopt the definition in the HMR without modification.

Section 173.63

Section 173.63 specifies packaging exceptions for certain Division 1.4S explosive articles authorized for reclassification and transport as ORM–D material. Based on the proposed elimination of the ORM–D hazard class, in this NPRM, PHMSA is authorizing the current exceptions to continue to be used in all domestic modes of transportation for at least three years after the effective date of a final rule, if adopted. PHMSA invites comments or suggestions on how to facilitate a straightforward transition from transportation of explosives articles reclassed as ORM–D to transportation as limited quantity material such that it ensures no undue burdens are placed on shippers and carriers of such articles.

PHMSA is also proposing in § 173.63 to require "Cartridges, power devices, ORM–D–AIR" (UN0323), before being offered for transportation by aircraft, to have been successfully tested in accordance with the new UN Test Series 6(d) test effective April 1, 2011. This proposed requirement is a precondition for reclassification from Division 1.4S to ORM–D for such articles intended for transportation by international highway, rail and vessel effective January 1, 2012. Articles approved as Division 1.4S prior to January 1, 2012, may continue to be offered in domestic highway and rail transportation only until January 1, 2014.

Section 173.120

Section 173.120 defines Class 3 (flammable liquid) material. PHMSA is proposing to revise paragraph (c) to add new testing methods for determining the flash point of a liquid.

Section 173.121

Section 173.121 prescribes the packing group assignment for flammable liquids. Currently, the HMR do not specify test method for determining the boiling point of a liquid which may be necessary for liquids with very low flash points. PHMSA is proposing to revise paragraph (a) to add new testing methods for determining the boiling point of a liquid.

Section 173.124

Section 173.124 defines Class 4 material. For consistency with a revision adopted in the UN Model Regulations, PHMSA proposes to amend the definition of "self-heating" in § 173.124(b)(2) of the HMR to read: "Self-heating of a substance is a process where the gradual reaction of that substance with oxygen (in air) generates heat. If the rate of heat production exceeds the rate of heat loss, then the temperature of the substance will rise which, after an induction time, may lead to self-ignition and combustion."

Section 173.137

Section 173.137 establishes test criteria and packing group assignments for Class 8 (corrosive) material. Since 1993, PHMSA has authorized under the terms of a special permit an *in vitro* test method as an alternative form of testing to that specified in the HMR to determine the corrosivity of certain substances. Substances authorized for analysis using the alternative test method include acids (and their derivatives), acyl halides, alkylamines and polyalkylamines, bases, chlorosilanes, metal halides, and oxyhalides.

The UN Committee of Experts (COE) recently recognized and adopted *in vitro* test methods in the UN Model Regulations as an alternative form of testing to that specified in OECD Guideline for Testing of Chemicals, Number 404, "Acute Dermal Irritation/Corrosion." These alternative *in vitro* test methods include:

- OECD Guidelines for the Testing of Chemicals, No. 430, "*In Vitro* Skin Corrosion: Transcutaneous Electrical Resistance Test (TER)" (2004);
- No. 431, "*In Vitro* Skin Corrosion: Human Skin Model Test" (2004); and
- No. 435, "*In Vitro* Membrane Barrier Test Method for Skin Corrosion" (2006).

A positive result under *in vitro* methods 430 and 431 may be used to determine corrosivity for transportation purposes but cannot be used to determine the PG assignment. A negative result for corrosivity under *in vitro* methods 430 and 431 can preclude further testing to determine PG assignment using method 404, the current OECD Guideline involving *in vivo* testing or, method 435, the newly adopted OECD Guideline involving *in vitro* testing.

Based on the adoption of three new OECD guidelines for the *in vitro* testing of materials for corrosivity in the UN Model Regulations and our own initiative, PHMSA is proposing to adopt such guidelines as matter incorporated

by reference (IBR) in §§ 171.7 and 173.137 of the HMR. This is consistent with a petition for rulemaking (P–1550) filed by the People for the Ethical Treatment of Animals (PETA), who voice strong support for such action.

Section 173.144

Section 173.144 would be editorially revised by adding the descriptions "Cartridges, small arms" and "Cartridges, power device" and removing the description "Consumer commodity."

Sections 173.150, 173.151, 173.152, 173.153, 173.154, 173.155

Sections 173.150 through 173.155 prescribe the exceptions from certain regulation as Class 3, 8 and 9 and Division 4.1, 4.2, 4.3, 5.1, 5.2 and 6.1 materials under the HMR. PHMSA is proposing to revise each of these sections to recognize the UN Model Regulations and IMDG Code provisions for the highway, rail, and vessel transportation of limited quantities. No quantity limits are proposed to decrease; however, two are increased slightly to maintain alignment.

Section 173.150 prescribes specific exceptions for Class 3 (flammable and combustible liquid) materials. Paragraph (d) prescribes exceptions for alcoholic beverages (wine and distilled spirits) as defined in 27 CFR 4.10 and 5.11. In this NPRM, PHMSA is proposing to revise paragraph (d) only to clarify the exceptions by mode of transport in order to provide a better understanding of the applicability of the HMR to such materials.

When we lowered the quantity limits for limited quantities of Division 6.1 (primary or subsidiary) hazardous materials in PG II in a final rule published June 13, 2005 (HM–215G) (70 FR 34065), we did not remove the labeling requirement for such materials when intended for transportation by highway, rail and vessel nor did we authorize them as "Consumer commodity, ORM–D" material. In this NPRM, except for transportation by aircraft, we are proposing to remove the labeling requirement for all limited quantities of Division 6.1 materials in PG II and III as authorized under § 173.153. When the exceptions Column (8A) of the HMT specifies Section 173.153, and the packaged is marked in accordance with § 172.315, PHMSA is proposing not to require a Division 6.1 label for transportation by highway, rail and vessel. We believe this alignment with international standards will promote compliance without compromising safety.

Section 173.156

Section 173.156 prescribes the conditions under which materials reclassed as ORM–D may be offered for transportation and transported in excepted types of packagings or in excess of authorized weight limits when transported to or from a manufacturer, a distribution center, retail outlet, or disposal facility. In this notice, PHMSA is proposing to eliminate the ORM–D hazard class (after three years), if adopted in a final rule. Until that time, use of exceptions provided in § 173.156 will be authorized and extended to all limited quantities marked in accordance with § 172.315 regardless of whether they also meet the definition of a "Consumer commodity" or not. In this NPRM, PHMSA is proposing that markings prescribed in § 172.316 (ORM–D and ORM–D–AIR) will no longer be authorized on or after January 1, 2014.

Section 173.161

Section 173.161 prescribes packaging requirements for chemical kits and first aid kits containing small amounts of hazardous materials. In this notice, PHMSA is proposing to editorially revise the section. In addition, PHMSA is proposing to allow transport of dry ice in accordance with the packaging requirements of § 173.217 in packaging authorized under this section when used as a refrigerant for the contents of a kit. For chemical and first aid kits intended for transportation by air, the reader is also directed to § 173.27 of the HMR.

Section 173.165

A new section 173.165 would be added to prescribe packaging and other requirements for "Polyester resin kits, UN3269" formerly contained in § 172.102, Special provision 40 and § 173.152(b)(4) of the HMR. This amendment is intended to provide clarification of existing requirements while also harmonizing with international standards.

Section 173.167

A new section 173.167 would be added to indicate authorized materials and quantity limits for articles and substances that may be described as "Consumer commodity, ID8000" when intended for transportation by aircraft. Such articles and substances eligible for classification or reclassification to Class 9 are Class 2 materials (non-toxic aerosols only), Class 3 materials (Packing Group II and III only), Division 6.1 (Packing Group III only), UN/NA3077, UN/NA3082, and UN3175 provided such materials do not have a subsidiary risk and are authorized aboard a passenger-carrying aircraft. Inner and outer packaging quantity limits are based on Packing Instruction Y963 of the 2011–2012 ICAO TI. Specification outer packagings are not required under the conditions prescribed in this section.

Section 173.220

Section 173.220 provides exceptions from regulation under the HMR for the transport of internal combustion engines, self-propelled vehicles, mechanical equipment containing internal combustion engines, and battery-powered vehicles or equipment. This section would be revised to include engines, vehicles, and equipment powered by fuel cells consistent with similar provisions under international standards.

Section 173.225

Section 173.225 specifies packaging requirements and other provisions for organic peroxides. When the § 172.101 HMT specifies this section, the organic peroxide must be packaged and offered for transportation in accordance with the provisions of this section. Each packaging must also conform to the general requirements of subpart B of part 173 and to the applicable requirements of part 178 of the HMR. Specifically, organic peroxides that require temperature control are subject to § 173.21(f). When an IBC or bulk packaging is authorized and meets the requirements of paragraph (f) or (h) of § 173.225, respectively, lower control temperatures than those specified for non-bulk packaging may be required. An organic peroxide not identified in paragraph (c), (e), or (g) of § 173.225 by technical name, or not assigned to a generic type in accordance with paragraph (b)(3) of this section, must conform to the requirements in paragraph (c) of § 173.128.

The Organic Peroxides Table specifies by technical name those organic peroxides that are authorized for transportation and not subject to the approval provisions of § 173.128. An organic peroxide identified by technical name is authorized for transportation only if it conforms to all applicable provisions of the table. In this NPRM, PHMSA is proposing to amend the Organic Peroxide Table in § 173.225(c)(8) by adding a new entry and revising current entries. We are also proposing to revise an entry to the Organic Peroxide IBC Table in paragraph (e) of this section.

The following entries in the Organic Peroxide Table are being revised:

UN3106 Di-(2-tert-butylperoxyisopropyl) benzene(s).
Exempt Di-(2-tert-butylperoxyisopropyl) benzene(s).
UN3105 2, 5-Dimethyl-2, 5-di-(tert-butylperoxy) hexane.

The following entry would be added to the Organic Peroxide Table:
UN3103 2, 5-Dimethyl-2, 5-di-(tert-butylperoxy) hexane.

The following entry in the Organic Peroxide IBC Table is being revised:
UN3109 Peroxyacetic acid, stabilized, not more than 17%.

Section 173.230

Section 173.230 prescribes the requirements for fuel cells offered for transportation by all modes. In paragraph (g), PHMSA is proposing to allow only those fuel cells containing flammable liquids and corrosive materials to be transported as a limited quantity by aircraft. In paragraph (h), PHMSA is also proposing to prohibit the reclassification to "Consumer commodity, ORM–D–AIR" for transportation by aircraft.

Section 173.301b

Section 173.301b prescribes general requirements for shipment of UN pressure receptacles. PHMSA is proposing to revise paragraph (c)(2)(iii) to indicate that valve protection requirements for metal hydride storage systems are specified in ISO 16111. Additionally, we are proposing to revise paragraph (e) regarding the integrity of UN pressure receptacles used for pyrophoric gases or flammable mixtures of gases containing more than 1% pyrophoric compounds in accordance with the 16th revised edition of the UN Model Regulations.

Section 173.306

Section 173.306 prescribes the requirements for limited quantities of compressed gases. PHMSA is proposing to revise paragraphs (i) and (k) of the section to recognize the proposed new marking for limited quantities of such materials and provide a transitional period for the eventual elimination of the ORM–D hazard class.

PHMSA is proposing to revise paragraph (h) to clarify that except for transportation by aircraft, lighter refills in the ORM–D hazard class are eligible for the exceptions in paragraph (i) of the section and § 173.156.

Section 173.307

Section 173.307 establishes exceptions for compressed gases. In this NPRM, PHMSA is proposing to add certain light bulbs provided they are packaged appropriately so that if a bulb ruptures all pieces are contained within the package.

Section 173.311

PHMSA is proposing to add a new § 173.311 to prescribe the packaging requirements for Metal hydride storage systems, UN3468, used for the transport of hydrogen. A metal hydride storage system is a single complete hydrogen storage system that includes a receptacle, metal hydride, a pressure relief device, a shut-off valve, service equipment and internal components.

The HMR currently do not prescribe specific packaging or shipping methods for metal hydride storage systems containing hydrogen. However, PHMSA has issued a number of special permits to allow the use of these systems for transport. The UN Model Regulations, in new Packing Instruction P205, prescribe standards for the construction, qualification, marking and requalification of such systems and is the basis for the proposed HMR requirements. Some amendments proposed in new § 173.311 include:

- Applies to transportable metal hydride storage systems with pressure receptacles not exceeding 150 liters in water capacity and having a maximum developed pressure not exceeding 25 MPa.
- Requires transportable metal hydride storage systems to be designed, constructed, initially inspected and tested in accordance with ISO standard 16111:2008, "Transportable gas storage devices—Hydrogen absorbed in reversible metal hydride." as authorized under § 178.71(f) (formerly reserved).
- Requires steel pressure receptacles or composite pressure receptacles with steel liners to be marked in accordance with § 173.301b(f) of the HMR which specifies that a steel UN pressure receptacle bearing an "H" mark must be used for hydrogen bearing gases or other gases that may cause hydrogen embrittlement.
- Requires a requalification interval of no more than five years as specified in § 180.207 of the HMR in accordance with the requalification procedures prescribed in ISO 16111.

Section 173.320

Section 173.320 provides exceptions from certain regulations for cryogenic liquids. In this NPRM, PHMSA is proposing to add a paragraph clarifying authorization of use of the IMDG Code for the transportation of cryogenic liquids aboard vessels consistent with amendments made to the IMDG Code concerning stowage of cryogenic liquids.

Section 173.322

Section 173.322 prescribes various packaging methods for ethyl chloride. In this NPRM, PHMSA is proposing to adopt the amended provisions from packaging instruction P200 of the UN Model Regulations for ethyl chloride in a new paragraph (e). This new packaging method authorizes ethyl chloride in capsules not exceeding 150 g of gas each, closed with a secondary means applied, and placed in a strong outer packaging not to exceed 75 kg gross mass.

Part 175

Section 175.8

Section 175.8 provides for exceptions from certain regulation for air carrier operator equipment and items of replacement. PHMSA is proposing to revise paragraph (b)(3) to clarify that transportation of alcoholic beverages, perfumes, colognes, and liquefied gas lighters carried aboard a passenger-carrying aircraft by an operator must be for use or sale of those items on that specific aircraft. *See* Ref. No. 09–0207 under the "Interpretations" link on our Web site.

Section 175.9

Section 175.9 prescribes the applicability of the HMR to special aircraft and rotocraft operations. This section also prescribes the conditions under which certain operations may be performed in accordance with 14 CFR and 49 CFR (*e.g.,* avalanche and weather control). In this notice, PHMSA is emphasizing that rotocraft operations are fully subject to both sets of regulations.

Section 175.10

Section 175.10 specifies the conditions for which passengers, crew members or an operator may carry hazardous materials aboard an aircraft. PHMSA is proposing to add a new paragraph (a)(17) to permit a mobility aid such as a wheelchair, containing a lithium-ion battery, to be transported in accordance with the exceptions provided in this section. A wheelchair or other mobility aid that contains a lithium metal battery is not permitted aboard a passenger-carrying aircraft. As a result of this proposed amendment, current paragraph (a)(17) is redesignated as paragraph (a)(18) and current paragraph (a)(18) is redesignated as paragraph (a)(19).

Paragraph (a)(19) is being revised to allow passengers and crew members to place certain spare fuel cell cartridges in checked baggage. This exception does not apply to Divisions 2.1 or 4.3

materials contained in spare fuel cell cartridges. Although the ICAO TI only restricts spare fuel cell cartridges containing Division 4.3 materials from checked baggage, PHMSA strongly believes that the restriction should also include spare cartridges containing Division 2.1 materials. Thus, PHMSA is proposing a risk-based regulatory amendment to allow spare fuel cell cartridges containing flammable and corrosive liquids in checked baggage while continuing to require spare fuel cell cartridges containing Division 2.1 and 4.3 materials to be carried aboard in carry-on baggage only. This proposal is also consistent with the risk-based limited quantity authorization for fuel cells and cartridges containing Division 2.1 and 4.3 materials offered for transportation and transported by aircraft in amendments proposed in § 173.230 of this notice.

Section 175.25

PHMSA is proposing to require operators to provide certain information to passengers regarding what hazardous materials they may check-in or carry-on a flight. Effective January 1, 2011, this information is to be provided at points of ticket sale and, effective January 1, 2013, at automated or remote passenger check-in. Consistent with the ICAO TI, if adopted these amendments will require a passenger to acknowledge limitations before a ticket purchase and automated or remote check-in can be finalized. PHMSA believes these amendments only clarify existing regulatory requirements in § 175.25 that have not been updated due to changing technologies used by air carriers to either sell tickets (Internet) or check-in passengers (automated kiosks). Additionally, these amendments provide air carriers greater flexibility in how the information they are required to provide passengers on hazardous materials is disseminated to them.

Section 175.30

Section 175.30 prescribes inspection procedures for operators. PHMSA is revising paragraph (e) regarding overpack marking requirements for packages of limited quantities offered for transportation by aircraft.

Section 175.75

Section 175.75 prescribes quantity limitations and cargo location requirements for hazardous materials transported by aircraft. PHMSA is proposing to revise paragraph (e) to correct an inadvertent cargo compartment restriction for passenger-authorized materials carried aboard a cargo-only aircraft published in a final rule under docket HM–215J (January 14, 2009; 74 FR 2267). PHMSA is also proposing to revise the paragraph (f) Quantity and Loading Tables for clarity.

Section 175.78

Section 175.78 prescribes the stowage compatibility of hazardous materials offered for transportation by aircraft. PHMSA is proposing to revise paragraph (c)(4)(iii) to specify that except as provided in paragraph (c)(4)(iv) of § 175.78, Division 1.4B explosive materials may only be stowed together with Division 1.4S explosive materials. This revision is in accordance with an amendment made in the 2011–2012 ICAO TI.

Part 176

Section 176.2

Section 176.2 establishes definitions specific to the transportation of hazardous materials by vessel. PHMSA is proposing to revise the definition for "Cargo transport unit" to include a multiple-element gas container or MEGC.

Section 176.76

Section 176.76 prescribes certain requirements for transport vehicles, freight containers, and portable tanks containing hazardous materials transported by vessel. In this notice, we are revising paragraph (a)(9) to require that when security devices, beacons or other tracking or monitoring equipment are used, they must be securely installed and must be of a certified safe type for the hazardous materials that will be carried within the freight container or transport vehicle.

Section 176.84

Section 176.84 outlines additional requirements for stowage and segregation of hazardous materials transported by cargo and passenger vessels. In this NPRM, PHMSA is proposing to remove the redundant stowage code "143." This provision is currently assigned to UN1259, UN2845, UN3194, UN3392, and UN3394 which prohibits the carriage of them aboard a vessel transporting Class 1 explosive material (except for explosive of Division 1.4S). *See* the Section 172.101 Hazardous Materials Table changes for our proposed amendment that adds stowage code "78" to the above materials of extreme flammability. Such materials are now required to be "separated longitudinally by an intervening complete compartment or hold from explosives" based on amendments adopted in the IMDG Code.

Section 176.142

Section 176.142 prescribes the requirements for hazardous materials of extreme flammability transported on the same vessel as Class 1 (explosive) materials. In this NPRM, PHMSA is proposing to delete this outdated section as the restriction no longer exists. Hazardous materials of extreme flammability are no longer prohibited from stowage on the same vessel as explosives. For these entries, the most restrictive stowage requirements will be required.

Section 176.905

Section 176.905 prescribes specific requirements for motor vehicles or mechanical equipment powered by internal combustion engines that are offered for transportation and transported by vessel. For consistency with Amendment 35–10 of the IMDG Code, PHMSA is proposing to remove the signage requirement for such articles in paragraph (a)(5) and the ignition key removal provisions from paragraph (a)(6).

Part 178

Section 178.71

Section 178.71 establishes the specifications for UN pressure receptacles. In this NPRM, we are proposing to amend the cylinder bundle marking requirements in § 178.71(e) by adding a new paragraph (e)(8) specifying pressure vessel markings only apply to the pressure vessel itself and not to the assembly structure of the bundle. Additionally, we are proposing to add new paragraphs (f) and (m), that establish the design and construction requirements for UN metal hydride storage systems and refillable welded cylinders, respectively. To accomplish this, we are redesignating paragraphs (m) through (r) as paragraphs (n) through (s), and revising paragraphs (q) and (s) accordingly to correct paragraph references. Further, we are adding three ISO standards to the IBR table in § 171.7 of this subchapter for UN refillable welded cylinders (4706, 18172–1 and 20703). Lastly, we are proposing to require that transportable metal hydride storage systems (*see* § 173.311) be designed, constructed, initially inspected and tested in accordance with ISO 16111:2008, "Transportable gas storage devices—Hydrogen absorbed in reversible metal hydride." as authorized under § 178.71(m).

Section 178.275

Section 178.275 prescribes requirements for UN portable tanks intended for transportation of liquid and

solid hazardous materials. Currently, § 178.275(h) prohibits the use of fusible elements on portable tanks with a test pressure which exceeds 2.65 bar (265 kPa). In § 172.102(c)(8), we proposed to add a new portable tank Special provision "TP36" authorizing the use of fusible elements in the vapor space of portable tanks with a gauge test pressure that exceeds 265 kPa (38.4 psig/2.65 bar) for certain organometallic substances. In this NPRM, we are proposing to authorize use of fusible elements based on a well-established history of safe transportation of these substances in portable tanks equipped with fusible elements capable of properly functioning at pressure of at least 1000 kPa (145 psig/10 bar). Past experience of the use of fusible elements indicates reliability and a proper functioning even in the event of a release during loading or unloading. Additionally, for organometallic materials that are shipped in rigid portable tanks with a minimum test pressure of more than 265 kPa (38.4 psig/2.65 bar), the tanks are required to be equipped with a depressurizing system that releases the inside pressure to avoid rupturing the tank as a result of an inadvertent release or fire. Fusible elements are used by shippers as a secondary pressure relief device, in addition to a re-closing pressure relief device. No regulatory amendments are proposed to this section.

Section 178.347–1

Section 178.347–1 prescribes the general requirements for DOT Specification 407 cargo tank motor vehicles. Paragraph (d)(9) prescribes weld integrity, compliance and acceptance criteria for bulkheads.

The exemption in § 178.347–1(d)(8) currently provides an unconditional exemption from UW–12 for all joints. Section 178.347–1(d)(9) applies a condition to one particular joint configuration in a head. In petition P–1333, TTMA requested that we adopt a weld joint efficiency of 0.85 for head seams in bulkheads on DOT 407 cargo tanks. Based on review of the TTMA petition and additional information that was provided, we proposed in the HM–213 NPRM (66 FR 63095; December 4, 2001) that the strength of a weld seam in a bulkhead without radiographic examination of the weld must be 0.85 of the strength of the bulkhead. The welded seam must be a full penetration butt weld, no more than one seam may be used per bulkhead, and the welded seam must be completed before forming the dish radius and knuckle radius.

TTMA commented on the above proposal to the NPRM regarding § 178.347–1(d)(9), General Requirements and stated, "While we agree with the proposal to allow a provisional 85% weld joint efficiency for DOT 407 heads with butt-welded seams, we would like to see the requirements of UW–12 of the ASME Code specifically exempted for this welded joint. Even though this section implies an exemption, the exemption is not specific. We suggest the following wording, * * * "The strength of a weld seam in a bulkhead that has not been radiographically examined shall be 0.85 of the strength of the bulkhead and be exempted from the requirements of UW–12 of the ASME Code under the following condition;"

In the final rule, we agreed with their comment and agreed to make the change; however, it was changed in a corrections document (68 FR 52363; September 3, 2003). The final rule stated: "In its comments to the NPRM, TTMA agrees with the provisional 85% weld joint efficiency for DOT 407 heads with butt-welded seams. However, TTMA suggests that we include the requirements of Part UW–12 of the ASME Code to the list of excepted requirements in § 178.347–1(d)(8). We agree with TTMA. In this final rule, we are adding Part UW–12 of the ASME Code to the list of excepted requirements."

In October 2004, we added an exemption from the radiography/joint efficiency requirements of ASME VIII sec UW–12 for DOT 407 cargo tanks 35 psig and less in § 178.347–1(d)(8) and (9). The intent was to provide a conditional alternate means of determining a joint efficiency for certain head welds. Listing UW–12 in § 178.347–1(d)(8) instead of (9), however, results in an unconditional exemption from UW–12 in all welds on these tanks. Therefore, we are proposing to revise § 178.347–1(d)(9), add a new subparagraph (i), and re-number accordingly in order to harmonize these requirements with the applicable Transport Canada Regulations.

Section 178.603

Section 178.603 prescribes the drop test requirements for non-bulk packagings in the HMR. In this notice, PHMSA is proposing to revise paragraph (f)(4) to amend the criteria for passing the tests. Currently, the HMR only require that there is no leakage of filling substance from the inner packaging. In this notice, we are proposing to also require that inner receptacles, inner packagings and articles remain completely within the outer package when drop tested.

Section 178.703

Section 178.703 prescribes the marking requirements for IBCs. PHMSA is proposing to align paragraph (a)(1)(viii) with the UN Model Regulations by requiring the gross mass, in kg, to be marked on all IBC types. Currently, the HMR require a net mass to be marked on flexible IBCs which is inconsistent with international standards. PHMSA inadvertently did not revise the HMR when the international standards were amended to specify that a maximum permissible gross mass be marked on all IBC types.

Section 178.955

Section 178.955 establishes definitions used with regard to Subpart Q of Part 178 that prescribes the design and testing criteria for Large Packagings. PHMSA is proposing to add the following two new definitions, "Remanufactured Large Packaging" and "Reused Large Packaging," in new paragraphs (c)(6) and (c)(7), respectively. A "remanufactured" large packaging would be defined as a metal or rigid plastic large packaging that is produced as a UN type from a non-UN type or is converted from one UN design type to another UN design type. Remanufactured large packagings are subject to the same HMR requirements that apply to a new large packaging. A "reused" large packaging would be defined as a large packaging to be refilled which has been examined and found free of defects affecting the ability to withstand the performance tests. The term includes those which are refilled with the same or similar compatible contents and are transported within distribution chains controlled by the consignor of the product.

Part 180

Section 180.207

Section 180.207 prescribes the requirements for the requalification of UN pressure receptacles. In this notice, PHMSA is proposing to require that metal hydride storage systems be requalified every five years in accordance with ISO 16111:2008 and the records of that requalification be retained in accordance with § 180.215 of the HMR.

Section 180.350

Section 180.350 prescribes applicability and defines certain terms regarding the qualification and maintenance of IBCs. PHMSA is proposing to revise paragraph (b) to indicate that the replacement of the inner receptacle of a composite IBC with one from the original manufacturer is

considered repair. This revision is consistent with the recent change in the definition of "repair" in the UN Model Regulations.

VI. Regulatory Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This proposed rule is published under the following statutory authorities:

1. 49 U.S.C. 5103(b) authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce. This proposed rule amends regulations to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations and vessel stowage requirements. To this end, as discussed in detail above, the proposed rule amends the HMR to more fully align them with the biennial updates of the UN Model Regulations, the IMDG Code and the ICAO TI.

Harmonization serves to facilitate international commerce; at the same time, harmonization promotes the safety of people, property, and the environment by reducing the potential for confusion and misunderstanding that could result if shippers and transporters were required to comply with two or more conflicting sets of regulatory requirements. While the intent of this rulemaking is to align the HMR with international standards, we review and consider each amendment on its own merit based on its overall impact on transportation safety and the economic implications associated with its adoption into the HMR. Our goal is to harmonize without sacrificing the current HMR level of safety and without imposing undue burdens on the regulated public. Thus, as explained in the corresponding sections above, we are not proposing harmonization with certain specific provisions of the UN Model Regulations, the IMDG Code, and the ICAO TI. Moreover, we are maintaining a number of current exceptions for domestic transportation that should minimize the compliance burden on the regulated community.

2. 49 U.S.C. 5120(b) authorizes the Secretary of Transportation to ensure that, to the extent practicable, regulations governing the transportation of hazardous materials in commerce are consistent with standards adopted by international authorities. This rule proposes to amend the HMR to maintain alignment with international standards by incorporating various amendments to facilitate the transport of hazardous material in international commerce. To this end, as discussed in detail above, PHMSA proposes to incorporate changes into the HMR based on the Sixteenth revised edition of the UN Model Regulations, Amendment 35–10 to the IMDG Code, and the 2011–2012 ICAO TI, which become effective January 1, 2011. The continually increasing amount of hazardous materials transported in international commerce warrants the harmonization of domestic and international requirements to the greatest extent possible.

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. The proposed rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. This proposed rule applies to offerors and carriers of hazardous materials, such as chemical manufacturers, chemical users and suppliers, packaging manufacturers, distributors, radiopharmaceutical companies, and training companies. Benefits resulting from the adoption of the amendments in this proposed rule include enhanced transportation safety resulting from the consistency of domestic and international hazard communications and continued access to foreign markets by U.S. manufacturers of hazardous materials.

The majority of amendments in this proposed rule should result in cost savings and ease the regulatory compliance burden for shippers engaged in domestic and international commerce, including trans-border shipments within North America.

We propose a one-year transition period to allow for training of employees and to ease any burden on entities affected by the amendments. The total net increase in costs to businesses in implementing the proposed rule is considered to be minimal. Initial start-up and inventory costs would result from these changes; however, the costs would be offset by greater long-term savings of conformance with one set of regulations and a one-year transition period. A regulatory evaluation is available for review in the public docket for this rulemaking.

C. Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This proposed rule preempts State, local and Indian Tribe requirements but does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous material transportation law, 49 U.S.C. 5101–5128, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts State, local and Indian Tribe requirements on certain covered subjects, as follows:

(1) The designation, description, and classification of hazardous material;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(3) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; and

(5) The design, manufacture, fabrication, inspection, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.

This proposed rule addresses covered subject items (1), (2), (3), (4) and (5) above and preempts State, local, and Indian Tribe requirements not meeting the "substantively the same" standard. This proposed rule is necessary to incorporate changes adopted in international standards, effective January 1, 2011. If the changes in this proposed rule are not adopted in the HMR, U.S. companies, including numerous small entities competing in foreign markets, would be at an economic disadvantage. These companies would be forced to comply with a dual system of regulations. The changes in this proposed rulemaking are intended to avoid this result. Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal

preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. PHMSA proposes the effective date of Federal preemption be 90 days from publication of a final rule in this matter.

D. Executive Order 13175

This proposed rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this proposed rule does not have Tribal implications, does not impose substantial direct compliance costs, and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities, unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This proposed rule facilitates the transportation of hazardous materials in international commerce by providing consistency with international standards. This proposed rule applies to offerors and carriers of hazardous materials, some of whom are small entities, such as chemical manufacturers, users and suppliers, packaging manufacturers, distributors and training companies. As discussed above, under *Executive Order 12866,* the majority of amendments in this proposed rule should result in cost savings and ease the regulatory compliance burden for shippers engaged in domestic and international commerce, including trans-border shipments within North America.

Many companies will realize economic benefits as a result of these amendments. Additionally, the changes effected by this final rule will relieve U.S. companies, including small entities competing in foreign markets, from the burden of complying with a dual system of regulations. Therefore, I certify that these amendments will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This proposed rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

F. Paperwork Reduction Act

PHMSA currently has approved information collections under Office of Management and Budget (OMB) Control Number 2137–0034, "Hazardous Materials Shipping Papers and Emergency Response Information," with an expiration date of May 31, 2011, and OMB Control Number 2137–0557, "Approvals for Hazardous Materials," with an expiration date of June 30, 2011. This NPRM may result in an decrease in the annual burden and costs of OMB Control Number 2137–0034 due to proposed amendments to the exceptions for shipping paper requirements for limited quantities of Class 3, Division 4.1, Division 4.2, Division 4.3, Division 5.1, Division 5.2, Division 6.1, Class 8, and Class 9 materials for those limited quantities that are defined as consumer commodities. This NPRM may result in an increase in the annual burden and costs of OMB Control Number 2137–0557 due to proposed amendments to the classification criteria for eight Division 1.4 explosive articles to add the Type 6(d) test as prescribed in the 5th Revised Edition of the UN Manual of Tests and Criteria.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Section 1320.8(d), title 5, Code of Federal Regulations requires that PHMSA provide interested members of the public and affected agencies an opportunity to comment on information and recordkeeping requests.

This notice identifies revised information collection requests that PHMSA will submit to OMB for approval based on the requirements in this proposed rule. PHMSA has developed burden estimates to reflect changes in this proposed rule, and estimates the information collection and recordkeeping burden as proposed in this rule to be as follows:

OMB Control No.:	2137–0034
Annual Decrease in Number of Respondents	75,000,000
Annual Decrease in Annual Number of Responses	75,000,000
Annual Decrease in Annual Burden Hours	1,875,000
Annual Decrease in Annual Burden Costs	$1,875,000.00
OMB Control No.:	**2137–0557**
Annual Increase in Number of Respondents	465
Annual Increase in Annual Number of Responses	465
Annual Increase in Annual Burden Hours	2,325
Annual Increase in Annual Burden Costs	$58,125

PHMSA specifically requests comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this proposed rule. Requests for a copy of this information collection should be directed to Steven Andrews or T. Glenn Foster, Office of Hazardous Materials Standards (PHH–11), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, Telephone (202) 366–8553.

Address written comments to the Dockets Unit as identified in the **ADDRESSES** section of this rulemaking. We must receive comments regarding information collection burdens prior to the close of the comment period identified in the **DATES** section of this rulemaking. In addition, you may submit comments specifically related to the information collection burden to the PHMSA Desk Officer, Office of Management and Budget, at fax number 202–395–6974. If these proposed requirements are adopted in a final rule, PHMSA will submit the revised information collection and recordkeeping requirements to OMB for approval.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action

listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more, adjusted for inflation, to either State, local or Tribal governments, in the aggregate, or to the private sector in any one year, and is the least burdensome alternative that achieves the objective of the rule.

I. Environmental Assessment

The National Environmental Policy Act, 42 U.S.C. 4321–4375, requires that Federal agencies analyze proposed actions to determine whether the action will have a significant impact on the human environment. The Council on Environmental Quality (CEQ) regulations order Federal agencies to conduct an environmental review considering (1) the need for the proposed action, (2) alternatives to the proposed action, (3) probable environmental impacts of the proposed action and alternatives, and (4) the agencies and persons consulted during the consideration process. 40 CFR 1508.9(b).

1. Purpose and Need

PHMSA is proposing to amend the Hazardous Materials Regulations to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the Hazardous Materials Regulations with recent changes to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods. The amendments are intended to enhance the safety of international hazardous materials transportation through better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and effective emergency response in the event of a hazardous materials incident.

The HMR regulate materials that meet the definition of a marine pollutant in all modes of transportation. The intended effect is to increase the level of safety associated with the transportation of substances hazardous to the marine environment by way of improved communication of their presence in transportation and establishing appropriate requirements for their packaging. The HMR uses a list based system designed to help shippers determine if a material meets the definition of a marine pollutant. Recently, the IMO adopted a criteria based system for identification of materials hazardous to the marine environment based on the Globally Harmonized System of Classification and Labeling of Chemicals (GHS).

2. Alternatives

In developing this proposed rule, we considered three alternatives:

(1) Do nothing.

(2) Adopt the international standards in their entirety.

(3) Adopt most of the international standards, with certain modifications based on safety or economic considerations.

Alternative 1:

Because our goal is to facilitate uniformity, compliance, commerce and safety in the transportation of hazardous materials, we rejected this alternative.

Alternative 2:

By adopting the international standards in their entirety, PHMSA could potentially adopt provisions that, in our view, do not provide an adequate safety level. Further, because we provide for domestic exceptions and extended compliance periods to minimize the potential economic impact of any revisions on the regulated community, this alternative was also rejected.

Alternative 3:

Consistency between U.S. and international regulations helps to assure the safety of international hazardous materials transportation through better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and effective emergency response in the event of a hazardous materials incident. Under Alternative 3, we would harmonize the HMR with international standards to the extent consistent with U.S. safety and economic goals.

Alternative 3 is the only alternative that addresses, in all respects, the purpose of this regulatory action, which is to facilitate the safe and efficient transportation of hazardous materials in international commerce. These actions will provide the greatest possible harmonization with international requirements without posing an undue increased cost burden on industry. For these reasons, alternative 3 is our recommended alternative.

3. Analysis of Environmental Impacts

Hazardous materials are transported by aircraft, vessel, rail, and highway. The potential for environmental damage or contamination exists when packages of hazardous materials are involved in accidents or en route incidents resulting from cargo shifts, valve failures, package failures, or loading, unloading, or handling problems. The ecosystems that could be affected by a release include air, water, soil, and ecological resources (for example, wildlife habitats). The adverse environmental impacts associated with releases of most hazardous materials are short-term impacts that can be greatly reduced or eliminated through prompt clean-up of the accident scene. Most hazardous materials are not transported in quantities sufficient to cause significant, long-term environmental damage if they are released.

The hazardous material regulatory system is a risk-management system that is prevention-oriented and focused on identifying hazards and reducing the probability and quantity of a hazardous material release. Amending the Hazardous Materials Regulations to maintain alignment with international standards enhances the safe transportation of hazardous materials in domestic and international commerce. When considering the adoption of international standards under the HMR, we review and consider each amendment on its own merit and assess their impact on transportation safety and the environment. It is our preliminary conclusion that the proposals being made in this notice will have no adverse affect on the environment we welcome public comment on the matter.

4. Consultations and Public Comment

On June 20, 2007, November 27, 2007, June 18, 2008, and November 19, 2008, PHMSA hosted public meetings with public and private stakeholders to discuss draft U.S. positions on the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE) proposals for the Sixteenth revised edition of the UN Recommendations on the Transport of Dangerous Goods Model Regulations. In addition, PHMSA and the U.S. Coast

Guard hosted a public meeting on September 17, 2008, and hosted a second meeting on September 10, 2009, to discuss amendments to the IMDG Code. A public meeting was held on September 29, 2009 to discuss amendments to the ICAO TI. During these public meetings, U.S. positions on proposed amendments to the UN Recommendations were considered and discussed. Positions were established based on input received during these meetings in conjunction with internal review, including thorough technical review.

We have identified a number of immediate and long-term actions that participants in the international community are taking or will take to enhance the safe transportation of hazardous materials. Through this integrated and cooperative approach, we believe we can be most successful in reducing incidents, enhancing safety, and protecting the public. We expect to receive comments from other agencies and affected members of the regulated and international communities during the comment period.

J. Privacy Act

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://www.dot.gov/privacy.html.*

K. International Trade Analysis

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. For purposes of these requirements, Federal agencies may participate in the establishment of international standards, so long as the standards have a legitimate domestic objective, such as providing for safety, and do not operate to exclude imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. PHMSA participates in the establishment of international standards in order to protect the safety of the American public, and we have assessed the effects of the proposed rule to ensure that it does not exclude imports that meet this objective. Accordingly, this rulemaking is consistent with PHMSA's obligations under the Trade Agreement Act, as amended.

List of Subjects

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Incorporation by reference, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Incorporation by reference, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Incorporation by reference, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, PHMSA proposes to amend 49 CFR chapter I as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

2. In § 171.7, in the paragraph (a)(3) table, the following changes are made:

a. Under the entry "American Society for Testing and Materials (ASTM)," the entries "ASTM D56–05", "ASTM D86–07a", "ASTM D93–08", "ASTM D1078–05", "ASTM D3278–96(2004)e1", and "ASTM D3828–07a" are added in appropriate numerical order;

b. Under the entry "International Civil Aviation Organization (ICAO)," the entry "Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions)" is revised;

c. Under the entry "International Maritime Organization (IMO)" the entries "International Maritime Dangerous Goods Code (IMDG Code), " and "International Convention for the Safety of Life at Sea (SOLAS)" are revised;

d. Under the entry "International Organization for Standardization (ISO)," the entries "ISO 2592—1973(E)"; "ISO 10297:1999" and "ISO 10461:2005" are revised; and the entries "ISO 1516:2002"; "ISO 1523:2002"; "ISO 2719:2002"; "ISO 3405:2000"; "ISO 3679:2004"; "ISO 3680:2004"; "ISO 3924:1999"; "ISO 4626:1980"; "ISO 4706:2008"; "ISO 10692–2:2001"; "ISO 13736:2008"; "ISO 16111:2008"; "ISO 18172–1:2007" and "ISO 20703" are added in numerical order;

e. Under the entry "Organization for Economic Cooperation and Development (OECD)", the entries "OECD Guideline for the Testing of Chemicals, Number 430, 'In Vitro Skin Corrosion: Transcutaneous Electrical Resistance Test (TER) (2004)' ", "OECD Guideline for the Testing of Chemicals, Number 431, 'In Vitro Skin Corrosion: Human Skin Model Test (2004)' ", and "OECD Guideline for the Testing of Chemicals, Number 435, 'In Vitro Membrane Barrier Test Method for Skin Corrosion (2006)' ", are added in numerical order, and the entry "OECD Guideline for the Testing of Chemicals, Number 404, 'Acute Dermal Irritation/Corrosion (1992)' " is revised;

f. Under the entry for "Transport Canada," the entry "Transportation of Dangerous Goods Regulations" is revised; and

g. Under the entry "United Nations," the entry "UN Recommendations on the Transport of Dangerous Goods" is revised.

The additions and revisions read as follows:

§ 171.7 Reference material.

(a) * * *

(3) * * *

Source and name of material	49 CFR reference
* * * * * * *	
American Society for Testing and Materials (ASTM)	
* * * * * * *	
ASTM D56–05, Standard test method for flash point by tag closed cup tester	173.120.
ASTM D86–07a, Standard test method for distillation of petroleum products at atmospheric pressure	173.120.
ASTM D93–08, Standard test methods for flash point by Pensky-Martens closed cup tester	173.120.
ASTM D1078–05, Standard test method for distillation range of volatile organic liquids	173.120.
* * * * * * *	
ASTM D3278–96(2004) e1, Standard test methods for flash point of liquids by small scale closed-cup apparatus.	173.120.
ASTM D3828–07a, Standard test methods for flash point by small scale closed tester	173.120.
* * * * * * *	
International Civil Aviation Organization (ICAO)	
* * * * * * *	
Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), 2011–2012 Edition.	171.8; 171.22; 171.23; 171.24; 172.202; 172.401; 172.512; 172.602; 173.56; 173.320; 175.33; 178.3.
* * * * * * *	
International Maritime Organization (IMO)	
* * * * * * *	
International Convention for the Safety of Life at Sea (SOLAS), Chapter II–2/Regulation 19, 2009	176.63, 176.84.
International Maritime Dangerous Goods Code (IMDG Code), 2010 Edition, Incorporating Amendment 35–10 (English Edition), Volumes 1 and 2.	171.22; 171.23; 171.25; 172.101; Appendix B; 172.202; 172.401; 172.502; 172.602; 173.21; 173.56; 176.2; 176.5; 176.11; 176.27; 176.30; 176.84; 178.3.
International Organization for Standardization	
* * * * * * *	
ISO 1516:2002 Determination of flash/no flash—Closed cup equilibrium method	173.120.
ISO 1523:2002 Determination of flash point—Closed cup equilibrium method	173.120.
ISO 2592:2000 Petroleum products—Determination of flash and fire points—Cleveland open cup method	173.120.
ISO 2719:2002 Determination of flash point—Pensky-Martens closed cup method	173.120.
ISO 3405:2000 Petroleum products—Determination of distillation characteristics at atmospheric pressure	173.121.
ISO 3679:2004 Determination of flash point—Rapid equilibrium closed cup method	173.120.
ISO 3680:2004 Determination of flash/no flash—Rapid equilibrium closed cup method	173.120.
ISO 3924:1999 Petroleum products—Determination of boiling range distribution—Gas chromatography method.	173.121.
ISO 4626:1980 Volatile organic liquids—Determination of boiling range of organic solvents used as raw materials.	173.121.
ISO 4706, Gas cylinders—Refillable welded steel cylinders—Test pressure 60 bar and below, First edition, 2008.	178.71.
ISO 10297, Gas cylinders—Refillable gas cylinder valves Specification and type testing, Second edition, 2006, (E).	173.301b, 178.71.
ISO 10461, Gas cylinders—Seamless aluminum-alloy gas cylinders Periodic inspection and testing, Second edition, February 2005, (E), and Addendum 1, (2006).	180.207.
ISO 10692–2:2001 Gas cylinders—Gas cylinder valve connections for use in the micro-electronics industry—Part 2: Specification and type testing for valve to cylinder connections",.	173.40.
ISO 13736:2008 Determination of flash point—Abel closed-cup method	173.120.
ISO 16111:2008 Transportable gas storage devices—Hydrogen absorbed in reversible metal hydride	173.311, 178.71.
ISO 18172–1, Gas cylinders—Refillable welded stainless steel cylinders—Part 1: Test pressure 6 MPa and below, First edition, 2007.	178.71.
ISO 20703, Gas cylinders—Refillable welded aluminum-alloy cylinders—Design, construction and testing, First edition, 2006.	178.71.

Source and name of material	49 CFR reference
* * * * * * *	
Organization for Economic Cooperation and Development (OECD)	
OECD Guideline for the Testing of Chemicals, Number 404, "Acute Dermal Irritation/Corrosion" (2002)	173.137.
OECD Guideline for the Testing of Chemicals, Number 430, "In Vitro Skin Corrosion: Transcutaneous Electrical Resistance Test (TER)" (2004).	173.137.
OECD Guideline for the Testing of Chemicals, Number 431, "In Vitro Skin Corrosion: Human Skin Model Test" (2004).	173.137.
OECD Guideline for the Testing of Chemicals, Number 435, "In Vitro Membrane Barrier Test Method for Skin Corrosion" (2006).	173.137.
* * * * * * *	
Transport Canada	
* * * * * * *	
Transportation of Dangerous Goods Regulations (Transport Canada TDG Regulations), August 2001 including Clear Language Amendments SOR 2001–286, Amendment 1 (SOR/2002–306) August 8, 2002; Amendment 2 (SOR/2003–273) July 24, 2003; Amendment 3 (SOR/2003–400) December 3, 2003; Amendment 4 (SOR/2005–216) July 13, 2005; Amendment 5 (SOR/2005–279) September 21, 2005; subsection 4.18(5) of Amendment 6 (SOR/2008–34) February 7, 2008; Amendment 6 (SOR/2008–34) February 7, 2008; and Amendment 7 (SOR/2007–179) August 22, 2007.	171.12; 171.22; 171.23; 172.401; 172.502; 172.519; 172.602; 173.31; 173.32; 173.33.
.	
* * * * * * *	
United Nations	
* * * * * * *	
UN Recommendations on the Transport of Dangerous Goods, Sixteenth revised edition (2009) Volumes I and II.	171.12; 171.22; 171.23; 172.202; 172.401; 172.502; 173.22; 173.24; 173.24b; 173.40; 173.56; 173.192; 173.197; 173.302b; 173.304b; 178.75; 178.274; 178.801.
* * * * * * *	

3. In § 171.8, the definitions for "Metal hydride storage system" and "Open cryogenic receptacle" are added and the definition for "Oxidizing gas" is revised to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Metal hydride storage system means a single complete hydrogen storage system that includes a receptacle, metal hydride, pressure relief device, shut-off valve, service equipment and internal components used for the transportation of hydrogen only.

* * * * *

Open cryogenic receptacle means a transportable thermally insulated receptacle for refrigerated liquefied gases maintained at atmospheric pressure by continuous venting of the refrigerated gas.

* * * * *

Oxidizing gas means a gas that may, generally by providing oxygen, cause or contribute to the combustion of other material more than air does. Specifically, this means a pure gas or gas mixture with an oxidizing power greater than 23.5% as determined by a method specified in ISO 10156:1996 or 10156–2:2005 (IBR, *see* § 171.7 of this subchapter) (*see also* § 173.115(k)).

* * * * *

4. In § 171.23, paragraph (b)(9) is revised to read as follows: § 171.23 Requirements for specific materials and packagings transported under the ICAO Technical Instructions, IMDG Code, Transport Canada TDG Regulations, or the IAEA Regulations.

* * * * *

(b) * * *

(9) *Poisonous materials, Division 6.1.* Division 6.1 hazardous materials transported by aircraft as limited quantities are not excepted from labeling.

* * * * *

5. In § 171.25, the first sentence in paragraph (b)(1) is revised, a new paragraph (b)(4) is added, and paragraphs (c)(5) and (d)(3) are removed.

The revision and addition read as follows:

§ 171.25 Additional requirements for the use of the IMDG Code.

* * * * *

(b) * * *

(1) Unless specified otherwise in this subchapter, a shipment must conform to the requirements in part 176 of this subchapter. * * *

* * *

(4) Articles consigned under UN3166 and UN3171 (*e.g.,* Engines, internal combustion, *etc.,* Vehicles, *etc.* and Battery-powered equipment) may be prepared in accordance with the IMDG Code or this subchapter.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS

6. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 44701; 49 CFR 1.53.

7. In § 172.101, the following amendments are made:

a. A new paragraph (c)(10)(iv) is added.

b. Paragraph (e) is amended by adding a new sentence at the end of the paragraph; and

c. The Hazardous Materials Table is amended by removing, adding and revising entries, in the appropriate alphabetical sequence.

The revisions, removals and additions read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

(c) * * *

(10) * * *

(iv) A mixture or solution not identified in the Table specifically by name, comprised of a single predominant hazardous material and traces of one or more hazardous and non-hazardous materials not affecting the classification of the predominant hazardous material must be described using an appropriate shipping description for the predominant hazardous material.

* * * * *

(e) * * * Those preceded by the letters "ID" are associated with proper shipping names considered appropriate for air transportation only and recognized by the ICAO Technical Instructions (IBR, *see* § 171.7 of this subchapter).

* * * * *

§ 172.101 HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	[REMOVE]												
		*		*	*	*	*		*	*			
	Detonator, assemblies, non-electric, *for blasting.*	1.4S	UN0500	II	1.4S		63(f), 63(g)	62	None	25 kg	100 kg	05.	
		*		*	*	*	*		*	*			
	Engines, internal combustion, *flammable gas powered.*	9	UN3166		9	135	220	220	220	Forbidden	No limit	A.	
	Engines, internal combustion, *flammable liquid powered.*	9	UN3166		9	135	220	220	220	No limit	No limit	A.	
		*		*	*	*	*		*	*			
	Formaldehyde, solutions, flammable.	3	UN1198	III	3, 8	B1, IB3, T4, TP1	150	203	242	5 L	60 L	A	40.
	Formaldehyde, solutions, *with not less than 25 percent formaldehyde.*	8	UN2209	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A.	
		*		*	*	*	*		*	*			
	1-Hydroxybenzotriazole, anhydrous, wetted *with not less than 20 percent water, by mass.*	4.1	UN3474	I	4.1	162, N90	None	211	None	0.5 kg	0.5 kg	D	28, 36.
		*		*	*	*	*		*	*			
	Lithium hypochlorite, dry *with more than 39% available chlorine (8.8% available oxygen) or* Lithium hypochlorite mixtures, dry *with more than 39% available chlorine (8.8% available oxygen).*	5.1	UN1471	II	5.1	A9, IB8, IP2, IP4, N34	152	212	240	5 kg	25 kg	A	4, 48, 52, 56, 58, 69, 106, 116.
		*		*	*	*	*		*	*			
	Nitric acid *other than red fuming, with less than 65 percent nitric acid.*	8	UN2031	II	8	A6, B2, B47, B53, IB2, IP15, T8, TP2.	None	158	242	Forbidden	30 L	D	44, 66, 74, 89, 90.
		*		*	*	*	*		*	*			
	Nitric acid *other than red fuming, with not more than 70 percent nitric acid.*	8	UN2031	II	8	A6, B2, B47, B53, IB2, T8, TP2.	None	158	242	Forbidden	30 L	D	44, 66, 89, 90, 110, 111.

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*		*	*			
	Tars, liquid *including road asphalt and oils, bitumen and cut backs.*	3	UN1999	II	3	149, B13, IB2, T3, TP3, TP29.	150	202	242	5 L	60 L	B.	
				III	3	B1, B13, IB3, T1, TP3	150	203	242	60 L	220 L	A.	
		*		*	*	*	*		*	*			
	Trinitro-meta-cresol	1.1D	UN0216	II	1.1D		None	62	None	Forbidden	Forbidden	10	5E.
		*		*	*	*	*		*	*			
	Vehicle, flammable gas powered.	9	UN3166		9	135	220	220	220	Forbidden	No limit	A.	
	Vehicle, flammable liquid powered.	9	UN3166		9	135	220	220	220	No limit	No limit	A.	
		*		*	*	*	*		*	*			
	[ADD]												
		*		*	*	*	*		*	*			
	Alkali metal dispersions, flammable *or* Alkaline earth metal dispersions, flammable.	4.3	UN3482	I	4.3, 3	A2, A3, A7	None	201	244	Forbidden	1 L	D	52.
		*		*	*	*	*		*	*			
W	Batteries, nickel-metal hydride.	9	UN3496		9	130, 340						A	48.
		*		*	*	*	*		*	*			
	Calcium hypochlorite, dry, corrosive *or* Calcium hypochlorite mixtures, dry, corrosive *with more than 39% available chlorine (8.8% available oxygen).*	5.1	UN3485	II	5.1, 8	165, 166, A7, A9, IB8, IP2, IP4, IP13, N34, W9.	152	212	None			D	4, 48, 52, 56, 58, 69, 142.
		*		*	*	*	*		*	*			
	Calcium hypochlorite, hydrated, corrosive *or* Calcium hypochlorite, hydrated mixtures, corrosive *with less than 5.5% but not more than 16% water.*	5.1	UN3487	II	5.1, 8	165, IB8, IP2, IP4, IP13, W9.	152	212	240			D	4, 48, 52, 56, 58, 69, 142.
				III	5.1, 8	165, IB8, IP4, W9	152	213	240	5 kg	25 kg	D	4, 48, 52, 56, 58, 69, 142.

		*			*	*	*	*		*	*				
	Calcium hypochlorite mixtures, dry, corrosive *with more than 10% but not more than 39% available chlorine.*	5.1	UN3486	III	5.1, 8	165, A1, A29, IB8, IP3, IP13, N34, W9.	152	213	240	5 kg	25 kg	D	4, 48, 52, 56, 58, 69, 142.
		*		*	*	*	*		*	*					
A	Consumer commodity	9	ID8000		9		167	167	None	30 kg gross	30 kg gross.		
		*		*	*	*	*		*	*					
	Detonator assemblies, non-electric, *for blasting.*	1.4S	UN0500	II	1.4S	347	63(f), 63(g)	62	None	25 kg	100 kg	05.	
		*		*	*	*	*		*	*					
	Engines, internal combustion, *or* Engines, fuel cell, *flammable gas powered.*	9	UN3166		9	135	220	220	220	Forbidden	No limit	A.	
	Engines internal combustion, *or* Engines, fuel cell, *flammable liquid powered.*	9	UN3166		9	135	220	220	220	No limit	No limit	A.	
		*		*	*	*	*		*	*					
	Formaldehyde solutions, flammable.	3	UN1198	III	3, 8	B1, IB3, T4, TP1	4b, 150	203	242	5 L	60 L	A	40.
	Formaldehyde solutions, *with not less than 25 percent formaldehyde.*	8	UN2209	III	8	IB3, T4, TP1	154	203	241	5 L	60 L	A.	
		*		*	*	*	*		*	*					
	Hydrazine aqueous solution, flammable *with more than 37% hydrazine, by mass.*	8	UN3484	I	8, 3, 6.1	B16, B53, T10, TP2, TP13.	None	201	243	Forbidden	2.5 L	D	40, 52, 125.
		*		*	*	*	*		*	*					
	1-Hydroxybenzotriazole, monohydrate.	4.1	UN3474	I	4.1	N90	None	211	None	0.5 kg	0.5 kg	D	28, 36.
		*		*	*	*	*		*	*					
+	Iodine	8	UN3495	III	8, 6.1	IB8, IP3, T1, TP33	154	213	240			B	40, 55.
		*		*	*	*	*		*	*					
	Lithium hypochlorite, dry *with more than 39% available chlorine (8.8% available oxygen) or* Lithium hypochlorite mixtures, dry *with more than 39% available chlorine (8.8% available oxygen).*	5.1	UN1471	II	5.1	A9, IB8, IP2, IP4, N34	152	212	240	5 kg	25 kg	A	4, 48, 52, 56, 58, 69, 106, 116.
				III	5.1	IB8, IP3, N34, T1, TP33.	152	213	240	25 kg	100 kg	A	4, 48, 52, 56, 58, 69, 116.

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*		*	*			
+	Motor fuel anti-knock mixtures, flammable.	6.1	UN3483	I	6.1, 3	14, T14, TP2, TP13	None	201	244	Forbidden	30 L	D	25, 40.
		*		*	*	*	*		*	*			
	Nitric acid *other than red fuming, with more than 20 percent and less than 65 percent nitric acid.*	8	UN2031	II	8	A6, B2, B47, B53, IB2, IP15, T8, TP2.	None	158	242	Forbidden	30 L	D	44, 66, 89, 90, 110, 111.
		*		*	*	*	*		*	*			
	Nitric acid *other than red fuming, with more than 70 percent nitric acid.*	8	UN2031	I	8, 5.1	A3, B47, B53, T10, TP2, TP13.	None	158	242	Forbidden	2.5 L	D	44, 66, 89, 90, 110, 111.
		*		*	*	*	*		*	*			
I	Petroleum sour crude oil, flammable, toxic.	3	UN3494	I	3, 6.1	343, T14, TP2, TP13	None	201	243	1 L	30 L	D	40.
				II	3, 6.1	343, IB2, T7, TP2	150	202	243	5 L	60 L	D	40.
		*		*	*	*	*		*	*			
				III	3, 6.1	343, IB3, T4, TP1	150	203	242	60 L	220 L	C	40.
	Tars, liquid *including road oils and cutback bitumens.*	3	UN1999	II	3	149, B13, IB2, T3, TP3, TP29.	150	202	242	5 L	60 L	B.	
				III	3	B1, B13, IB3, T1, TP3	150	203	242	60 L	220 L	A.	
		*		*	*	*	*		*	*			
G	Toxic by inhalation liquid, corrosive, flammable, n.o.s. *with an inhalation toxicity lower than or equal to 200 ml/m³ and saturated vapor concentration greater than or equal to 500 LC50.*	6.1	UN3492	I	6.1, 8, 3	1, B9, B14, B30, B72, T22, TP2, TP13, TP27, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40, 125.
G	Toxic by inhalation liquid, corrosive, flammable, n.o.s. *with an inhalation toxicity lower than or equal to 1,000 ml/m³ and saturated vapor concentration greater than or equal to 10 LC50.*	6.1	UN3493	I	6.1, 8, 3	2, B9, B14, B32, B74, T20, TP2, TP13, TP27, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 125.

		*		*	*	*	*	*	*					
G	Toxic by inhalation liquid, flammable, corrosive, n.o.s. *with an inhalation toxicity lower than or equal to 200 ml/m³ and saturated vapor concentration greater than or equal to 500 LC50.*	6.1	UN3488	I	6.1, 3, 8	1, B9, B14, B30, B72, T22, TP2, TP13, TP27, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40, 125.
G	Toxic by inhalation liquid, flammable, corrosive, n.o.s. *with an inhalation toxicity lower than or equal to 1,000 ml/m³ and saturated vapor concentration greater than or equal to 10 LC50.*	6.1	UN3489	I	6.1, 3, 8	2, B9, B14, B32, B74, T20, TP2, TP13, TP27, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 125.
		*		*	*	*	*	*	*					
G	Toxic by inhalation liquid, water-reactive, flammable, n.o.s. *with an inhalation toxicity lower than or equal to 200 ml/m³ and saturated vapor concentration greater than or equal to 500 LC50.*	6.1	UN3490	I	6.1, 4.3, 3	1, B9, B14, B30, B72, T22, TP2, TP13, TP27, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	21, 28, 40, 49.
G	Toxic by inhalation liquid, water-reactive, flammable, n.o.s. *with an inhalation toxicity lower than or equal to 1,000 ml/m³ and saturated vapor concentration greater than or equal to 10 LC50.*	6.1	UN3491	I	6.1, 4.3, 3	2, B9, B14, B32, B74, T20, TP2, TP13, TP27, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	21, 28, 40, 49.
		*		*	*	*	*	*	*					
	Trinitro-m-cresol	1.1D	UN0216	II	1.1D		None	62	None	Forbidden	Forbidden	10	5E.
		*		*	*	*	*	*	*					
	Vehicle, flammable gas powered *or* Vehicle, fuel cell, flammable gas powered.	9	UN3166		9	135	220	220	220	Forbidden	No limit	A.		
	Vehicle, flammable liquid powered *or* Vehicle, fuel cell, flammable liquid powered.	9	UN3166		9	135	220	220	220	No limit	No limit	A.		
		*		*	*	*	*	*	*					
	[REVISE]													
		*		*	*	*	*	*	*					
	Air, compressed	2.2	UN1002		2.2	78	306, 307	302	302	75 kg	150 kg	A.		

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	*			*	*	*	*		*	*			
	Alcohols, n.o.s.	3	UN1987	I	3	172, T11, TP1, TP8, TP27.	4b	201	243	1 L	30 L	E.	
				II		172, IB2, T7, TP1, TP8, TP28.	4b, 150	202	242	5 L	60 L	B.	
				III		172, B1, IB3, T4, TP1, TP29.	4b, 150	203	242	60 L	220 L	A.	
	*			*	*	*	*		*	*			
G	Antimony compounds, inorganic, liquid, n.o.s.	6.1	UN3141	III	6.1	35, IB3, T7, TP1, TP28	153	203	241	60 L	220 L	A.	
G	Antimony compounds, inorganic, solid, n.o.s.	6.1	UN1549	III	6.1	35, IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	
	*			*	*	*	*		*	*			
	Argon, refrigerated liquid *(cryogenic liquid)*.	2.2	UN1951		2.2	T75, TP5	320	316	318	50 kg	500 kg	D.	
	*			*	*	*	*		*	*			
G	Arsenic compounds, liquid, n.o.s. *inorganic, including arsenates, n.o.s.; arsenites, n.o.s.; arsenic sulfides, n.o.s.; and organic compounds of arsenic, n.o.s.*	6.1	UN1556	I	6.1	T14, TP2, TP13, TP27	None	201	243	1 L	30 L	B	40, 137.
				II	6.1	IB2, T11, TP2, TP13, TP27.	153	202	243	5 L	60 L	B	40, 137.
				III	6.1	IB3, T7, TP2, TP28	153	203	241	60 L	220 L	B	40, 137.
G	Arsenic compounds, solid, n.o.s. *inorganic, including arsenates, n.o.s.; arsenites, n.o.s.; arsenic sulfides, n.o.s.; and organic compounds of arsenic, n.o.s.*	6.1	UN1557	I	6.1	IB7, IP1, T6, TP33	None	201	242	5 kg	50 kg	A	137.
				II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	A	137.
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A	137.
	*			*	*	*	*		*	*			
G	Barium compounds, n.o.s.	6.1	UN1564	II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	A.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	
	*			*	*	*	*		*	*			
G	Beryllium compounds, n.o.s.	6.1	UN1566	II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	A.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	

		*		*	*	*	*	*	*					
G	Bromates, inorganic, aqueous solution, n.o.s.	5.1	UN3213	II	5.1	350, IB2, T4, TP1	152	202	242	1 L	5 L	B	56, 58, 133.
				III	5.1	350, IB2, T4, TP1	152	203	241	2.5 L	30 L	B	56, 58, 133.
G	Bromates, inorganic, n.o.s.	5.1	UN1450	II	5.1	350, IB8, IP2, IP4, T3, TP33.	152	212	242	5 kg	25 kg	A	56, 58.
		*		*	*	*	*	*	*					
+	tert-Butyl isocyanate	6.1	UN2484	I	6.1, 3	1, B9, B14, B30, T20, TP2, TP13, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40.
		*		*	*	*	*	*	*					
G	Cadmium compounds	6.1	UN2570	I	6.1	IB7, IP1, T6, TP33	None	211	242	5 kg	50 kg	A.	
				II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	A.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	
		*		*	*	*	*	*	*					
	Carbon dioxide, refrigerated liquid.	2.2	UN2187		2.2	T75, TP5	306	304	314, 315	50 kg	500 kg	D.	
A W	Carbon dioxide, solid *or* Dry ice.	9	UN1845		None		217	217	240	200 kg	200 kg	C	40.
	Carbon disulfide	3	UN1131	I	3, 6.1	B16, T14, TP2, TP7, TP13.	None	201	243	Forbidden	Forbidden	D	40, 78, 115.
		*		*	*	*	*	*	*					
	Cartridges, power device.	1.4S	UN0323	II	1.4S	110, 347	63	62	None	25 kg	100 kg	05.	
		*		*	*	*	*	*	*					
D	Cartridges, power device *(used to project fastening devices)*.	ORM–D	None		None	347	63	None	None	30 kg gross	30 kg gross	A.	
		*		*	*	*	*	*	*					
	Charges, bursting, plastics bonded.	1.4S	UN0460	II	1.4S	347	None	62	None	25 kg	100 kg	05.	
		*		*	*	*	*	*	*					
	Charges, explosive, commercial *without detonator*.	1.4S	UN0445	II	1.4S	347	None	62	None	25 kg	100 kg	05.	
		*		*	*	*	*	*	*					
	Charges, shaped, *without detonator*.	1.4S	UN0441	II	1.4S	347	None	62	None	25 kg	100 kg	05.	
		*		*	*	*	*	*	*					
G	Chlorates, inorganic, aqueous solution, n.o.s.	5.1	UN3210	II	5.1	351, IB2, T4, TP1	152	202	242	1 L	5 L	B	56, 58, 133.
				III	5.1	351, IB2, T4, TP1	152	203	241	2.5 L	30 L	B	56, 58, 133.
G	Chlorates, inorganic, n.o.s.	5.1	UN1461	II	5.1	351, A7, IB6, IP2, N34, T3, TP33.	152	212	242	5 kg	25 kg	A	56, 58.
		*		*	*	*	*	*	*					
G	Chlorites, inorganic, n.o.s.	5.1	UN1462	II	5.1	352, A9, IB6, IP2, N34, T3, TP33.	152	212	242	5 kg	25 kg	A	56, 58.

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*		*	*			
+	Chloroacetonitrile	6.1	UN2668	I	6.1, 3	2, B9, B14, B32, IB9, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	12, 40, 52.
		*		*	*	*	*		*	*			
+	Chloropicrin	6.1	UN1580	I	6.1	2, B7, B9, B14, B32, B46, T22, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40.
		*		*	*	*	*		*	*			
G	Chloropicrin mixtures, n.o.s.	6.1	UN1583	I	6.1	5	None	201	243	Forbidden	Forbidden	C	40.
				II	6.1	IB2	153	202	243	Forbidden	Forbidden	C	40.
				III	6.1	IB3	153	203	241	Forbidden	Forbidden	C	40.
		*		*	*	*	*		*	*			
G	Chlorosilanes, toxic, corrosive, flammable, n.o.s.	6.1	UN3362	II	6.1, 3, 8	T14, TP2, TP7, TP13, TP27.	None	206	243	1 L	30 L	C	40, 125.
G	Chlorosilanes, toxic, corrosive, n.o.s.	6.1	UN3361	II	6.1, 8	T14, TP2, TP7, TP13, TP27.	None	206	243	1 L	30 L	C	40.
		*		*	*	*	*		*	*			
G	Compressed gas, n.o.s	2.2	UN1956		2.2		306, 307	302, 305	314, 315	75 kg	150 kg	A.	
		*		*	*	*	*		*	*			
	Crotonaldehyde *or* Crotonaldehyde, stabilized.	6.1	UN1143	I	6.1, 3	2, 175, B9, B14, B32, B77, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40.
		*		*	*	*	*		*	*			
G	Cyanide solutions, n.o.s.	6.1	UN1935	I	6.1	B37, T14, TP2, TP13, TP27.	None	201	243	1 L	30 L	B	40, 52.
				II	6.1	IB2, T11, TP2, TP13, TP27.	153	202	243	5 L	60 L	A	40, 52.
				III	6.1	IB3, T7, TP2, TP13, TP28.	153	203	241	60 L	220 L	A	40, 52.
		*		*	*	*	*		*	*			
	Detonators, electric *for blasting*.	1.4S	UN0456	II	1.4S	347	63(f), 63(g)	62	None	25 kg	100 kg	05.	
		*		*	*	*	*		*	*			
	Detonators for ammunition.	1.4S	UN0366	II	1.4S	347	None	62	None	25 kg	100 kg	05.	
		*		*	*	*	*		*	*			
	Detonators, non-electric, *for blasting*.	1.4S	UN0455	II	1.4S	347	63(f), 63(g)	62	None	25 kg	100 kg	05.	

		*		*	*	*	*		*	*				
G	Elevated temperature liquid, flammable, n.o.s., *with flash point above 37.8 C, at or above its flash point.*	3	UN3256	III	3	IB1, T3, TP3, TP29	None	None	247	Forbidden	Forbidden	A.		
G	Elevated temperature liquid, n.o.s., *at or above 100 C and below its flash point (including molten metals, molten salts, etc.).*	9	UN3257	III	9	IB1, T3, TP3, TP29	None	None	247	Forbidden	Forbidden	A	85.	
G	Elevated temperature solid, n.o.s., *at or above 240 C, see § 173.247(h)(4).*	9	UN3258	III	9		247(h)(4)	None	247	Forbidden	Forbidden	A	85.	
		*		*	*	*	*		*	*				
G	Environmentally hazardous substance, solid, n.o.s.	9	UN3077	III	9	8, 146, A112, B54, IB8, IP3, N20, T1, TP33.	155	213	240	No limit	No limit	A.		
		*		*	*	*	*		*	*				
	Ethanol *or* Ethyl alcohol *or* Ethanol solutions *or* Ethyl alcohol solutions.	3	UN1170	II	3	24, IB2, T4, TP1	4b, 150	202	242	5 L	60 L	A.		
				III		24, B1, IB3, T2, TP1	4b, 150	203	242	60 L	220 L	A.		
		*		*	*	*	*		*	*				
+	Ethyl isocyanate	6.1	UN2481	I	6.1, 3	1, B9, B14, B30, T20, TP2, TP13, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40, 52.	
		*		*	*	*	*		*	*				
G	Fluorosilicates, n.o.s	6.1	UN2856	III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A	52.	
		*		*	*	*	*		*	*				
	Helium, refrigerated liquid *(cryogenic liquid).*	2.2	UN1963		2.2	T75, TP5	320	316	318	50 kg	500 kg	D.		
		*		*	*	*	*		*	*				
	Hydrogen in a metal hydride storage system *or* Hydrogen in a metal hydride storage system contained in equipment *or* Hydrogen in a metal hydride storage system packed with equipment.	2.1	UN3468		2.1	167	None	311	None	Forbidden	100 kg gross.	D.		
		*		*	*	*	*		*	*				
G	Hypochlorites, inorganic, n.o.s.	5.1	UN3212	II	5.1	349, A9, IB8, IP2, IP4, T3, TP33.	152	212	240	5 kg	25 kg	D	4, 48, 52, 56, 58, 69, 106, 116, 118.	
		*		*	*	*	*		*	*				
+	Isobutyl isocyanate	6.1	UN2486	I	6.1, 3	1, B9, B14, B30, T20, TP2, TP13, TP27.	None	226	244	Forbidden	Forbidden	D	40.	

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*		*	*			
	Isopropanol *or* Isopropyl alcohol.	3	UN1219	II	3	IB2, T4, TP1	4b, 150	202	242	5 L	60 L	B.	
		*		*	*	*	*		*	*			
+	Isopropyl isocyanate	6.1	UN2483	I	6.1, 3	1, B9, B14, B30, T20, TP2, TP13, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40.
		*		*	*	*	*		*	*			
	Krypton, refrigerated liquid *(cryogenic liquid).*	2.2	UN1970		2.2	T75, TP5	320	None	None	50 kg	500 kg	D.	
		*		*	*	*	*		*	*			
G	Lead compounds, soluble, n.o.s.	6.1	UN2291	III	6.1	138, IB8, IP3, T1, TP33.	153	213	240	100 kg	200 kg	A.	
		*		*	*	*	*		*	*			
	Medicine, liquid, flammable, toxic, n.o.s.	3	UN3248	II	3, 6.1	IB2	150	202	243	1 L	60 L	B	40.
				III	3, 6.1	IB3	150	203	242	60 L	220 L	A.	
	Medicine, liquid, toxic, n.o.s.	6.1	UN1851	II	6.1		153	202	243	5 L	60 L	C	40.
				III	6.1		153	203	241	60 L	220 L	C	40.
	Medicine, solid, toxic, n.o.s.	6.1	UN3249	II	6.1	T3, TP33	153	212	242	25 kg	100 kg	C	40.
				III	6.1	T3, TP33	153	213	240	100 kg	200 kg	C	40.
		*		*	*	*	*		*	*			
G	Mercury compounds, liquid, n.o.s.	6.1	UN2024	I	6.1		None	201	243	1 L	30 L	B	40.
				II	6.1	IB2	153	202	243	5 L	60 L	B	40.
				III	6.1	IB3	153	203	241	60 L	220 L	B	40.
G	Mercury compounds, solid, n.o.s.	6.1	UN2025	I	6.1	IB7, IP1, T6, TP33	None	211	242	5 kg	50 kg	A.	
				II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	A.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	
		*		*	*	*	*		*	*			
G	Metal catalyst, dry	4.2	UN2881	I	4.2	N34, T21, TP7, TP33	None	187	None	Forbidden	Forbidden	C.	
				II	4.2	IB6, IP2, N34, T3, TP33.	None	187	242	Forbidden	50 kg	C.	
				III	4.2	IB8, IP3, N34, T1, TP33.	None	187	241	25 kg	100 kg	C.	
G	Metal catalyst, wetted *with a visible excess of liquid.*	4.2	UN1378	II	4.2	A2, A8, IB1, N34, T3, TP33.	None	212	None	Forbidden	50 kg	C.	
		*		*	*	*	*		*	*			
+	Methacrylonitrile, stabilized.	6.1	UN3079	I	6.1, 3	2, B9, B14, B32, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	12, 40, 48.

		*		*		*		*		*		*		
+	Methoxymethyl isocyanate.	6.1	UN2605	I	6.1, 3	1, B9, B14, B30, T20, TP2, TP13, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40.
		*		*		*		*		*		*		
	Methyl bromide and ethylene dibromide mixtures, liquid.	6.1	UN1647	I	6.1	2, B9, B14, B32, N65, T20, TP2, TP13, TP38, TP44.	None	227	244	Forbidden	Forbidden	D	40.
		*		*		*		*		*		*		
	Methyl iodide	6.1	UN2644	I	6.1	2, B9, B14, B32, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	12, 40.
		*		*		*		*		*		*		
	Methyl isothiocyanate	6.1	UN2477	I	6.1, 3	2, B9, B14, B32, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40.
		*		*		*		*		*		*		
	Methyl orthosilicate	6.1	UN2606	I	6.1, 3	2, B9, B14, B32, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40.
		*		*		*		*		*		*		
+	Motor fuel anti-knock mixtures.	6.1	UN1649	I	6.1	14, B9, B90, T14, TP2, TP13.	None	201	244	Forbidden	30 L	D	25, 40.
		*		*		*		*		*		*		
	Neon, refrigerated liquid *(cryogenic liquid)*.	2.2	UN1913		2.2	T75, TP5	320	316	None	50 kg	500 kg	D.	
		*		*		*		*		*		*		
	Nickel carbonyl	6.1	UN1259	I	6.1, 3	1	None	198	None	Forbidden	Forbidden	D	40, 78.
		*		*		*		*		*		*		
G	Nicotine compounds, liquid, n.o.s. *or* Nicotine preparations, liquid, n.o.s.	6.1	UN3144	I	6.1	A4	None	201	243	1 L	30 L	B	40.
				II	6.1	IB2, T11, TP2, TP27	153	202	243	5 L	60 L	B	40.
				III	6.1	IB3, T7, TP1, TP28	153	203	241	60 L	220 L	B	40.
G	Nicotine compounds, solid, n.o.s. *or* Nicotine preparations, solid, n.o.s.	6.1	UN1665	I	6.1	IB7, IP1, T6, TP33	None	201	242	5 kg	50 kg	B.	
				II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	A.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	
		*		*		*		*		*		*		
G	Nitrites, inorganic, aqueous solution, n.o.s.	5.1	UN3219	II	5.1	IB1, T4, TP1	152	202	242	1 L	5 L	B	46, 56, 58, 133.
				III	5.1	IB2, T4, TP1	152	203	241	2.5 L	30 L	B	46, 56, 58, 133.
G	Nitrites, inorganic, n.o.s.	5.1	UN2627	II	5.1	33, IB8, IP2, IP4, T3, TP33.	152	212	None	5 kg	25 kg	A	46, 56, 58, 133.
		*		*		*		*		*		*		
	Nitrogen, refrigerated liquid *cryogenic liquid.*	2.2	UN1977		2.2	345, 346, T75, TP5	320	316	318	50 kg	500 kg	D.	

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***) Exceptions	Non-bulk	Bulk	(9) Quantity limitations Passenger aircraft/rail	Cargo aircraft only	(10) Vessel stowage Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*		*	*			
	Nitrous oxide, refrigerated liquid.	2.2	UN2201		2.2, 5.1	B6, T75, TP5, TP22	None	304	314, 315	Forbidden	Forbidden	D	40.
		*		*	*	*	*		*	*			
G	Organometallic substance, liquid, pyrophoric.	4.2	UN3392	I	4.2	B11, T21, TP2, TP7, TP36.	None	181	244	Forbidden	Forbidden	D	78.
G	Organometallic substance, liquid, pyrophoric, water-reactive.	4.2	UN3394	I	4.2, 4.3	B11, T21, TP2, TP7, TP36.	None	181	244	Forbidden	Forbidden	D	78.
G	Organometallic substance, liquid, water-reactive.	4.3	UN3398	I	4.3	T13, TP2, TP7, TP36	None	201	244	Forbidden	1 L	E	40, 52.
				II	4.3	IB1, T7, TP2, TP7, TP36.	None	202	243	1 L	5 L	E	40, 52.
				III	4.3	IB2, T7, TP2, TP7, TP36.	None	203	242	5 L	60 L	E	40, 52.
G	Organometallic substance, liquid, water-reactive, flammable.	4.3	UN3399	I	4.3, 3	T13, TP2, TP7, TP36	None	201	244	Forbidden	1 L	D	40, 52.
				II	4.3, 3	IB1, IP2, T7, TP2, TP7, TP36.	None	202	243	1 L	5 L	D	40, 52.
				III	4.3, 3	IB2, IP4, T7, TP2, TP7, TP36.	None	203	242	5 L	60 L	E	40, 52.
G	Organometallic substance, solid, pyrophoric.	4.2	UN3391	I	4.2	T21, TP7, TP33, TP36	None	187	244	Forbidden	Forbidden	D.	
G	Organometallic substance, solid, pyrophoric, water-reactive.	4.2	UN3393	I	4.2, 4.3	B11, T21, TP7, TP33, TP36.	None	187	244	Forbidden	Forbidden	D	52.
G	Organometallic substance, solid, self-heating.	4.2	UN3400	II	4.2	IB6, T3, TP33, TP36	None	212	242	15 kg	50 kg	C.	
				III	4.2	IB8, T1, TP33, TP36	None	213	242	25 kg	100 kg	C.	
G	Organometallic substance, solid, water-reactive.	4.3	UN3395	I	4.3	N40, T9, TP7, TP33,TP36.	None	211	242	Forbidden	Forbidden	E	40, 52.
				II	4.3	IB4, T3, TP33, TP36	151	212	242	15 kg	50 kg	E	40, 52.
				III	4.3	IB6, T1, TP33, TP36	151	213	241	25 kg	100 kg	E	40, 52.
G	Organometallic substance, solid, water-reactive, flammable.	4.3	UN3396	I	4.3, 4.1	N40, T9, TP7, TP33, TP36.	None	211	242	Forbidden	Forbidden	E	40, 52.
				II	4.3, 4.1	IB4, T3, TP33, TP36	151	212	242	15 kg	50 kg	E	40, 52.
				III	4.3, 4.1	IB6, T1, TP33, TP36	151	213	241	25 kg	100 kg	E	40, 52.
G	Organometallic substance, solid, water-reactive, self-heating.	4.3	UN3397	I	4.3, 4.2	N40, T9, TP7, TP33, TP36.	None	211	242	Forbidden	Forbidden	E	40, 52.
				II	4.3, 4.2	IB4, T3, TP33, TP36	None	212	242	15 kg	50 kg	E	40, 52.
				III	4.3, 4.2	IB6, T1, TP33, TP36	None	213	241	25 kg	100 kg	E	40, 52.
		*		*	*	*	*		*	*			
	Oxygen, compressed	2.2	UN1072		2.2, 5.1	110, A14	306	302	314, 315	75 kg	150 kg	A.	

		*		*	*	*	*	*	*	*					
G	Permanganates, inorganic, aqueous solution, n.o.s.	5.1	UN3214	II	5.1	26, 353, IB2, T4, TP1	152	202	242	1 L	5 L	D	56, 58, 133, 138.
G	Permanganates, inorganic, n.o.s.	5.1	UN1482	II	5.1	26, 353, A30, IB6, IP2, T3, TP33.	152	212	242	5 kg	25 kg	D	56, 58, 138.
				III	5.1	26, 353, A30, IB8, IP3, T1, TP33.	152	213	240	25 kg	100 kg	D	56, 58, 138.
		*		*	*	*	*	*	*	*					
	Pentaerythrite tetranitrate *or Pentaerythritol tetranitrate* or PETN, *with not less than 7 percent wax by mass.*	1.1D	UN0411	II	1.1D	120	None	62	None	Forbidden	Forbidden	10.	
		*		*	*	*	*	*	*	*					
	Petroleum crude oil	3	UN1267	I	3	144, 357, T11, TP1, TP8.	150	201	243	1 L	30 L	E.	
				II	3	144, 357, IB2, T4, TP1, TP8.	150	202	242	5 L	60 L	B.	
				III	3	144, 357, B1, IB3, T2, TP1.	150	203	242	60 L	220 L	A.	
		*		*	*	*	*	*	*	*					
	Phenyl mercaptan	6.1	UN2337	I	6.1, 3	2, B9, B14, B32, B77, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 52.
G	Phenylmercuric compounds, n.o.s.	6.1	UN2026	I	6.1	IB7, IP1, T6, TP33	None	211	242	5 kg	50 kg	A.	
				II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	A.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	
		*		*	*	*	*	*	*	*					
+	Phosphorous oxychloride.	6.1	UN1810	I	6.1, 8	2, B9, B14, B32, B77, N34, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40.
		*		*	*	*	*	*	*	*					
	Polyester resin kit	3	UN3269		3	40, 149	165	165	None	5 kg	5 kg	B.	
		*		*	*	*	*	*	*	*					
	Potassium nitrate	5.1	UN1486	III	5.1	A1, A29,IB8, IP3, T1, TP33, W1.	152	213	240	25 kg	100 kg	A.	
		*		*	*	*	*	*	*	*					
	Powder, smokeless	1.4C	UN0509		1.4C		None	62	None	Forbidden	75 kg	09.	
		*		*	*	*	*	*	*	*					
+	n-Propyl isocyanate	6.1	UN2482	I	6.1, 3	1, B9, B14, B30, T20, TP2, TP13, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40.
		*		*	*	*	*	*	*	*					
G	Pyrophoric liquid, inorganic, n.o.s.	4.2	UN3194	I	4.2		None	181	244	Forbidden	Forbidden	D	78.
G	Pyrophoric liquids, organic, n.o.s.	4.2	UN2845	I	4.2	B11, T22, TP2, TP7	None	181	244	Forbidden	Forbidden	D	78.
		*		*	*	*	*	*	*	*					
G	Selenates *or* Selenites	6.1	UN2630	I	6.1	IB7, IP1, T6, TP33	None	211	242	5 kg	50 kg	E.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)

§ 172.101 HAZARDOUS MATERIALS TABLE—Continued

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
		*		*	*	*	*		*	*			
G	Selenium compound, liquid, n.o.s.	6.1	UN3440	I	6.1	T14, TP2, TP27	None	201	243	1 L	30 L	B.	
				II	6.1	IB2, T11, TP2, TP27	153	202	243	5 L	60 L	B.	
				III	6.1	IB3, T7, TP1, TP28	153	203	241	60 L	220 L	A.	
G	Selenium compound, solid, n.o.s.	6.1	UN3283	I	6.1	IB7, IP1, T6, TP33	None	201	242	5 kg	50 kg	B.	
				II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	B.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	
		*		*	*	*	*		*	*			
	Sodium nitrate	5.1	UN1498	III	5.1	A1, A29, IB8, IP3, T1, TP33, W1.	152	213	240	25 kg	100 kg	A.	
	Sodium nitrate and potassium nitrate mixtures.	5.1	UN1499	III	5.1	A1, A29, IB8, IP3, T1, TP33, W1.	152	213	240	25 kg	100 kg	A.	
		*		*	*	*	*		*	*			
+	Sulfur chloride	6.1	UN1834	I	6.1, 8	1, B6, B9, B10, B14, B30, B77, N34, T22, TP2, TP13, TP38, TP44.	None	226	244	Forbidden	Forbidden	D	40.
		*		*	*	*	*		*	*			
G	Tellurium compound, solid, n.o.s.	6.1	UN3284	I	6.1	IB7, IP1, T6, TP33	None	201	242	5 kg	50 kg	B.	
				II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	B.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	
		*		*	*	*	*		*	*			
+	Tetranitromethane	6.1	UN1510	I	6.1, 5.1	2, B32, T20, TP2, TP13, TP38, TP44.	None	227	None	Forbidden	Forbidden	D	40, 66.
		*		*	*	*	*		*	*			
+	Thiophosgene	6.1	UN2474	I	6.1	2, B9, B14, B32, N33, N34, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40, 52.
		*		*	*	*	*		*	*			
+	Titanium tetrachloride	6.1	UN1838	I	6.1, 8	2, B7, B9, B14, B32, B77, T20, TP2, TP13, TP38, TP45.	None	227	244	Forbidden	Forbidden	D	40.
		*		*	*	*	*		*	*			
G	Vanadium compound, solid, n.o.s.	6.1	UN3285	I	6.1	IB7, IP1, T6, TP33	None	201	242	5 kg	50 kg	B.	
				II	6.1	IB8, IP2, IP4, T3, TP33.	153	212	242	25 kg	100 kg	B.	
				III	6.1	IB8, IP3, T1, TP33	153	213	240	100 kg	200 kg	A.	

*		*	*	*	*	*	*	*				
Xenon, refrigerated liquid *(cryogenic liquids)*.	2.2	UN2591		2.2	T75, TP5	320	None	None	50 kg	500 kg	D.	
*		*	*	*	*	*	*	*				
Zinc ammonium nitrite	5.1	UN1512	II	5.1	IB8, IP4, T3, TP33	None	212	242	5 kg	25 kg	E.	
*		*	*	*	*	*	*	*				

* * * * *

9. In § 172.102, the following amendments are made:

a. In paragraph (c)(1), Special provisions 77 and 157 are removed; Special provisions 15, 40, 78, 110, 134, 135, 149, 167 and 198 are revised; and new Special provisions 340, 343, 345, 346, 347, 349, 350, 351, 352, 353, and 357 are added.

b. In paragraph (c)(2), Special provision A59 is revised and new Special provision A112 is added.

c. In paragraph (c)(4), Table 1—IB Codes (IBC Codes) is revised.

d. In paragraph (c)(8), new Special provision TP36 is added.

e. In paragraph (c)(9), new Special provision W1 is added.

The revisions and additions read as follows:

§ 172.102 Special provisions.

* * * * *

(c) * * *

(1) * * *

Code/Special Provisions

* * * * *

15 This entry applies to "Chemical kits" and "First aid kits" containing one or more compatible items of hazardous materials in boxes, cases, *etc.* that, for example, are used for medical, analytical, diagnostic, testing, or repair purposes. Kits that are carried on board transport vehicles for first aid or operating purposes are not subject to the requirements of this subchapter.

* * * * *

40 Polyester resin kits consist of two components: A base material (Class 3, Packing Group II or III) and an activator (organic peroxide), each separately packed in an inner packaging. The organic peroxide must be type D, E, or F, not requiring temperature control. The components may be placed in the same outer packaging provided they will not interact dangerously in the event of leakage. The Packing Group assigned will be II or III, according to the classification criteria for Class 3, applied to the base material. Additionally, unless otherwise excepted in this subchapter, polyester resin kits must be packaged in specification combination packagings based on the performance level of the base material contained within the kit.

* * * * *

78 This entry may not be used to describe compressed air which contains more than 23.5 percent oxygen. Compressed air containing greater than 23.5 percent oxygen must be shipped using the description "Compressed gas, oxidizing, n.o.s., UN3156."

* * * * *

110 Fire extinguishers transported under UN1044 and Oxygen, compressed cylinders transported for emergency use under UN1072 may include installed actuating cartridges (cartridges, power device of Division 1.4C or 1.4S), without changing the classification of Division 2.2, provided the aggregate quantity of deflagrating (propellant) explosives does not exceed 3.2 grams per cylinder. Oxygen cylinders with installed actuating cartridges as prepared for transportation must have an effective means of preventing inadvertent activation.

* * * * *

134 This entry only applies to vehicles, machinery and equipment powered by wet batteries, sodium batteries, or lithium batteries that are transported with these batteries installed. Examples of such items are electrically-powered cars, lawn mowers, wheelchairs, and other mobility aids. Self-propelled vehicles or equipment that also contain an internal combustion engine must be consigned under the entry "Engine, internal combustion, flammable gas powered" or "Engine, internal combustion, flammable liquid powered" or "Vehicle, flammable gas powered" or "Vehicle, flammable liquid powered)," as appropriate. These entries include hybrid electric vehicles powered by both an internal combustion engine and batteries. Additionally, self-propelled vehicles or equipment that contain a fuel cell engine must be consigned under the entries "Engine, fuel cell, flammable gas powered" or "Engine, fuel cell, flammable liquid powered" or "Vehicle, fuel cell, flammable gas powered" or "Vehicle, fuel cell, flammable liquid powered," as appropriate. These entries include hybrid electric vehicles powered by a fuel cell engine, an internal combustion engine, and batteries.

135 Internal combustion engines installed in a vehicle must be consigned under the entries "Vehicle, flammable gas powered" or "Vehicle, flammable liquid powered," as appropriate. These entries include hybrid electric vehicles powered by both an internal combustion engine and wet, sodium or lithium batteries installed. If a fuel cell engine is installed in a vehicle, the vehicle must be consigned using the entries "Vehicle, fuel cell, flammable gas powered" or "Vehicle, fuel cell, flammable liquid powered," as appropriate. These entries include hybrid electric vehicles powered by a fuel cell, an internal combustion engine, and wet, sodium or lithium batteries installed.

* * * * *

149 Except for transportation by aircraft, when transported as a limited quantity or a consumer commodity, the maximum net capacity specified in § 173.150(b)(2) of this subchapter for inner packagings may be increased to 5 L (1.3 gallons).

* * * * *

167 These storage systems must always be considered as containing hydrogen. A metal hydride storage system installed in or intended to be installed in a vehicle or equipment or in vehicle or equipment components must be approved for transport by the Associate Administrator. A copy of the approval must accompany each shipment.

* * * * *

198 Nitrocellulose solutions containing not more than 20% nitrocellulose may be transported as paint, perfumery products, or printing ink, as applicable, provided the nitrocellulose contains no more 12.6% nitrogen (by dry mass). *See* UN1210, UN1263, UN1266, UN3066, UN3469, and UN3470.

* * * * *

340 Except for nickel-metal hydride button cells or nickel-metal hydride cells or batteries packed with or contained in equipment (which must be transported in accordance with Special provision 130 for the transport of "Batteries, dry, sealed, n.o.s.," nickel-metal hydride batteries must be prepared and packaged for transport in a manner to prevent a dangerous evolution of heat, short circuits, and damage to terminals; and are subject to the incident reporting in accordance with § 171.16 of this subchapter if a fire, violent rupture, explosion or dangerous evolution of heat (*i.e.,* an amount of heat sufficient to be dangerous to packaging or personal safety to include charring of packaging, melting of packaging, scorching of packaging, or other evidence) occurs as a direct result of a nickel-metal hydride battery. When loaded in a cargo transport unit in a total quantity of 100 kg gross mass or more, nickel-metal hydride batteries are also subject to the shipping paper requirements of Subpart C of this Part, the manifest requirements of § 176.30 of this subchapter, and the vessel stowage requirements assigned to this entry in Column (10) of the § 172.101 hazardous materials table.

* * * * *

343 This entry must be used for international transportation of petroleum crude oil containing hydrogen sulfide in sufficient concentration that vapors evolved from the crude oil presents an inhalation

hazard during the course of transportation. For domestic transportation, the entry "Petroleum crude oil, UN1267" may be used without consideration of a Division 6.1 subsidiary hazard classification. However, bulk packagings used to transport petroleum crude oil domestically are required to be marked in accordance with § 172.327 of this Part.

345 Nitrogen, refrigerated liquid *cryogenic liquid,* UN1977 transported in open cryogenic receptacles with a maximum capacity of 1 L are not subject to the requirements of this subchapter. The receptacles must be constructed with glass double walls having the space between the walls vacuum insulated and each receptacle must be transported in an outer packaging with sufficient cushioning and absorbent materials to protect the receptacle from damage.

346 Nitrogen, refrigerated liquid *cryogenic liquid,* UN1977 transported in accordance with the requirements for open cryogenic receptacles in § 173.320 are not subject to the requirements of this subchapter. The receptacle must contain no hazardous materials other than the liquid nitrogen which must be fully absorbed in a porous material in the receptacle.

347 Effective April 1, 2011, for transportation by aircraft this entry may only be used if the results of Test series 6(d) of Part I of the UN Manual of Tests and Criteria (IBR, *see* § 171.7 of this subchapter) have demonstrated that any hazardous effects from accidental functioning are confined to within the package. Effective January 1, 2014, for transportation domestically by highway or rail, this entry may only be used if the results of Test series 6(d) of Part I of the UN Manual of Tests and Criteria (IBR, *see* § 171.7 of this subchapter) have demonstrated that any hazardous effects from accidental functioning are confined to within the package.

* * * * *

349 Hypochlorite mixed with an ammonium salt is forbidden for transport. An aqueous solution of hypochlorite (re: UN1791) is a Class 8 corrosive material.

350 Ammonium bromate, ammonium bromate aqueous solutions, and mixtures of a bromate with an ammonium salt is forbidden for transport.

351 Ammonium chlorate, ammonium chlorate aqueous solutions, and mixtures of a chlorate with an ammonium salt is forbidden for transport.

352 Ammonium chlorite, ammonium chlorite aqueous solutions, and mixtures of a chlorite with an ammonium salt is forbidden for transport.

353 Ammonium permanganate, ammonium permanganate aqueous solutions, and mixtures of a permanganate with an ammonium salt are forbidden for transport.

357 For international transportation, petroleum crude oil containing hydrogen sulfide in sufficient concentration that vapors evolved from the crude oil can present an inhalation hazard may not be transported under this entry. Such crude oil must be transported under the entry "Petroleum sour crude oil, flammable, toxic, UN3494." For domestic transportation in bulk packagings, consideration for inclusion in Division 6.1 is not required. However, bulk packagings in domestic transportation that do emit hydrogen sulfide in sufficient concentration that vapors evolved from the crude oil can present an inhalation hazard must be marked as specified in § 172.327.

(2) * * *

A59 Glass inner packagings (such as ampoules or capsules) intended only for use in sterilization devices, when containing less than 30 mL of ethylene oxide per inner packaging with not more than 300 mL per outer packaging, may be transported in accordance with § 173.4a of this subchapter, irrespective of § 173.4a(b) provided that:

a. After filling, each glass inner packaging must be determined to be leak-tight by placing the glass inner packaging in a hot water bath at a temperature and for a period of time sufficient to ensure that an internal pressure equal to the vapor pressure of ethylene oxide at 55 °C is achieved. Any glass inner packaging showing evidence of leakage, distortion or other defect under this test must not be transported under the terms of this special provision;

b. In addition to the packaging required in § 173.4a, each glass inner packaging must be placed in a sealed plastic bag compatible with ethylene oxide and capable of containing the contents in the event of breakage or leakage of the glass inner packaging; and

c. Each glass inner packaging is protected by a means of preventing puncture of the plastic bag (*e.g.,* sleeves or cushioning) in the event of damage to the packaging (*e.g.,* by crushing).

* * * * *

A112 Notwithstanding the quantity limits shown in Column (9A) and (9B) for this entry, the following IBCs are authorized for transportation aboard passenger and cargo-only aircraft. Each IBC may not exceed a maximum net quantity of 1,000 kg:

a. Metal: 11A, 11B, 11N, 21A, 21B and 21N

b. Rigid plastics: 11H1, 11H2, 21H1 and 21H2

c. Composite with plastic inner receptacle: 11HZ1, 11HZ2, 21HZ1 and 21HZ2

d. Fiberboard: 11G

e. Wooden: 11C, 11D and 11F (with inner liners)

f. Flexible: 13H2, 13H3, 13H4, 13H5, 13L2, 13L3, 13L4, 13M1 and 13M2 (flexible IBCs must be sift-proof and water resistant or must be fitted with a sift-proof and water resistant liner).

(4) * * *

TABLE 1—IB CODES (IBC CODES)

IBC code	Authorized IBCs
IB1	*Authorized IBCs:* Metal (31A, 31B and 31N). *Additional Requirement:* Only liquids with a vapor pressure less than or equal to 110 kPa at 50 °C (1.1 bar at 122 °F), or 130 kPa at 55 °C (1.3 bar at 131 °F) are authorized.
IB2	*Authorized IBCs:* Metal (31A, 31B and 31N); Rigid plastics (31H1 and 31H2); Composite (31HZ1). *Additional Requirement:* Only liquids with a vapor pressure less than or equal to 110 kPa at 50 °C (1.1 bar at 122 °F), or 130 kPa at 55 °C (1.3 bar at 131 °F) are authorized.
IB3	*Authorized IBCs:* Metal (31A, 31B and 31N); Rigid plastics (31H1 and 31H2); Composite (31HZ1 and 31HA2, 31HB2, 31HN2, 31HD2 and 31HH2). *Additional Requirement:* Only liquids with a vapor pressure less than or equal to 110 kPa at 50 °C (1.1 bar at 122 °F), or 130 kPa at 55 °C (1.3 bar at 131 °F) are authorized, except for UN2672 (also *see* Special Provision IP8 in Table 2 for UN2672).
IB4	*Authorized IBCs:* Metal (11A, 11B, 11N, 21A, 21B and 21N).
IB5	*Authorized IBCs:* Metal (11A, 11B, 11N, 21A, 21B and 21N); Rigid plastics (11H1, 11H2, 21H1, 21H2, 31H1 and 31H2); Composite (11HZ1, 21HZ1 and 31HZ1).
IB6	*Authorized IBCs:* Metal (11A, 11B, 11N, 21A, 21B and 21N); Rigid plastics (11H1, 11H2, 21H1, 21H2, 31H1 and 31H2); Composite (11HZ1, 11HZ2, 21HZ1, 21HZ2, 31HZ1 and 31HZ2). *Additional Requirement:* Composite IBCs 11HZ2 and 21HZ2 may not be used when the hazardous materials being transported may become liquid during transport.

TABLE 1—IB CODES (IBC CODES)—Continued

IBC code	Authorized IBCs
IB7	*Authorized IBCs:* Metal (11A, 11B, 11N, 21A, 21B and 21N); Rigid plastics (11H1, 11H2, 21H1, 21H2, 31H1 and 31H2); Composite (11HZ1, 11HZ2, 21HZ1, 21HZ2, 31HZ1 and 31HZ2); Wooden (11C, 11D and 11F). *Additional Requirement:* Liners of wooden IBCs must be sift-proof.
IB8	*Authorized IBCs:* Metal (11A, 11B, 11N, 21A, 21B and 21N); Rigid plastics (11H1, 11H2, 21H1, 21H2, 31H1 and 31H2); Composite (11HZ1, 11HZ2, 21HZ1, 21HZ2, 31HZ1 and 31HZ2); Fiberboard (11G); Wooden (11C, 11D and 11F); Flexible (13H1, 13H2, 13H3, 13H4, 13H5, 13L1, 13L2, 13L3, 13L4, 13M1 or 13M2).
IB9	IBCs are only authorized if approved by the Associate Administrator.

* * * * *

(8) * * *

Code/Special Provisions

* * * * *

TP36 Portable tanks may be equipped with fusible elements in the vapor space of the portable tank.

* * * * *

(9) * * *

Code/Special Provisions

W1 When offered for transportation by vessel, this material is not subject to the provisions of this subchapter. The material must be accompanied by a certificate from an accredited laboratory stating that the product has been sampled and tested according to the UN Manual of Tests and Criteria.

* * * * *

10. In § 172.200, paragraph (b)(3) is revised to read as follows:

§ 172.200 Applicability.

* * * * *

(b) * * *

(3) A limited quantity unless the material is offered or intended for transportation by air or vessel or is a hazardous waste, a hazardous substance or a marine pollutant, and, until December 31, 2013, a limited quantity that conforms to the ORM–D reclassification and packaging requirements of this subchapter in effect on October 1, 2010 when offered for transportation by highway or rail.

* * * * *

11. In § 172.203, paragraph (b) is revised to read as follows:

§ 172.203 Additional description requirements.

* * * * *

(b) *Limited quantities.* When a shipping paper is required by this subchapter, the description for a material offered for transportation as "limited quantity," as authorized by this subchapter, must include the words "Limited Quantity" or "Ltd Qty" following the basic description.

* * * * *

12. In § 172.300, a new paragraph (c) is added to read as follows:

§ 172.300 Applicability.

* * * * *

(c) Stocks of preprinted packagings marked prior to the effective date of a final rule may be continued in use, in the manner previously authorized, until depleted or for a one-year period, subsequent to the effective date of the marking amendment, whichever is less.

13. In § 172.312, paragraph (c)(5) is revised to read as follows:

§ 172.312 Liquid hazardous materials in non-bulk packagings.

* * * * *

(c) * * *

(5) A non-bulk package with hermetically sealed inner packagings not exceeding 500 mL each.

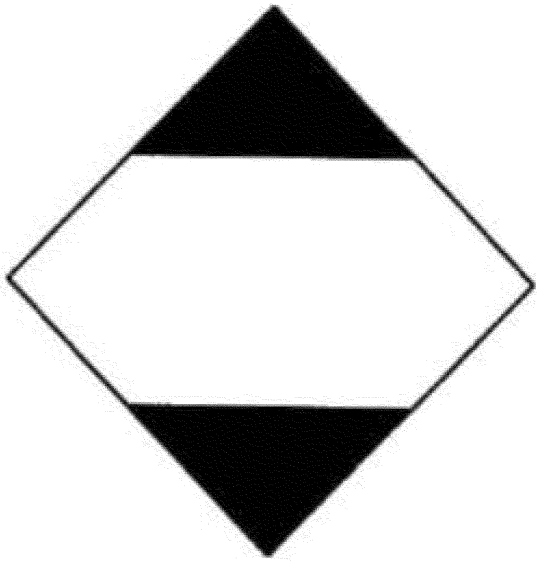
* * * * *

14. Section 172.315 is revised to read as follows:

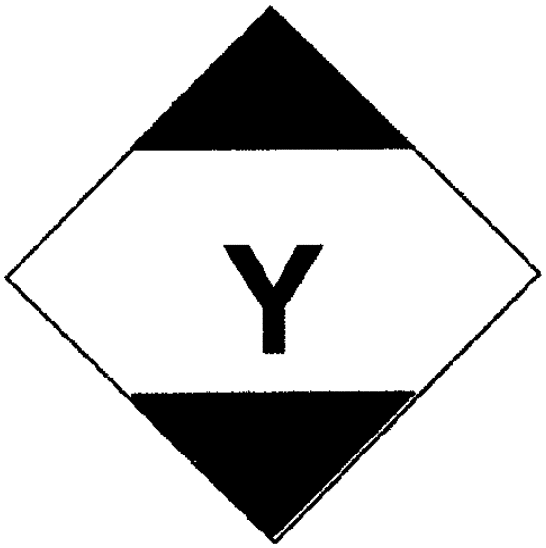
§ 172.315 Limited quantities.

Except for transportation by aircraft or as otherwise provided in this subchapter, a package and, for transportation by vessel, a cargo transport unit (*see* § 176.2 of this subchapter) containing a limited quantity of hazardous materials is not required to be marked with the proper shipping name provided it is marked with the square-on-point in accordance with the following:

(a) The limited quantity marking must be durable, legible and of a size relative to the package as to be readily visible. The marking must be applied on at least one side or one end of the outer packaging. The width of line forming the square-on-point must be at least 2 mm and the minimum dimension on each side must be 100 mm unless the package size requires a reduced size label that must be no less than 50 mm on each side. When intended for transportation by vessel, a cargo transport unit must be suitably marked on the exterior of the unit with an identical mark except that it must have minimum dimensions on each side of 250 mm. The top and bottom portions of the square-on-point and the line forming the diamond must be black and the center white or of a suitable contrasting background as follows:



(b)(1) Effective January 1, 2012, packages of limited quantities intended for transportation by aircraft must be marked as prescribed in this paragraph when conforming to Table 3 of § 173.27(f) of this subchapter or part 3;4 of the ICAO Technical Instructions and labeled as appropriate. When intended for transportation by aircraft, a limited quantity package is to be marked as follows:



(2) The limited quantity marking must be durable, legible and of a size relative to the package as to be readily visible. The width of line forming the square-on-point must be at least 2 mm and the minimum dimension on each side must be 100 mm unless the package size requires a reduced size label that must be no less than 50 mm on each side. The top and bottom portions of the square-on-point and the line forming the diamond must be black and the center white or of a suitable contrasting background. The symbol "Y" must be located in the center of the square-on-point and be clearly visible. The marking must be applied on at least one side or one end of the outer packaging.

(c) The applicable package markings required by this subpart (*e.g.,* proper shipping name, technical name, "RQ") must be in association with the marking required by paragraph (a) or (b) of this section.

15. In § 172.316, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 172.316 Packagings containing materials classed as ORM–D.

(a) * * *

(1) Until December 31, 2013, ORM–D–AIR for an ORM–D that is prepared for air shipment and packaged in accordance with §§ 173.63, 173.150 through 173.155, and 173.306 and the applicable requirements in § 173.27.

(2) Until December 31, 2013, ORM–D for an ORM–D other than as described in paragraph (a)(1) of this section.

* * * * *

16. In § 172.322, paragraph (d)(2)(iii) is added to read as follows:

§ 172.322 Marine pollutants.

* * * * *

(d) * * *

(2) * * *

(iii) On a package of limited quantity material marked in accordance with § 172.315 of this part.

* * * * *

17. In § 172.324, in paragraph (b), the words "or the identification number" are removed and the words "and the limited quantity marking" are added in their place.

18. In § 172.326, in paragraph (a), a second sentence is added to read as follows:

§ 172.326 Portable tanks.

(a) *Shipping name.* * * * For transportation by vessel, the minimum height for a proper shipping name marked on a portable tank is 65 mm.

* * * * *

19. Section 172.327 is added to read as follows:

§ 172.327 Sour crude oil toxic hazard marking.

(a) When sour crude oil transported in a bulk packaging may release concentrations of hydrogen sulfide gas that pose a risk to persons in the immediate vicinity (*e.g.,* manhole, loading head), except for the size, the bulk packaging must be marked as follows:

(b) Each side of the marking shown must be at least 100 mm (3.9 inches).

20. In § 172.500, paragraph (b)(3) is revised to read as follows:

§ 172.500 Applicability of placarding requirements.

* * * * *

(b) * * *

(3) Hazardous materials authorized by this subchapter to be offered for transportation as a limited quantity when identified as such on a shipping paper in accordance with § 172.203(b) or when marked as such in accordance with § 172.315.

* * * * *

21. In § 172.502, paragraph (b)(2) is revised to read as follows:

§ 172.502 Prohibited and permissive placarding.

* * * * *

(b) * * *

(2) The restrictions of paragraph (a) of this section do not apply to the display of a Limited Quantity marking, a BIOHAZARD marking, a "HOT" marking, a sour crude oil toxic hazard marking, or an identification number on a white square-on-point configuration in accordance with §§ 172.323(c), 172.325(c), 172.327(a), or 172.336(b) of this part, respectively.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

22. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45, 1.53.

23. In § 173.4, paragraphs (a) introductory text and (c) are revised and a new paragraph (a)(1)(v) is added to read as follows:

§ 173.4 Small quantities for highway and rail.

(a) When transported domestically by highway or rail in conformance with this section, quantities of Division 2.2 (except aerosols and with no subsidiary hazard), Class 3, Division 4.1, Division 4.2 (PG II and III), Division 4.3 (PG II and III), Division 5.1, Division 5.2, Division 6.1, Class 7, Class 8, and Class 9 materials that also meet the definition of one or more of these hazard classes, are not subject to any other requirements when—

(1) * * *

(v) Except for aerosols or a material with a subsidiary hazard, a Division 2.2 material when contained in an inner receptacle not exceeding a water capacity of 30 mL (1.8 cubic inches) or less.

* * * * *

(c) Packages which contain a Class 2 (other than that authorized in paragraph (a)(1)(v) of this section), Division 4.2 (PG I), or Division 4.3 (PG I) material conforming to paragraphs (a)(1) through (a)(10) of this section may be offered for transportation or transported if specifically approved by the Associate Administrator.

* * * * *

24. In § 173.4a, paragraph (a)(4) is added and paragraphs (b)(5) and (d)(3) are revised to read as follows:

§ 173.4a Excepted quantities.

(a) * * *

(4) Packagings for which retention of liquid is a basic function must be capable of withstanding without leakage the pressure differential specified in § 173.27(c).

(b) * * *

(5) Division 5.2 materials only when contained in a chemical kit, first aid kit or a polyester resin kit;

* * * * *

(d) * * *

(3) For Division 5.2 material, 500 g (1.1 pounds) for solids or 500 mL (0.1 gallons) for liquids.

* * * * *

25. In § 173.4b, paragraph (b) is added to read as follows:

§ 173.4b De minimis exceptions.

* * * * *

(b) Non-infectious specimens, such as specimens of mammals, birds, amphibians, reptiles, fish, insects and other invertebrates containing small quantities of Ethanol (UN1170), Formaldehyde solution, flammable (UN1198), Alcohols, n.o.s. (UN1987) and Isopropanol (UN1219) are not subject to the requirements of this subchapter provided the following packaging, marking and documentation provisions, as applicable, are met:

(1) The specimens are:

(i) Wrapped in a paper towel or cheesecloth moistened with alcohol or an alcohol solution and placed in a plastic bag that is heat-sealed. Any free liquid in the bag must not exceed 30 mL; or

(ii) Placed in vials or other rigid containers with no more than 30 mL of alcohol or alcohol solution. The containers are placed in a plastic bag that is heat-sealed;

(2) The bagged specimens are placed in another plastic bag with sufficient absorbent material to absorb the entire liquid contents inside the primary receptacle. The outer plastic bag is then heat-sealed;

(3) The completed bag is placed in a strong outer packaging with sufficient cushioning material that conforms to subpart B of part 173;

(4) The aggregate net quantity of flammable liquid in one outer packaging may not exceed 1 L; and

(5) The outer package must be legibly marked "Scientific research specimens, 49 CFR 173.4b applies."

(6) *Documentation.* (i) For transportation by highway or rail, no shipping paper is required.

(ii) For transport by air, a shipping paper is not required, except that, if a document such as an air waybill accompanies a shipment of specimens containing hazardous materials excepted under the terms of this section, the document must include the statement "Scientific research specimens, 49 CFR 173.4b applies" and the number of packages indicated.

(iii) For transport by vessel, a shipping paper is not required; however, the Dangerous Cargo Manifest must include the statement "Scientific research specimens, 49 CFR 173.4b applies" and the number of packages indicated. Vessel stowage is the same as for hazardous materials in excepted quantities.

(7) *Training.* Each person who offers or transports excepted quantities of hazardous materials must know about the requirements of this section.

(8) *Restrictions.* For transportation by aircraft, hazardous material packaged in accordance with this special provision may not be carried in checked or carry-on passenger or crew member baggage.

26. In § 173.25, a new paragraph (a)(6) is added to read as follows:

§ 173.25 Authorized packagings and overpacks.

(a) * * *

(6) Where packages of limited quantity materials are overpacked and, until December 31, 2013, packages bearing the ORM–D or ORM–D AIR marking, must be marked "OVERPACK" unless all marking and labeling required by this subchapter are visible. Where packages of excepted quantities are overpacked and all required markings are not visible through the overpack, they must be repeated on the overpack.

* * * * *

27. In § 173.27, paragraph (f) introductory text is removed, paragraphs (f)(1) and (2) and a new Table 3 with notes 1 through 6 are added, and a new paragraph (j) is added to read as follows:

§ 173.27 General requirements for transportation by aircraft.

* * * * *

(f) *Combination packagings.* (1) For authorized materials and inner and outer packaging quantity limits for combination packages of excepted quantities intended for transportation by aircraft, *see* § 173.4a. Unless otherwise specified in this part, or in Subpart C of Part 171 of this subchapter, when combination packagings are intended for transportation aboard an aircraft, inner packagings must conform to the quantity limitations set forth in table 1 of this paragraph for transport aboard passenger-carrying aircraft and table 2 of this paragraph for transport aboard cargo-only aircraft.

(2) *Limited quantity.* For excepted quantities intended for transportation by aircraft, *see* § 173.4a. Unless otherwise specified in this part, or in Subpart C of Part 171 of this subchapter, when a limited quantity of authorized hazardous material packaged in a combination packaging is intended for transportation aboard an aircraft, the inner packagings must conform to the quantity limitations set forth in table 3 of this paragraph and any applicable notes following the table. Materials must be eligible for transportation aboard a passenger-carrying aircraft. Materials *not* authorized as limited quantity by aircraft are those in Packing Group I, Class 1 and 7 material, Divisions 2.1 (except Aerosols (UN1950) and Receptacles, small (UN2037) without subsidiary risk), 2.3, 4.1 (self-reactive), 4.2 (primary or subsidiary risk), 4.3 (liquids), 5.2 (except when contained in a Chemical or First aid kit (UN3316) or Polyester resin kit (UN3269) (Types D, E and F non-temperature controlled only)), Class 8 materials UN2794, UN2795, UN2803, UN2809, 3028, and all Class 9 materials *except for* UN1941, UN1990, UN2071, UN3077,UN3082, UN3316. The tables and notes are as follows:

* * * * *

TABLE 3—MAXIMUM NET QUANTITY OF EACH INNER PACKAGING AND MATERIALS AUTHORIZED TRANSPORTATION AS LIMITED QUANTITY BY AIRCRAFT

Hazard class or division	Maximum authorized net quantity of each inner packaging		Maximum authorized net quantity of each outer package	Notes
	Glass, earthenware or fiber inner packagings	Metal or plastic inner packagings		
Class 1				Forbidden.
Class 2			30 kg Gross	*Authorized materials:* UN 1950 (Aerosols) in Divisions 2.1 and 2.2, and UN2037 (Receptacles, small) in Divisions 2.1 and 2.2 without subsidiary risk only.
Class 3	PG I			Forbidden.

TABLE 3—MAXIMUM NET QUANTITY OF EACH INNER PACKAGING AND MATERIALS AUTHORIZED TRANSPORTATION AS LIMITED QUANTITY BY AIRCRAFT—Continued

Hazard class or division	Maximum authorized net quantity of each inner packaging		Maximum authorized net quantity of each outer package	Notes
	Glass, earthenware or fiber inner packagings	Metal or plastic inner packagings		
	PG II: 0.5L	PG II: 0.5L	PG II: 1L*	*Maximum net quantity per outer package with corrosive subsidiary risk (*e.g.,* UN2924, UN3286) is 0.5L. For Class 3 materials contained in a "Polyester resin kit" (UN3269), *see* § 173.165. For "Fuel cell cartridges *containing flammable liquids*" (UN3473), *see* § 173.230.
	PG III: 2.5L* *Corrosive subsidiary risk (*e.g.,* UN2924) or toxic (*e.g.,* UN1992) is 1L.	PG III: 5.0L* *Corrosive subsidiary risk (*e.g.,* UN2924) or toxic (*e.g.,* UN1992) is 1L.	PG III: 10L*	*Maximum net quantity per outer package with corrosive subsidiary risk (*e.g.,* UN2924) is 1L and toxic subsidiary risk (*e.g.,* UN1992) is 2L.
Division 4.1 (Excluding self-reactives).	PG I			Forbidden.
	PG II: 0.5 kg	PG II: 0.5 kg	PG II: 5 kg*	*Maximum net quantity per outer package with toxic subsidiary risk (*e.g.,* UN3179) is 1 kg.
	PG III: 1 kg	PG III: 1 kg	PG III: 10 kg*	*Maximum net quantity per outer package with corrosive subsidiary risk (*e.g.,* UN3180) is 5 kg.
Division 4.2				Forbidden.
Division 4.3 (Solids only).	PG I			Forbidden.
	PG II: 0.5 kg	PG II: 0.5 kg	PG II: 5 kg*	*Maximum net quantity per outer package with toxic subsidiary risk (*e.g.,* UN3134) is 1 kg.
	PG III: 1 kg	PG III: 1 kg	PG III: 10 kg*	*Maximum net quantity per outer package with corrosive or flammable subsidiary risk (*e.g.,* UN3131 or UN3132, respectively) is 5 kg.
Division 5.1	[Liquids] PG II: 0.1L	[Liquids] PG II: 0.1L	[Liquids] PG II: 0.5L	
	[Liquids] PG III: 0.5L	[Liquids] PGIII: 0.5L	[Liquids] PG III: 1.0L.	
	[Solids] PG II: 0.5 kg	[Solids] PG II: 0.5 kg	[Solids] PG II: 2.5 kg*.	*Maximum net quantity per outer package with toxic subsidiary risk (*e.g.,* UN3087) is 1 kg.
	[Solids] PG III: 1.0 kg	[Solids] PG III: 1.0 kg	[Solids] PG III: 10 kg*.	*Maximum net quantity per outer package with corrosive subsidiary risk (*e.g.,* UN3085) is 1 kg.
Division 5.2	Liquids: 30 mL Solids: 100g	Liquids: 30 mL Solids: 100g	1 kg	*Authorized materials:* Types D, E and F only authorized as part of a Chemical or First Aid Kit (UN3316) in accordance with § 173.161 or a Polyester Resin Kit (UN3269) in accordance with § 173.165.
Division 6.1	PG I			Forbidden.
	[Liquids] PG II: 0.1L	[Liquids] PG II: 0.1L	[Liquids] PG II: 1.0L*.	*Maximum net quantity per outer package with corrosive subsidiary risk (*e.g.,* UN3289) is 0.5L.
	[Liquids] PG III: 0.5L	[Liquids] PGIII: 0.5L	[Liquids] PG III: 2.0L.	
	[Solids] PG II: 0.5 kg	[Solids] PG II: 0.5 kg	[Solids] PG II: 1.0 kg.	
	[Solids] PG III: 1.0 kg	[Solids] PG III: 1.0 kg	[Solids] PG III: 10 kg.	
Class 7				Forbidden (*see* § 173.421).
Class 8	PG I			Forbidden.

TABLE 3—MAXIMUM NET QUANTITY OF EACH INNER PACKAGING AND MATERIALS AUTHORIZED TRANSPORTATION AS LIMITED QUANTITY BY AIRCRAFT—Continued

Hazard class or division	Maximum authorized net quantity of each inner packaging		Maximum authorized net quantity of each outer package	Notes
	Glass, earthenware or fiber inner packagings	Metal or plastic inner packagings		
	[Liquids] PG II: 0.1L	[Liquids] PG II: 0.1L	[Liquids] PG II: 0.5L.	For "Fuel cell cartridges *containing corrosive substances*" (UN3477), *see* § 173.230.
	[Liquids] PG III: 0.5L	[Liquids] PGIII: 0.5L	[Liquids] PG III: 1.0L.	
	[Solids] PG II: 0.5 kg	[Solids] PG II: 0.5 kg	[Solids] PG II: 5.0 kg*.	*Maximum net quantity per outer package for UN2430 is 1.0 kg. UN2794, UN2795, UN2803, UN2809, UN3028 not authorized limited quantity.
	[Solids] PG III: 1.0 kg	[Solids] PG III: 1.0 kg	[Solids] PG III: 5.0 kg.	
Class 9	[Liquids]: 30 mL (UN3316); 5.0L (UN1941, UN1990, UN3082). [Solids]: 100g (UN3316); 5.0 kg (UN2071, UN3077).	[Liquids]: 30 mL (UN3316); 5.0L (UN1941, UN1990, UN3082). [Solids]: 100g (UN3316); 5.0 kg (UN2071, UN3077).	1 kg (UN3316); 30 kg (all others).	*Authorized materials:* UN1941, UN1990, UN2071, UN3077, UN3082, and UN3316 only. Additionally, "Consumer commodity (NA8000)" in accordance with § 173.167 and "Chemical kit" or "First aid kit" (UN3316), in accordance with § 173.161 are authorized.

Note 1: Effective January 1, 2012, packages must be marked with the limited quantity "Y" mark as prescribed in paragraph (j) of this section when conforming to Table 3 of this paragraph or part 3;4 of the ICAO Technical Instructions and labeled as appropriate. Until December 31, 2013, a package may be marked with the proper shipping name "Consumer commodity" and "ORM–D–AIR" if a limited quantity and consumer commodity, as authorized by this subchapter in effect on October 1, 2010.
Note 2: 30 kg gross weight maximum.
Note 3: Absorbent material is not required.
Note 4: Secondary means of closure required for all liquids contained in inner packagings. If this requirement cannot be satisfied, the use of an intermediate and leakproof form of containment, such as a liner, may be used.
Note 5: Packages must be capable of passing a 1.2 m drop test and a 24-hour stack test.
Note 6: Except for UN3082, inner packagings of combination packagings containing liquids must be capable of passing the pressure differential test in paragraph (c) of this section.

* * * * *

(j) *Limited quantity marking.* (1) Effective January 1, 2012, packages of limited quantities intended for transportation by aircraft must be marked as prescribed in this paragraph when conforming to Table 3 of this section or part 3;4 of the ICAO Technical Instructions and labeled as appropriate.

(2) Until December 31, 2013, a package may be marked with the proper shipping name "Consumer commodity" (*see* § 171.8) and reclassed as "ORM–D–AIR" if it contains a properly packaged limited quantity and consumer commodity, as authorized by this subchapter on October 1, 2010. A limited quantity package that is also a consumer commodity that is reclassed ORM–D–AIR is to be marked as prescribed in § 172.316.

28. In § 173.40, in paragraph (c)(1), a new second sentence is added to read as follows:

§ 173.40 General packaging requirements for toxic materials packaged in cylinders.

* * * * *

(c) * * *

(1) * * * For UN pressure receptacles, each valve must be capable of withstanding the test pressure of the pressure receptacle and be connected directly to the pressure receptacle by either a taper thread or other means which meets the requirements of ISO 10692–2:2001.

* * * * *

29. In § 173.59, a new definition "Phlegmatized" is added in the appropriate alphabetical sequence to read as follows:

§ 173.59 Description of terms for explosives.

* * * * *

Phlegmatized means that a substance (or "phlegmatizer") has been added to an explosive to enhance its safety in handling and transport. The phlegmatizer renders the explosive insensitive, or less sensitive, to the following actions: heat, shock, impact, percussion or friction. Typical phlegmatizing agents include, but are not limited to: Wax, paper, water, polymers (such as chlorofluoropolymers), alcohol and oils (such as petroleum jelly and paraffin).

* * * * *

30. In § 173.63, paragraph (b) is revised to read as follows:

§ 173.63 Packaging exceptions.

* * * * *

(b) *Cartridges, small arms, and cartridges power devices.* (1)(i) Cartridges, small arms, and Cartridges power device (used to project fastening devices), that have been classed as a Division 1.4S explosive may be offered for transportation and transported when packaged in accordance with paragraph (b)(2) of this section. For transportation by aircraft, the package must conform to the applicable requirements of § 173.27 and, effective April 1, 2011, Cartridge, power devices must have successfully been tested under the UN Test Series 6(d) to be reclassed as ORM–D–AIR material. Effective January 1, 2012, Cartridge, power devices must have successfully been tested under the UN Test Series 6(d) to be reclassed as ORM–D material for transportation by highway, rail or vessel. Packages must be marked as prescribed in § 172.315. Packages of such articles are not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition

of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel. Additionally, packages of such articles are excepted from the requirements of subparts E (Labeling) and F (Placarding) of part 172 of this subchapter.

(ii) Until December 31, 2013, a package may be marked with the proper shipping name "Cartridges, small arms, and Cartridges power device" and reclassed as "ORM–D" or "ORM–D–AIR" material if it contains properly packaged articles as authorized by this subchapter on October 1, 2010. Additionally, for transportation by aircraft, Cartridge, power devices must have successfully been tested under the UN Test Series 6(d) to be reclassed as ORM–D–AIR material effective April 1, 2011.

(iii) Cartridges, small arms and power devices that may be shipped as a limited quantity material are as follows:

(A) Ammunition for rifle, pistol or shotgun;

(B) Ammunition with inert projectiles or blank ammunition;

(C) Ammunition having no tear gas, incendiary, or detonating explosive projectiles;

(D) Ammunition not exceeding 12.7 mm (50 caliber or 0.5 inch) for rifle or pistol, cartridges or 8 gauge for shotshells; and

(E) Cartridges, power devices which are used to project fastening devices.

(2) Packaging for Cartridges, small arms, and eligible Cartridges, power devices as an ORM–D or ORM–D–AIR material must be as follows:

(i) Ammunition must be packed in inside boxes, or in partitions which fit snugly in the outside packaging, or in metal clips;

(ii) Primers must be protected from accidental initiation;

(iii) Inside boxes, partitions or metal clips must be packed in securely-closed strong outside packagings;

(iv) Maximum gross weight is limited to 30 kg (66 pounds) per package; and

(v) Cartridges, power devices which are used to project fastening devices and 22 caliber rim-fire cartridges may be packaged loose in strong outside packagings.

* * * * *

31. In § 173.120, new paragraphs (c)(1)(ii)(C), (c)(1)(ii)(D), (c)(1)(ii)(E), (c)(1)(ii)(F), (c)(1)(ii)(G), and (c)(1)(ii)(H) are added to read as follows:

§ 173.120 Class 3—Definitions.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(C) ISO 1516:2002 Determination of flash/no flash—Closed cup equilibrium method (IBR; *see* § 171.7 of this subchapter);

(D) ISO 1523:2002 Determination of flash point—Closed cup equilibrium method (IBR; *see* § 171.7 of this subchapter);

(E) ISO 2719:2002 Determination of flash point—Pensky-Martens closed cup method (IBR; *see* § 171.7 of this subchapter);

(F) ISO 3679:2004 Determination of flash point—Rapid equilibrium closed cup method (IBR; *see* § 171.7 of this subchapter);

(G) ISO 3680:2004 Determination of flash/no flash—Rapid equilibrium closed cup method (IBR; *see* § 171.7 of this subchapter); or

(H) ISO 13736:2008 Determination of flash point—Abel closed-cup method (IBR; *see* § 171.7 of this subchapter).

* * * * *

32. In § 173.121, paragraph (a) is revised to read as follows:

§ 173.121 Class 3—Assignment of packing group.

(a)(1) The packing group of a Class 3 material is as assigned in column 5 of the § 172.101 table. When the § 172.101 table provides more than one packing group for a hazardous material, the packing group must be determined by applying the following criteria:

Packing group	Flash point (closed-cup)	Initial boiling point
I		≤35 °C (95 °F)
II	<23 °C (73 °F)	>35 °C (95 °F)
III	≥23 °C, ≤60 °C (≥73 °F, ≤140 °F)	>35 °C (95 °F)

(2) The initial boiling point of a Class 3 material may be determined by using one of the following test methods:

(i) ASTM D86, Standard test method for distillation of petroleum products at atmospheric pressure (IBR; *see* § 171.7 of this subchapter);

(ii) ASTM D1078, Standard test method for distillation range of volatile organic liquids (IBR; *see* § 171.7 of this subchapter);

(iii) ISO 3405, Petroleum products—Determination of distillation characteristics at atmospheric pressure (IBR; *see* § 171.7 of this subchapter);

(iv) ISO 3924, Petroleum products—Determination of boiling range distribution—Gas chromatography method (IBR; *see* § 171.7 of this subchapter); or

(v) ISO 4626, Volatile organic liquids—Determination of boiling range of organic solvents used as raw materials (IBR; *see* § 171.7 of this subchapter).

* * * * *

33. In § 173.124, paragraph (b)(2) is revised to read as follows:

§ 173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions.

* * * * *

(b) * * *

(2) A self-heating material. A self-heating material is a material that through a process where the gradual reaction of that substance with oxygen (in air) generates heat. If the rate of heat production exceeds the rate of heat loss, then the temperature of the substance will rise which, after an induction time, may lead to self-ignition and combustion. A material of this type which exhibits spontaneous ignition or if the temperature of the sample exceeds 200 °C (392 °F) during the 24-hour test period when tested in accordance with UN Manual of Tests and Criteria, is classed as a Division 4.2 material.

* * * * *

34. In § 173.137, in the introductory text, the second sentence is revised and a third and fourth sentence are added to read as follows:

§ 173.137 Class 8—Assignment of packing group.

* * * When the § 172.101 Table provides more than one packing group for a Class 8 material, the packing group must be determined using data obtained from tests conducted in accordance with the OECD Guideline for the Testing of Chemicals, Number 435, "*In Vitro* Membrane Barrier Test Method for Skin Corrosion" (IBR, *see* § 171.7 of this subchapter) or Number 404, "Acute Dermal Irritation/Corrosion" (IBR, *see* § 171.7 of this subchapter). A material that is determined not to be corrosive in accordance with OECD Guideline for the Testing of Chemicals, Number 430, "*In Vitro* Skin Corrosion: Transcutaneous Electrical Resistance Test (TER)" or Number 431, "*In Vitro* Skin Corrosion: Human Skin Model Test" may be considered not to be corrosive to human skin for the

purposes of this subchapter without further testing. The packing group assignment using data obtained from tests conducted in accordance with OECD Guideline Number 404 must be as follows:

* * * * *

35. Section 173.144 is revised to read as follows:

§ 173.144 Other Regulated Materials (ORM)—Definitions.

For the purpose of this subchapter, "ORM–D material" means a material or article such as "Cartridges, small arms" or "Cartridges, power device," which, although otherwise subject to the regulations of this subchapter, presents a limited hazard during transportation due to its form, quantity and packaging. It must be a material or article for which ORM–D exceptions are provided in the section indicated in Column (8A) of the § 172.101 Hazardous Materials Table for a specific material or article.

36. In § 173.150, paragraphs (b), (c) and (d) are revised to read as follows:

§ 173.150 Exceptions for Class 3 (flammable and combustible liquids).

* * * * *

(b) *Limited quantities of Class 3 materials.* Limited quantities of flammable liquids (Class 3) and combustible liquids are excepted from labeling requirements, unless the material is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. Unless otherwise specified in paragraph (c) of this section, packages of limited quantities intended for transportation by aircraft must conform to the applicable requirements (*e.g.,* authorized materials, inner packaging quantity limits and closure securement) of § 173.27. A limited quantity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of limited quantities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. The following combination packagings are authorized:

(1) For flammable liquids in Packing Group I, inner packagings not over 0.5 L (0.1 gallon) net capacity each, packed in strong outer packagings;

(2) For flammable liquids in Packing Group II, inner packagings not over 1.0 L (0.3 gallons) net capacity each, unless the material has a subsidiary hazard of Division 6.1, Packing Group II, in which case the inner packagings may not exceed 100 mL (3.38 ounces) net capacity each, packed in a strong outer packaging.

(3) For flammable liquids in Packing Group III and combustible liquids, inner packagings not over 5.0 L (1.3 gallons) net capacity each, packed in strong outer packagings.

(c) Until December 31, 2013, a limited quantity which conforms to the provisions of paragraph (b) of this section that is also a "consumer commodity" as defined in 171.8 of this subchapter may be renamed "Consumer commodity" and reclassed and marked as ORM–D material in accordance with § 172.316. Additionally, until December 31, 2013, an ORM–D material that is prepared for air shipment and packaged in accordance with § 173.27 in effect on October 1, 2010, may be renamed "Consumer commodity" and reclassed and marked as ORM–D–AIR material in accordance with § 172.316. A consumer commodity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of consumer commodities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight.

(d) *Alcoholic beverages.* An alcoholic beverage (wine and distilled spirits as defined in 27 CFR 4.10 and 5.11) is not subject to the requirements of this subchapter if it—

(1) Contains 24 percent or less alcohol by volume;

(2) For other than air or vessel transportation, when contained in an inner packaging of 5 L (1.3 gallons) or less;

(3) For other than air transportation, a Packing Group III alcoholic beverage when contained in a packaging 250 liters (66 gallons) or less;

(4) For air transportation, a Packing Group III alcoholic beverage when contained in a packaging of 5 L (1.3 gallons) or less; or

(5) For transportation aboard a passenger-carrying aircraft in checked or carry-on baggage, a Packing Group III alcoholic beverage when contained in a packaging of 5 L (1.3 gallons) or less and conforming to § 175.10(a)(4) of this subchapter.

* * * * *

37. In § 173.151, paragraphs (b), (c) and (d) are revised to read as follows:

§ 173.151 Exceptions for Class 4.

* * * * *

(b) *Limited quantities of Division 4.1 and Division 4.2 materials.* Limited quantities of flammable solids (Division 4.1) in Packing Group II and III and, where authorized, charcoal briquettes (Division 4.2) in Packing Group III, are excepted from labeling requirements, unless the material is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. Unless otherwise specified in paragraph (c) of this section, packages of limited quantities intended for transportation by aircraft must conform to the applicable requirements (*e.g.,* authorized materials, inner packaging quantity limits and closure securement) of § 173.27. A limited quantity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of limited quantities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. The following combination packagings are authorized:

(1) For flammable solids in Packing Group II, inner packagings not over 1.0 kg (2.2 pounds) net capacity each, unless the material has a subsidiary hazard of Division 6.1, Packing Group II, in which case the inner packagings may not exceed 0.5 kg (1.1 pounds) net capacity each, packed in a strong outer packaging.

(2) For flammable solids in Packing Group III, inner packagings not over 5.0 kg (11 pounds) net capacity each, packed in a strong outer packaging.

(3) Until December 31, 2013, Charcoal briquettes (NA1361) in Packing Group

III when contained in packagings not exceeding 25 kg net weight when intended for transportation by passenger-carrying aircraft, and 100 kg net weight when intended for transportation by cargo-only aircraft. After December 31, 2013, Charcoal briquettes (NA1361) may no longer be offered for transportation or transported by aircraft or vessel as a limited quantity material. For transportation by highway or rail, Charcoal briquettes (NA1361) may be packaged as a limited quantity in accordance with paragraph (b) of this section in packagings not exceeding 30 kg gross weight and are eligible for the exceptions provided in § 173.156.

(c) Until December 31, 2013, a limited quantity package (including Charcoal briquettes (NA1361)) which conforms to the provisions of paragraph (b) of this section that is also a "consumer commodity," as defined in 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed and marked as ORM–D material in accordance with § 172.316. Additionally, until December 31, 2013, an ORM–D material (including Charcoal briquettes (NA1361)) intended for transportation by aircraft and is packaged in accordance with § 173.27 in effect on October 1, 2010, may be renamed "Consumer commodity" and reclassed and marked as ORM–D–AIR material in accordance with § 172.316. A consumer commodity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of consumer commodities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight.

(d) *Limited quantities of Division 4.3 materials.* Limited quantities of Division 4.3 (dangerous when wet) solids in Packing Group II and III are excepted from labeling requirements, unless the material is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. Unless otherwise specified in paragraph (c) of this section, packages of limited quantities intended for transportation by aircraft must conform to the applicable requirements (*e.g.,* authorized materials, inner packaging quantity limits and closure securement) of § 173.27. Packages of Limited quantities of Division 4.3 materials are not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel. In addition, shipments of limited quantities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. The following combination packagings are authorized:

(1) For Division 4.3 solids in Packing Group II, inner packagings not over 0.5 kg (1.1 pound) net capacity each, packed in strong outer packagings; and

(2) For Division 4.3 solids in Packing Group III, inner packagings not over 1 kg (2.2 pounds) net capacity each, packed in strong outer packagings.

38. In § 173.152, paragraphs (b) and (c) are revised to read as follows:

§ 173.152 Exceptions for Division 5.1 (oxidizers) and Division 5.2 (organic peroxides).

* * * * *

(b) *Limited quantities of Division 5.1 and Division 5.2 materials.* Limited quantities of oxidizers (Division 5.1) in Packing Group II and III and organic peroxides (Division 5.2) are excepted from labeling requirements unless the material is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. Unless otherwise specified in paragraph (c) of this section, packages of limited quantities intended for transportation by aircraft must conform to the applicable requirements (*e.g.,* authorized materials, inner packaging quantity limits and closure securement) of § 173.27. A limited quantity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of limited quantities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. The following combination packagings are authorized:

(1) For oxidizers in Packing Group II, inner packagings not over 1.0 L (0.3 gallon) net capacity each for liquids or not over 1.0 kg (2.2 pounds) net capacity each for solids, unless the material has a subsidiary hazard of Division 6.1, Packing Group II, in which case the inner packagings may not exceed 100 mL (3.38 ounces) for liquids or 0.5 kg (1.1 pounds) for solids, packed in a strong outer packaging.

(2) For oxidizers in Packing Group III, inner packagings not over 5 L (1.3 gallons) net capacity each for liquids or not over 5.0 kg (11 lbs) net capacity each for solids, and packed in strong outer packagings.

(3) Organic peroxides which do not require temperature control during transportation—

(i) Except for transportation by aircraft, Type B or C organic peroxides, contained in inner packagings not over 25 mL (0.845 ounces) net capacity each for liquids or 100 g (3.528 ounces) net capacity for solids, packed in strong outer packagings.

(ii) For Type D, E, or F organic peroxides, inner packagings not over 125 mL (4.22 ounces) net capacity each for liquids or 500 g (17.64 ounces) net capacity for solids, packed in strong outer packagings.

(c) Until December 31, 2013, a limited quantity which conforms to the provisions of paragraph (b) of this section that is also a "consumer commodity" as defined in 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed and marked as ORM–D material in accordance with § 172.316. Additionally, until December 31, 2013, an ORM–D material that is prepared for air shipment and packaged in accordance with § 173.27 in effect on October 1, 2010, may be renamed "Consumer commodity" and reclassed and marked as ORM–D–AIR material in accordance with § 172.316. A consumer commodity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of consumer commodities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part

and may not exceed 30 kg (66 pounds) gross weight.

39. In § 173.153, paragraphs (b) and (c) are revised to read as follows:

§ 173.153 Exceptions for Division 6.1 (poisonous materials).

* * * * *

(b) *Limited quantities of Division 6.1 materials.* The exceptions in this paragraph do not apply to poison-inhalation-hazard materials. Limited quantities of poisonous materials (Division 6.1) in Packing Group II and III are excepted from labeling requirements, unless the material is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. Unless otherwise specified in paragraph (c) of this section, packages of limited quantities intended for transportation by aircraft must conform to the applicable requirements (*e.g.,* authorized materials, inner packaging quantity limits and closure securement) of § 173.27. A limited quantity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of limited quantities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. The following combination packagings are authorized:

(1) For poisonous materials in Packing Group II, inner packagings not over 100 mL (3.38 ounces) each for liquids or 0.5 kg (1.1 pounds) each for solids, packed in a strong outer packaging. Inner packagings containing a liquid poisonous material which is also a drug or medicine in Packing Group II may be increased to not over 250 mL (8 ounces) each and packed in a strong outer packaging.

(2) For poisonous materials in Packing Group III, inner packagings not over 5 L (1.3 gallons) each for liquids or 5.0 kg (11 pounds) each for solids, packed in a strong outer packaging.

(c) Until December 31, 2013, a limited quantity of poisonous material in Packing Group III and a drug or medicine in Packing Group II and III which conforms to the provisions of paragraph (b) of this section that is also a "consumer commodity" as defined in 171.8 of this subchapter may be renamed "Consumer commodity" and reclassed and marked as ORM–D material in accordance with § 172.316. Additionally, until December 31, 2013, an ORM–D material that is prepared for air shipment and packaged in accordance with § 173.27 in effect on October 1, 2010, may be renamed "Consumer commodity" and reclassed and marked as ORM–D–AIR material in accordance with § 172.316. A consumer commodity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of consumer commodities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight.

40. In § 173.154, paragraphs (b) and (c) are revised to read as follows:

§ 173.154 Exceptions for Class 8 (corrosive materials).

* * * * *

(b) *Limited quantities of Class 8 materials.* Limited quantities of corrosive materials (Class 8) in Packing Group II and III are excepted from labeling requirements, unless the material is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. Unless otherwise specified in paragraph (c) of this section, packages of limited quantities intended for transportation by aircraft must conform to the applicable requirements (*e.g.,* authorized materials, inner packaging quantity limits and closure securement) of § 173.27. A limited quantity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of limited quantities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. The following combination packagings are authorized:

(1) For corrosive materials in Packing Group II, inner packagings not over 1.0 L (0.3 gallon) net capacity each for liquids or not over 1.0 kg (2.2 pounds) net capacity each for solids, unless the material has a subsidiary hazard of Division 6.1, Packing Group II in which case the inner packagings may not exceed 100 mL (3.38 ounces) for liquids or 0.5 kg (1.1 pounds) for solids, packed in a strong outer packaging.

(2) For corrosive materials in Packing Group III, in inner packagings not over 5.0 L (1.3 gallons) net capacity each for liquids, or not over 5.0 kg (11 lbs) net capacity each for solids, and packed in strong outer packagings.

(c) Until December 31, 2013, a limited quantity of corrosive material in Packing Group II and III which conforms to the provisions of paragraph (b) of this section that is also a "consumer commodity," as defined in 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed and marked as ORM–D material in accordance with § 172.316. Additionally, until December 31, 2013, an ORM–D material that is prepared for air shipment and packaged in accordance with § 173.27 in effect on October 1, 2010, may be renamed "Consumer commodity" and reclassed and marked as ORM–D–AIR material in accordance with § 172.316. A consumer commodity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of consumer commodities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight.

* * * * *

41. In § 173.155, paragraphs (b) and (c) are revised to read as follows:

§ 173.155 Exceptions for Class 9 (miscellaneous hazardous materials).

* * * * *

(b) *Limited quantities of Class 9 materials.* Limited quantities of miscellaneous hazardous materials (Class 9) in Packing Group II and III are

excepted from labeling requirements, unless the material is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. Unless otherwise specified in paragraph (c) of this section, packages of limited quantities intended for transportation by aircraft must conform to the applicable requirements (*e.g.,* authorized materials, inner packaging quantity limits and closure securement) of § 173.27. A limited quantity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of limited quantities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. The following combination packagings are authorized:

(1) For miscellaneous materials in Packing Group II, inner packagings not over 1.0 L (0.3 gallon) net capacity each for liquids, or not over 1.0 kg (2.2 pounds) net capacity each for solids, packed in a strong outer packaging.

(2) For miscellaneous materials in Packing Group III, in inner packagings not over 5.0 L (1.3 gallons) net capacity each for liquids, or not over 5.0 kg (11 lbs) net capacity each for solids, packed in a strong outer packaging.

(c) Until December 31, 2013, a limited quantity of miscellaneous material in Packing Group II and III which conforms to the provisions of paragraph (b) of this section that is also a "consumer commodity," as defined in 171.8 of this subchapter, may be renamed "Consumer commodity" and reclassed and marked as ORM–D material in accordance with § 172.316. Additionally, until December 31, 2013, an ORM–D material that is prepared for air shipment and packaged in accordance with § 173.27 in effect on October 1, 2010, may be renamed "Consumer commodity" and reclassed and marked as ORM–D–AIR material in accordance with § 172.316. A consumer commodity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. In addition, packages of consumer commodities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight.

42. Section 173.156 is revised to read as follows:

§ 173.156 Exceptions for limited quantity and ORM.

(a) Exceptions for hazardous materials shipments in the following paragraphs are permitted only if this section is referenced for the specific hazardous material in the § 172.101 table or in a packaging section in this part.

(b) Packagings for limited quantity and ORM are specified according to hazard class in §§ 173.150 through 173.155 and in § 173.306. In addition to other exceptions provided for limited quantity and ORM–D materials in this part:

(1) Strong outer packagings as specified in this part, marking requirements specified in subpart D of part 172 of this subchapter, and the 30 kg (66 pounds) gross weight limitation are not required for packages of limited quantity materials marked in accordance with § 172.315, or, until December 31, 2013, materials classed and marked as ORM–D and described as a Consumer commodity, as defined in § 171.8 of this subchapter, when—

(i) Unitized in cages, carts, boxes or similar overpacks;

(ii) Offered for transportation or transported by:

(A) Rail;

(B) Private or contract motor carrier; or

(C) Common carrier in a vehicle under exclusive use for such service; and

(iii) Transported to or from a manufacturer, a distribution center, or a retail outlet, or transported to a disposal facility from one offeror.

(2) The 30 kg (66 pounds) gross weight limitation does not apply to packages of limited quantity materials marked in accordance with § 172.315, or, until December 31, 2013, materials classed and marked as ORM–D and described as a Consumer commodity, as defined in § 171.8 of this subchapter, when offered for transportation, or transported, by highway or rail between a manufacturer, a distribution center, and a retail outlet provided—

(i) Inner packagings conform to the quantity limits for inner packagings specified in §§ 173.150(b), 173.152(b), 173.154(b), 173.155(b) and 173.306 (a) and (b), as appropriate;

(ii) The inner packagings are packed into corrugated fiberboard trays to prevent them from moving freely;

(iii) The trays are placed in a fiberboard box which is banded and secured to a wooden pallet by metal, fabric, or plastic straps, to form a single palletized unit;

(iv) The package conforms to the general packaging requirements of subpart B of this part;

(v) The maximum net quantity of hazardous material permitted on one palletized unit is 250 kg (550 pounds); and

(vi) The package is properly marked in accordance with § 172.315 or, until December 31, 2013, § 172.316 of this subchapter.

43. Section 173.161 is revised to read as follows:

§ 173.161 Chemical kits and first aid kits.

(a) *Applicability.* Chemical kits and First aid kits contain one or more compatible items of hazardous materials in boxes, cases, *etc.* that, for example, are used for medical, analytical, diagnostic, testing, or repair purposes.

(b) *Authorized materials.* (1) The kits may only contain hazardous materials for which packaging exceptions are provided in column 8(A) the § 172.101 Table of this subchapter. For transportation by aircraft, the kits may only contain quantities of hazardous materials authorized as excepted quantities in § 173.4a or as limited quantities in § 173.27(f). Materials forbidden for transportation by passenger aircraft or cargo aircraft may not be included in the kits.

(2) The packing group assigned to the chemical kit and first aid kit as a whole must be the most stringent packing group assigned to any individual substance in the kit and must be shown on the shipping paper, if applicable, in accordance with Subpart C of Part 172 of this subchapter.

(c) *Packaging.* Except for transportation by aircraft or vessel, chemical kits and first aid kits must be packaged in combination packagings conforming to the packaging requirements of subpart B of this part. For transportation by aircraft or vessel, chemical kits and first aid kits must be packaged in specification combination packagings based on the performance level of the most stringent packing group of material contained within the kit. For transportation by aircraft, friction-type closures must be secured by secondary means and inner packagings intended to contain liquids

must be capable of meeting the pressure differential requirements prescribed in § 173.27(c). Inner and outer packaging quantity limits for packages are as follows:

(1) Except for liquids of Division 5.2 (organic peroxide), inner packagings containing not more than 250 mL. Except for transportation by aircraft, for Division 5.2 (organic peroxide) liquids of Type B and C, inner packagings containing not more than 25 mL and for Division 5.2 (organic peroxide) liquids of Type D, E and F, inner packagings containing not more than 125 mL. For transportation by aircraft, for Division 5.2 (organic peroxide) liquids of Type D, E and F (only), inner packagings containing not more than 125 mL;

(2) Except for solids of Division 5.2 (organic peroxide) of Type B and C, inner packagings containing not more than 250 g. Except for transportation by aircraft, for a Division 5.2 (organic peroxide) solid of Type B and C, inner packagings containing not more than 100 g. For transportation by aircraft, for a Division 5.2 (organic peroxide) solid of Type D, E and F (only), inner packagings containing not more than 250 g;

(3) No more than 10 L or 10 kg of hazardous material may be contained in one outer package (excluding dry ice). For transportation by aircraft, no more than 1 L or 1 kg of hazardous material may be contained in one kit (excluding dry ice);

(4) Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight;

(5) Except for Carbon dioxide, solid (Dry ice), UN1845, no other hazardous materials may be packed within the same outer packaging as the kits. Dry ice must be packaged in accordance with § 173.217 of this subchapter;

(6) The kits must include sufficient absorbent material to completely absorb the contents of any liquid hazardous materials contained in the kits. The contents must be separated, placed, or packed, and closed with cushioning material to protect them from damage; and

(7) The contents of the kits must be packed so there will be no possibility of the mixture of contents causing dangerous evolution of heat or gas.

(d) *Exceptions.* (1)(i) Chemical kits and first aid kits are eligible for the excepted quantity exceptions provided in §§ 173.4 and 173.4a. For transportation by aircraft, chemical kits and first aid kits and are also eligible for the limited quantity provisions provided in § 173.27(f). For inner packaging quantity limits, *see* § 173.27(f), Table 3.

(ii) A package conforming to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel. Chemical kits and first aid kits conforming to this section may be marked as a limited quantity as prescribed in § 172.315 and, if applicable, are eligible for the exceptions provided in § 173.156. Additionally, chemical and first aid kits conforming to this section are not subject to part 174 (carriage by rail) or part 177 (carriage by highway) of this subchapter when marked in accordance with § 172.315 of this subchapter.

(2) *Consumer commodities.* Until December 31, 2013, a chemical kit or first aid kit conforming to the provisions of this section that is also a consumer commodity (*see* § 171.8 of this subchapter) may be renamed "Consumer commodity" and reclassed and marked as "ORM–D" or "ORM–D–AIR" material in accordance with § 172.316 of this subchapter. Consumer commodities are excepted from the specification packaging requirements of this subchapter and each completed package must conform to Subpart B of this Part. A consumer commodity package which conforms to the provisions of this paragraph is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156.

(3) Kits that are carried on board transport vehicles for first aid or operating purposes are not subject to the requirements of this subchapter.

44. New § 173.165 is added to read as follows:

§ 173.165 Polyester resin kits.

(a) Except for transportation by aircraft, polyester resin kits consisting of a base material component (Class 3, Packing Group II or III) and an activator component (Type D, E, or F organic peroxide which does not require temperature control)—

(1) The organic peroxide component must be packed in inner packagings not over 125 mL (4.22 ounces) net capacity each for liquids or 500 g (17.64 ounces) net capacity each for solids;

(2) The flammable liquid component must be packed in inner packagings not over 5 L (1.3 gallons) net capacity each for Packing Group II or III liquid; and

(3) The flammable liquid component and the organic peroxide component may be packed in the same strong outer packaging provided they will not interact dangerously in the event of leakage.

(b) For transportation by aircraft, polyester resin kits consisting of a base material component (Class 3, Packing Group II or III) and an activator component (Type D, E, or F organic peroxide which does not require temperature control)—

(1) The organic peroxide component is limited to a quantity of 125 mL (4.22 ounces) per inner packaging if liquid, and 500 g (1 pound) if solid. The base material is limited to a quantity of 5 L (1.3 gallons) in metal or plastic inner packagings and 1 L (0.3 gallons) in glass inner packagings;

(2) The components may be placed in the same outer packaging provided they will not interact dangerously in the event of leakage;

(3) Packing group will be II or III, according to the criteria for Class 3, applied to the base material. Additionally, unless otherwise excepted in this subchapter, polyester resin kits must be packaged in specification combination packagings based on the performance level required of the base material (II or III) contained within the kit;

(4) Closures must be secured by secondary means;

(5) Inner packagings intended to contain liquids must be capable of meeting the pressure differential requirements prescribed in § 173.27(c); and

(6) Except as provided in paragraph (b) of this section, exceptions for polyester resin kits intended for transportation by aircraft are provided in §§ 173.4a (excepted quantities) and 173.27(f) (limited quantities).

(c) *Consumer commodities.* Until December 31, 2013, a polyester resin kit conforming to the provisions of this section that is also a consumer commodity (*see* § 171.8 of this subchapter) may be renamed "Consumer commodity" and reclassed and marked as "ORM–D" or "ORM–D–AIR" material in accordance with § 172.316 of this subchapter. Consumer commodities are excepted from the specification packaging requirements of this subchapter and each completed package must conform to subpart B of this part 173. A consumer commodity package which conforms to the provisions of this paragraph is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the

material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156.

45. New § 173.167 is added to read as follows:

§ 173.167 Consumer commodities.

Consumer commodities (*see* § 171.8 of this subchapter) when intended for transportation by aircraft may only include articles or substances of Class 2 (non-toxic aerosols only), Class 3 (Packing Group II and III only), Division 6.1 (Packing Group III only), UN3077, UN3082, and UN3175 provided such materials do not have a subsidiary risk and are authorized aboard a passenger-carrying aircraft. Friction-type closures must be secured by secondary means. Inner packagings intended to contain liquids must be capable of meeting the pressure differential requirements prescribed in § 173.27(c). Consumer commodities are excepted from the specification packaging requirements of this subchapter and each completed package must conform to subpart B of part 173 of this subchapter. Packages of consumer commodities must also be capable of withstanding a 1.2 m drop on solid concrete in the position most likely to cause damage and a 24-hour stack test. Inner and outer packaging quantity limits for consumer commodities are as follows:

(a) Non-toxic aerosols, as defined in § 171.8 and constructed in accordance with § 173.306 of this subchapter, in non-refillable, non-metal containers not exceeding 120 mL (4 fluid ounces) each, or in non-refillable metal containers not exceeding 820 mL (28 ounces) each except that flammable aerosols may not exceed 500 mL (16.9 ounces) each;

(b) Liquids, in inner packagings not exceeding 500 mL (16.9 ounces) each;

(c) Solids, in inner packagings not exceeding 500 g (1.0 pounds) each; or

(d) Any combination thereof, placed in an outer packaging not to exceed 30 kg (66 pounds) gross weight as prepared for shipment.

46. In § 173.225:

a. In paragraph (c)(8), the Organic Peroxide Table is amended by removing and adding the following entries in the appropriate order.

b. In paragraph (e), the Organic Peroxide IBC Table is amended by removing one entry and adding one entry in the appropriate order.

§ 173.225 Packaging requirements and other provisions for organic peroxides.

* * * * *

(c) * * *

(8) * * *

ORGANIC PEROXIDE TABLE

Technical name	ID No.	Concent. (mass %)	Diluent (mass %) A	Diluent (mass %) B	Diluent (mass %) I	Water (mass %)	Packing method	Temp control	Temp emergency	Notes
(1)	(2)	(3)	(4a)	(4b)	(4c)	(5)	(6)	(7a)	(7b)	(8)
[Remove]										
*	*	*		*	*		*	*		
Di-(2-tert-butylperoxyisopropyl) benzene(s)	UN3106	>42–100			≤57		OP7			1, 9
Di-(2-tert-butylperoxyisopropyl) benzene(s)	Exempt	≤42			≥58		Exempt.			
*	*	*		*	*		*	*		
2,5-Dimethyl-2,5-di-(tert-butylperoxy)hexane	UN3105	>52–100					OP7.			
*	*	*		*	*		*	*		
[Add]										
*	*	*		*	*		*	*		
Di-(tert-butylperoxyisopropyl) benzene(s)	UN3106	>42–100			≤57		OP7			1, 9
Di-(tert-butylperoxyisopropyl) benzene(s)	Exempt	≤42			≥58		Exempt.			
*	*	*		*	*		*	*		
2,5–Dimethyl-2,5-di-(tert-butylperoxy)hexane	UN3103	>90–100					OP5.			
2,5–Dimethyl-2,5-di-(tert-butylperoxy)hexane	UN3105	>52–90	≥10				OP7.			
*	*	*		*	*		*	*		

* * * * *

(e) * * *

ORGANIC PEROXIDE IBC TABLE

UN No.	Organic peroxide	Type of IBC	Maximum quantity (liters)	Control temperature	Emergency temperature
[Remove]					
*	*	*	*	*	*
3109	ORGANIC PEROXIDE, TYPE F, LIQUID.				
*	*	*	*	*	*
	Peroxyacetic acid, stabilized, not more than 17%	31H1	1500		
		31HA1	1500		
		31A	1500		
*	*	*	*	*	*
[Add]					
*	*	*	*	*	*
3109	ORGANIC PEROXIDE, TYPE F, LIQUID.				
*	*	*	*	*	*
	Peroxyacetic acid, stabilized, not more than 17%	31A	1500		
		31H1	1500		
		31H2	1500		
		31HA1	1500		
*	*	*	*	*	*

* * * * *

47. In § 173.230, paragraphs (g) and (h) are revised to read as follows:

§ 173.230 Fuel cell cartridges containing hazardous material.

* * * * *

(g) *Limited quantities.* Limited quantities of hazardous materials contained in fuel cell cartridges are excepted from the labeling requirements, unless the cartridges are offered for transportation or transported by aircraft, and the placarding and specification packaging requirements of this subchapter when packaged according to this section. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. Except as authorized in paragraph (h) of this section, a package containing a limited quantity of fuel cell cartridges must be marked as specified in § 172.315 of this subchapter and, for transportation by highway or rail, are not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, or marine pollutant, and are eligible for the exceptions provided in § 173.156. Limited quantities of fuel cell cartridges containing Division 2.1 (flammable gas) or Division 4.3 (water-reactive) material are not permitted for transportation by aircraft. For transportation by highway, rail and vessel, the following combination packagings are authorized:

(1) For flammable liquids, in fuel cell cartridges containing not more than 1.0 L (0.3 gallon), packed in strong outer packaging.

(2) For water-reactive substances (Division 4.3 Dangerous when wet material), in fuel cell cartridges containing not more than 0.5 L (16.9 fluid ounces) for liquids or not over 0.5 kg (1.1 pound) for solids, packed in strong outer packaging.

(3) For corrosive materials, in fuel cell cartridges containing not more than 1.0 L (0.3 gallon) for liquids or not more than 1.0 kg (2.2 pounds) for solids packed in strong outer packaging.

(4) For liquefied (compressed) flammable gas, in fuel cell cartridges not over 120 mL (4 fluid ounces) net capacity each, packed in strong outer packaging.

(5) For hydrogen in metal hydride, in fuel cell cartridges not over 120 mL (4 fluid ounces) net capacity each, packed in strong outer packaging.

(6) For transportation by aircraft, the following combination packagings are authorized:

(i) For flammable liquids, in fuel cell cartridges containing not more than 0.5 L (16.9 fluid ounces), packed in strong outer packaging. Additionally, each package may contain no more than 2.5 kg (net mass) of fuel cell cartridges.

(ii) For corrosive materials, in fuel cell cartridges containing not more than 200 mL (6.7 fluid ounces) for liquids or not more than 200 g (0.4 pounds) for solids packed in strong outer packaging. Additionally, each package may contain no more than 2.5 kg (net mass) of fuel cell cartridges.

(h) *Consumer commodities.* Except for transportation by aircraft and until December 31, 2013, a limited quantity which conforms to the provisions of paragraph (g) of this section and is also a "consumer commodity" as defined in § 171.8 of this subchapter may be renamed "Consumer commodity" and reclassed as ORM–D. Shipments of ORM–D materials are not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, and are eligible for the exceptions provided in § 173.156.

48. In § 173.301b, paragraphs (c)(2)(iii) and (e) are revised to read as follows:

§ 173.301b Additional general requirements for shipment of UN pressure receptacles.

* * * * *

(c) * * *

(2) * * *

(iii) By protecting the valves by shrouds or guards conforming to the requirements in ISO 11117. For metal hydride storage systems, valve protection in accordance with the requirements in ISO 16111 (IBR; *see* § 171.7 of this subchapter);

* * * * *

(e) *Pyrophoric gases.* A UN pressure receptacle must have valve outlets equipped with gas-tight plugs or caps when used for pyrophoric or flammable mixtures of gases containing more than 1% pyrophoric compounds. When these pressure receptacles are manifolded in a bundle, each of the pressure receptacles must be equipped with an individual valve that must be closed while in transportation, and the outlet of the manifold valve must be equipped with a pressure retaining gas-tight plug or cap. Gas-tight plugs or caps must have threads that match those of the valve outlets.

* * * * *

49. In § 173.306, paragraphs (h)(2), (i) and (k) are revised to read as follows:

§ 173.306 Limited quantities of compressed gases.

* * * * *

(h) * * *

(2)(i) Except for transportation by aircraft, special exceptions for shipment of lighter refills in the ORM–D class are provided in paragraph (i) of this section.

(ii) *Exceptions.* For highway transportation, when no more than 1,500 lighter refills covered by this paragraph are transported in one motor vehicle, the requirements of subparts C through H of part 172, and Part 177 of this subchapter do not apply. Lighter refills covered under this paragraph must be packaged in rigid, strong outer packagings meeting the general packaging requirements of subpart B of this part. Outer packagings must be plainly and durably marked, on two opposing sides or ends, with the word "LIGHTER REFILLS" and the number of devices contained therein in letters measuring at least 20 mm (0.79 in) in height. No person may offer for transportation or transport the lighter refills or prepare the lighter refills for shipment unless that person has been specifically informed of the requirements of this section.

(i)(1) A limited quantity of compressed gas (Class 2) which conform to the provisions of paragraph (a)(1), (a)(3), (a)(5), (b) or, except for transportation by aircraft, paragraph (h) of this section are excepted from labeling requirements, unless the material is offered for transportation or transported by aircraft, and the specification packaging requirements of this subchapter when packaged in combination packagings according to this paragraph. Unless otherwise specified in paragraph (i)(2) of this section, packages of limited quantities intended for transportation by aircraft must conform to the applicable requirements (*e.g.,* authorized materials, inner packaging quantity limits and closure securement) of § 173.27. A limited quantity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. Outside packagings conforming to this paragraph are not required to be marked "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS." In addition, packages of limited quantities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight. The following combination packagings are authorized:

(2) Until December 31, 2013, a limited quantity of compressed gas which conforms to the provisions of paragraphs (a)(1), (a)(3), (a)(5), (b) or (h) of this section and is also a "consumer commodity" as defined in 171.8 of this subchapter in effect on October 1, 2010, may be renamed "Consumer commodity" and reclassed and marked as ORM–D material in accordance with § 172.316. Additionally, until December 31, 2013, an ORM–D material that is prepared for air shipment and packaged in accordance with § 173.27 in effect on October 1, 2010, may be renamed "Consumer commodity" and reclassed and marked as ORM–D–AIR material in accordance with § 172.316. A consumer commodity package which conforms to the provisions of this section is not subject to the shipping paper requirements of subpart C of part 172 of this subchapter, unless the material meets the definition of a hazardous substance, hazardous waste, marine pollutant, or is offered for transportation and transported by aircraft or vessel, and is eligible for the exceptions provided in § 173.156. Outside packagings conforming to this paragraph are not required to be marked "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS." In addition, packages of consumer commodities are not subject to subpart F (Placarding) of part 172 of this subchapter. Each package must conform to the packaging requirements of subpart B of this part and may not exceed 30 kg (66 pounds) gross weight.

* * * * *

(k) For additional exceptions, *see* § 173.307.

50. In § 173.307, a new paragraph (a)(6) is added to read as follows:

§ 173.307 Exceptions for compressed gases.

(a) * * *

(6) Light bulbs provided they are packaged so that the projectile effects of any rupture of the bulb will be contained within the package.

* * * * *

51. New § 173.311 is added to read as follows:

§ 173.311 Metal hydride storage systems.

The following packing instruction is applicable to transportable UN Metal hydride storage systems (UN3468) with pressure receptacles not exceeding 150 liters (40 gallons) in water capacity and having a maximum developed pressure not exceeding 25 MPa. Metal hydride storage systems be designed, constructed, initially inspected and tested in accordance with ISO 16111:2008, Transportable gas storage devices—Hydrogen absorbed in reversible metal hydride (IBR, *see* § 171.7 of this subchapter) as authorized under § 178.71(f) of this subchapter. Steel pressure receptacles or composite pressure receptacles with steel liners must be marked in accordance with § 173.301b(f) which specifies that a steel UN pressure receptacle bearing an "H" mark must be used for hydrogen bearing gases or other gases that may cause hydrogen embrittlement. Requalification intervals must be no more than every five years as specified in § 180.207 in accordance with the requalification procedures prescribed in ISO 16111.

52. In § 173.320, a new paragraph (d) is added to read as follows:

§ 173.320 Cryogenic liquids; exceptions.

* * * * *

(d) For transportation aboard a vessel, *see* the IMDG Code (IBR, *see* § 171.7 of this subchapter), Packing Instruction P203 and the packaging specifications in part 6, chapter 6.2.

53. In 173.322, paragraph (e) is added to read as follows:

§ 173.322 Ethyl chloride.

* * * * *

(e) In capsules under the following conditions:

(1) The mass of gas must not exceed 150 g per capsule;

(2) The capsule must be free of faults liable to impair its strength;

(3) The leakproofness integrity of the closure must be maintained by a secondary means (*e.g.,* cap, crown, seal, binding, *etc.*) capable of preventing any leakage of the closure while in transportation; and

(4) The capsules must be placed in a strong outer packaging suitable for its contents and may not exceed a gross mass of 75 kg.

PART 175—CARRIAGE BY AIRCRAFT

54. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 44701; 49 CFR 1.45 and 1.53.

55. In § 175.8, in paragraph (b)(3), the first sentence is revised to read as follows:

§ 175.8 Exceptions for operator equipment and items of replacement.

* * * * *

(b) * * *

(3) Alcoholic beverages, perfumes, colognes, and liquefied gas lighters carried aboard a passenger-carrying aircraft by the operator for use or sale on that specific aircraft. * * *

* * * * *

56. Section 175.9 is revised to read as follows:

§ 175.9 Special aircraft operations.

(a) This subchapter applies to rotorcraft external load operations transporting hazardous material on board, attached to, or suspended from an aircraft. Additionally, operators must have all applicable requirements prescribed in 14 CFR part 133 approved by the FAA Administrator prior to accepting or transporting hazardous material.

(b) *Exceptions.* This subchapter does not apply to the following materials used for special aircraft operations when applicable FAA operator requirements have been met, including training operator personnel on the proper handling and stowage of the hazardous materials carried:

(1) Hazardous materials loaded and carried in hoppers or tanks of aircraft certificated for use in aerial seeding, dusting spraying, fertilizing, crop improvement, or pest control, to be dispensed during such an operation.

(2) Parachute activation devices, lighting equipment, oxygen cylinders, flotation devices, smoke grenades, flares, or similar devices carried during a parachute operation.

(3) Smoke grenades, flares, and pyrotechnic devices affixed to aircraft during any flight conducted as part of a scheduled air show or exhibition of aeronautical skill. The aircraft may not carry any persons other than required flight crewmembers. The affixed installation accommodating the smoke grenades, flares, or pyrotechnic devices on the aircraft must be approved for its intended use by the FAA Flight Standards District Office having responsibility for that aircraft.

(4) Hazardous materials are carried and used during dedicated air ambulance, fire fighting, or search and rescue operations.

(5) A transport incubator unit necessary to protect life or an organ preservation unit necessary to protect human organs, carried in the aircraft cabin, provided:

(i) The compressed gas used to operate the unit is in an authorized DOT specification cylinder and is marked, labeled, filled, and maintained as prescribed by this subchapter;

(ii) Each battery used is of the nonspillable type;

(iii) The unit is constructed so valves, fittings, and gauges are protected from damage;

(iv) The pilot-in-command is advised when the unit is on board, and when it is intended for use;

(v) The unit is accompanied by a person qualified to operate it;

(vi) The unit is secured in the aircraft in a manner that does not restrict access to or use of any required emergency or regular exit or of the aisle in the passenger compartment; and,

(vii) Smoking within 3 m (10 feet) of the unit is prohibited.

(6) Hazardous materials which are loaded and carried on or in cargo only aircraft, and which are to be dispensed or expended during flight for weather control, environmental restoration or protection, forest preservation and protection, fire fighting and prevention, flood control, or avalanche control purposes, when the following requirements are met:

(i) Operations may not be conducted over densely populated areas, in a congested airway, or near any airport where carrier passenger operations are conducted.

(ii) Each operator must prepare and keep current a manual containing operational guidelines and handling procedures, for the use and guidance of flight, maintenance, and ground personnel concerned in the dispensing or expending of hazardous materials. The manual must be approved by the FAA Principal Operations Inspector assigned to the operator.

(iii) No person other than a required flight crewmember, FAA inspector, or person necessary for handling or dispensing the hazardous material may be carried on the aircraft.

(iv) The operator of the aircraft must have advance permission from the owner of any airport to be used for the dispensing or expending operation.

(v) When dynamite and blasting caps are carried for avalanche control flights, the explosives must be handled by, and at all times be under the control of, a qualified blaster. When required by a State or local authority, the blaster must be licensed and the State or local authority must be identified in writing to the FAA Principal Operations Inspector assigned to the operator.

57. In § 175.10:

a. Paragraphs (a)(17) and (18) are redesignated as paragraphs (a)(18) and (19) respectively.

b. New paragraph (a)(17) is added.

c. In newly designated paragraph (a)(19), in the introductory text, the words "and checked" are added between the word "carry-on" and the word "baggage."

d. In newly designated paragraph (a)(19) introductory text, after the phrase "fuel cell systems", the word "and" is removed.

e. Newly designated paragraph (a)(19)(iv) is revised.

f. In newly designated paragraph (a)(19)(x), at the end of the sentence, the period is replaced with a semicolon.

g. New paragraphs (a)(19)(xi) and (xii) are added.

The revisions and additions read as follows:

§ 175.10 Exceptions for passengers, crewmembers, and air operators.

(a) * * *

(17) A wheelchair or other battery-powered mobility aid equipped with a lithium-ion battery, when carried as checked baggage, provided—

(i) The lithium-ion battery must be of a type that successfully passed each test in the UN Manual of Tests and Criteria as specified in § 173.185, unless approved by the Associate Administrator;

(ii) Visual inspection including removal of the battery, where necessary, reveals no obvious defects (removal of the battery from the housing should be performed by qualified airline personnel only);

(iii) Battery terminals must be protected from short circuits (*e.g.,* by being enclosed within a battery container) that is securely attached to the mobility aid;

(iv) The pilot-in-command is advised, either orally or in writing, prior to departure, as to the location of the wheelchair or mobility aid aboard the aircraft; and

(v) The wheelchair or mobility aid is loaded, stowed, secured and unloaded in an upright position and in a manner that prevents unintentional activation and protects it from damage.

(vi) A lithium metal battery is forbidden aboard a passenger-carrying aircraft.

* * * * *

(19) * * *

(iv) Fuel cells containing fuel are permitted in carry-on baggage only;

* * *

(xi) Spare fuel cell cartridges containing flammable liquids or corrosive materials may be transported in checked or carry-on baggage.

(xii) Spare fuel cell cartridges containing liquefied flammable gas, hydrogen in a metal hydride or water reactive substances may only be transported in carry-on baggage.

* * * * *

58. Section 175.25 is revised to read as follows:

§ 175.25 Notification at air passenger facilities of hazardous materials restrictions.

(a) Each person who engages in for-hire air transportation of passengers must display notices of the requirements applicable to the carriage of hazardous materials aboard aircraft, and the penalties for failure to comply with those requirements in accordance with this section.

(b) *Ticket purchase.* An aircraft operator must ensure that information on the types of hazardous materials specified in paragraph (d) of this section which a passenger is permitted and forbidden to transport aboard an aircraft is provided at the point of ticket purchase. During the purchase process, regardless if the process is completed remotely (*e.g.* via the Internet or phone) or when completed at the airport, with or without assistance from another person (*e.g.* automated check-in facility), the aircraft operator must ensure that information on the types of hazardous materials which a passenger is forbidden to transport aboard an aircraft is provided to passengers. Information may be in text or in pictorial form and, effective January 1, 2013, must be such that the final ticket purchase cannot be completed until the passenger, or a person acting on the person's behalf, has indicated that they understand the restrictions on hazardous materials in baggage.

(c) An aircraft operator must ensure that information on the types of hazardous materials which a passenger is forbidden to transport aboard an aircraft is provided during the flight check-in process.

(1) Effective January 1, 2013, when the flight check-in process is conducted remotely (*e.g.* via the Internet or phone) or when completed at the airport, without assistance from another person (*e.g.* automated check-in kiosk), the aircraft operator must ensure that information on the types of hazardous materials which a passenger is forbidden to transport aboard an aircraft is provided to passengers. Information may be in text or in pictorial form and should be such that the check in process cannot be completed until the passenger, or a person acting on the person's behalf, has indicated that they understand the restrictions on hazardous materials in baggage.

(2) When the check-in process is not conducted remotely (*e.g.* at the airport with the assistance of an airline representative), passenger notification of permitted and forbidden hazardous materials may be completed through signage (electronic or otherwise) provided it is legible and prominently displayed so it can be seen by passengers in locations where the aircraft operator issues tickets, checks baggage, and maintains aircraft boarding areas.

(d) An operator of passenger-carrying aircraft should have information on those hazardous materials which may be carried by passengers in accordance with § 175.10 available prior to the check-in process (*e.g.,* on their Web site) or conveyed through other sources of information.

59. In § 175.30, paragraph (e)(3) is revised to read as follows:

§ 175.30 Inspecting shipments.

* * * * *

(e) * * *

(3) Has determined that the word "OVERPACK" appears on the outside of the overpack when specification packagings are prescribed or the overpack contains packages of limited quantities conforming to § 173.27.

60. Section 175.75 is revised to read as follows:

§ 175.75 Quantity limitations and cargo location.

(a) No person may carry on an aircraft a hazardous material except as permitted by this subchapter.

(b) Except as otherwise provided in this subchapter, no person may carry a hazardous material in the cabin of a passenger-carrying aircraft or on the flight deck of any aircraft, and the hazardous material must be located in a place that is inaccessible to persons other than crew-members. Hazardous materials may be carried in a main deck cargo compartment of a passenger aircraft provided that the compartment is inaccessible to passengers and that it meets all certification requirements for a Class B aircraft cargo compartment in 14 CFR 25.857(b) or for a Class C aircraft cargo compartment in 14 CFR 25.857(c). A package bearing a KEEP AWAY FROM HEAT handling marking must be protected from direct sunshine and stored in a cool and ventilated place, away from sources of heat.

(c) For each package containing a hazardous material acceptable for carriage aboard passenger-carrying aircraft, no more than 25 kg (55 pounds) net weight of hazardous material may be loaded in an inaccessible manner. In addition, an additional 75 kg (165 pounds) net weight of Division 2.2 (non-flammable compressed gas) may be loaded in an inaccessible manner. The requirements of this paragraph do not apply to ORM–D–AIR materials or Class 9 materials, except that lithium batteries, including lithium batteries packed with or contained in equipment may be loaded in an inaccessible manner only if they are packaged in a container approved by the FAA Administrator for such use or carried in a Class C cargo compartment.

(d) For the purposes of this section—

(1) *Accessible* means on passenger-carrying or cargo-only aircraft each package is loaded where a crew member or other authorized person can access, handle and when size and weight permit, separate such packages from other cargo during flight including a freight container in an accessible cargo compartment when packages are loaded in an accessible manner. Additionally, a package is considered accessible when transported on a cargo-only aircraft if:

(i) In a cargo compartment certified by FAA as a Class C aircraft cargo compartment as defined in 14 CFR 25.857(c); or

(ii) In an FAA-certified freight container that has an approved fire or smoke detection system and fire suppression system equivalent to that required by the certification requirements for a Class C aircraft cargo compartment.

(2) *Inaccessible* means all other configurations including a freight container in an accessible compartment when packages are loaded inaccessibly.

(e) For transport aboard cargo-only aircraft, the requirements of paragraphs (c) and (d) of this section do not apply to the following hazardous materials:

(1) Class 3—Packing Group III (that do not meet the definition of another hazard class except CORROSIVE), Division 6.1 ((primary) except those also labeled FLAMMABLE LIQUID), Division 6.2, Class 7, Class 9 except that lithium batteries, including lithium batteries packed with or contained in equipment may be loaded in an inaccessible manner only if they are packaged in a container approved by the FAA Administrator for such use or carried in a Class C cargo compartment, or ORM–D–AIR materials marked in

accordance with § 172.316 of this subchapter.

(2) Packages of hazardous materials transported aboard a cargo aircraft, when other means of transportation are impracticable or not available, in accordance with procedures approved in writing by the FAA Regional or Field Security Office in the region where the operator is located.

(3) Packages of hazardous materials carried on small, single pilot, cargo aircraft if:

(i) No person is carried on the aircraft other than the pilot, an FAA inspector, the shipper or consignee of the material, a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material;

(ii) The pilot is provided with written instructions on the characteristics and proper handling of the materials; and

(iii) Whenever a change of pilots occurs while the material is on board, the new pilot is briefed under a hand-to-hand signature service provided by the operator of the aircraft.

(f) At a minimum, quantity limits and loading instructions in the following quantity and loading table must be followed to maintain acceptable quantity and loading between packages containing hazardous materials. The quantity and loading table is as follows:

QUANTITY AND LOADING TABLE

Applicability	Forbidden	Quantity limitation: 25 kg net weight of hazardous material plus 75 kg net weight of Division 2.2 (non-flammable compressed gas)	No limit
Passenger-carrying aircraft	Cargo Aircraft Only labeled packages	Inaccessible	Accessible.
Cargo-only aircraft—Packages authorized aboard a passenger-carrying aircraft.	Not applicable	Inaccessible (*See* Note)	Accessible.
Cargo-only aircraft—Packages not authorized aboard a passenger-carrying aircraft and displaying a Cargo Aircraft Only label.	Inaccessible (*See* Note)	Not applicable	Accessible.

Note: The following materials are not subject to this loading restriction—
a. Class 3, PG III (unless the hazardous material meets the definition of another hazard class, except CORROSIVE).
b. Primary Class 6 (unless also labeled as a flammable liquid).
c. Class 7 (unless the hazardous material meets the definition of another hazard class).
d. Class 9 (except lithium batteries) or ORM–D–AIR materials marked in accordance with § 172.316.

61. In § 175.78, paragraph (c)(4)(iii) is revised to read as follows:

§ 175.78 Stowage compatibility of cargo.

* * * * *

(c) * * *

(4) * * *

(iii) Except for Division 1.4B explosives and as otherwise provided in this note, explosives of different compatibility groups may be stowed together whether or not they belong to the same division. Division 1.4B explosives must not be stowed together with any other explosive permitted aboard aircraft except Division 1.4S unless segregated as prescribed in paragraph (iv) of this note.

* * * * *

PART 176—CARRIAGE BY VESSEL

62. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

63. In § 176.2, in the definition for "Cargo transport unit," the first sentence is revised to read as follows:

§ 176.2 Definitions.

* * * * *

Cargo transport unit means a transport vehicle, a freight container, a portable tank or a MEGC. * * *

* * * * *

64. In § 176.76, paragraph (a)(9) is added to read as follows:

§ 176.76 Transport vehicles, freight containers, and portable tanks containing hazardous materials.

(a) * * *

(9) When security devices, beacons or other tracking or monitoring equipment are used, they must be securely installed and must be of a certified safe type for the hazardous materials that will be carried within the freight container or transport vehicle.

* * * * *

65. In § 176.84, in paragraph (b) Table of provisions, Code Number "143" and its corresponding provision are removed.

66. Section 176.142 is removed and reserved.

67. In Section 176.905, paragraphs (a)(5) and (a)(6) are removed and reserved.

PART 178—SPECIFICATIONS FOR PACKAGINGS

68. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

69. Section 178.71 is revised to read as follows:

§ 178.71 Specifications for UN pressure receptacles.

(a) *General.* Each UN pressure receptacle must meet the requirements of this section. Requirements for approval, qualification, maintenance, and testing are contained in § 178.70 and subpart C of part 180 of this subchapter.

(b) *Definitions.* The following definitions apply for the purposes of design and construction of UN pressure receptacles under this subpart:

Alternative arrangement means an approval granted by the Associate Administrator for a MEGC that has been designed, constructed or tested to the technical requirements or testing methods other than those specified for UN pressure receptacles in part 178 or part 180 of this subchapter.

Bundle of cylinders. See § 171.8 of this subchapter.

Design type means a pressure receptacle design as specified by a particular pressure receptacle standard.

Design type approval means an overall approval of the manufacturer's quality system and design type of each pressure receptacle to be produced within the manufacturer's facility.

UN tube. See § 171.8 of this subchapter.

(c) *General design and construction.* UN pressure receptacles and their closures must be designed, manufactured, tested and equipped in accordance with the requirements contained in this section.

(1) Following the final heat treatment, all cylinders, except those selected for batch testing, must be subjected to a hydraulic volumetric expansion test.

(2) The standard requirements applicable to UN pressure receptacles may be varied only if approved in writing by the Associate Administrator.

(3) The test pressure of UN cylinders, tubes, and bundles of cylinders must conform to the requirements in part 178 of this subchapter.

(d) *Service equipment.* (1) Except for pressure relief devices, UN pressure receptacle equipment, including valves, piping, fittings, and other equipment subjected to pressure must be designed and constructed to withstand at least 1.5 times the test pressure of the pressure receptacle.

(2) Service equipment must be configured or designed to prevent damage that could result in the release of the pressure receptacle contents during normal conditions of handling and transport. Manifold piping leading to shut-off valves must be sufficiently flexible to protect the valves and the piping from shearing or releasing the pressure receptacle contents. The filling and discharge valves and any protective caps must be secured against unintended opening. The valves must conform to ISO 10297 (IBR, *see* § 171.7 of this subchapter) and be protected as specified in § 173.301b(f) of this subchapter.

(3) UN pressure receptacles that cannot be handled manually or rolled, must be equipped with devices (*e.g.* skids, rings, straps) ensuring that they can be safely handled by mechanical means and so arranged as not to impair the strength of, nor cause undue stresses, in the pressure receptacle.

(4) Pressure receptacles filled by volume must be equipped with a level indicator.

(e) *Bundles of cylinders.* UN pressure receptacles assembled in bundles must be structurally supported and held together as a unit and secured in a manner that prevents movement in relation to the structural assembly and movement that would result in the concentration of harmful local stresses. The frame design must ensure stability under normal operating conditions.

(1) The frame must securely retain all the components of the bundle and must protect them from damage during conditions normally incident to transportation. The method of cylinder restraint must prevent any vertical or horizontal movement or rotation of the cylinder that could cause undue strain on the manifold. The total assembly must be able to withstand rough handling, including being dropped or overturned.

(2) The frame must include features designed for the handling and transportation of the bundle. The lifting rings must be designed to withstand a design load of 2 times the maximum gross weight. Bundles with more than one lifting ring must be designed such that a minimum sling angle of 45 degrees to the horizontal can be achieved during lifting using the lifting rings. If four lifting rings are used, their design must be strong enough to allow the bundle to be lifted by two rings. Where two or four lifting rings are used, diametrically opposite lifting rings must be aligned with each other to allow for correct lifting using shackle pins. If the bundle is filled with forklift pockets, it must contain two forklift pockets on each side from which it is to be lifted. The forklift pockets must be positioned symmetrically consistent with the bundle center of gravity.

(3) The frame structural members must be designed for a vertical load of 2 times the maximum gross weight of the bundle. Design stress levels may not exceed 0.9 times the yield strength of the material.

(4) The frame must not contain any protrusions from the exterior frame structure that could cause a hazardous condition.

(5) The frame design must prevent collection of water or other debris that would increase the tare weight of bundles filled by weight.

(6) The floor of the bundle frame must not buckle during normal operating conditions and must allow for the drainage of water and debris from around the base of the cylinders.

(7) If the frame design includes movable doors or covers, they must be capable of being secured with latches or other means that will not become dislodged by operational impact loads. Valves that need to be operated in normal service or in an emergency must be accessible.

(8) For bundles of cylinders, pressure receptacle marking requirements only apply to the individual cylinders of a bundle and not to any assembly structure.

(f) *Design and construction requirements for UN refillable welded cylinders.* In addition to the general requirements of this section, UN refillable welded cylinders must conform to the following ISO standards, as applicable:

(1) ISO 4706: Gas cylinders—Refillable welded steel cylinders—Test pressure 60 bar and below (IBR, *see* § 171.7 of this subchapter).

(2) ISO 20703: Gas cylinders—Refillable welded aluminum-alloy cylinders—Design, construction and testing (IBR, *see* § 171.7 of this subchapter).

(3) ISO 18172–1: Gas cylinders—Refillable welded stainless steel cylinders—Part 1: Test pressure 6 MPa and below (IBR, *see* § 171.7 of this subchapter).

(g) *Design and construction requirements for UN refillable seamless steel cylinders.* In addition to the general requirements of this section, UN refillable seamless steel cylinders must conform to the following ISO standards, as applicable:

(1) ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1 100 MPa. (IBR, *see* § 171.7 of this subchapter).

(2) ISO 9809–2: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 2: Quenched and tempered steel cylinders with tensile strength greater than or equal to 1 100 MPa. (IBR, *see* § 171.7 of this subchapter).

(3) ISO 9809–3: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 3: Normalized steel cylinders. (IBR, *see* § 171.7 of this subchapter).

(h) *Design and construction requirements for UN refillable seamless aluminum alloy cylinders.* In addition to the general requirements of this section, UN refillable seamless aluminum cylinders must conform to ISO 7866: Gas cylinders—Refillable seamless aluminum alloy gas cylinders—Design, construction and testing. (IBR, *see* § 171.7 of this subchapter). The use of Aluminum alloy 6351–T6 or equivalent is prohibited.

(i) *Design and construction requirements for UN non-refillable metal cylinders.* In addition to the general requirements of this section, UN non-refillable metal cylinders must conform to ISO 11118: Gas cylinders—Non-refillable metallic gas cylinders—Specification and test methods. (IBR, *see* § 171.7 of this subchapter.)

(j) *Design and construction requirements for UN refillable seamless steel tubes.* In addition to the general requirements of this section, UN refillable seamless steel tubes must conform to ISO 11120: Gas cylinders—

Refillable seamless steel tubes of water capacity between 150 L and 3000 L—Design, construction and testing. (IBR, *see* § 171.7 of this subchapter).

(k) *Design and construction requirements for UN acetylene cylinders.* In addition to the general requirements of this section, UN acetylene cylinders must conform to the following ISO standards, as applicable:

(1) For the cylinder shell:

(i) ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1 100 MPa.

(ii) ISO 9809–3: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 3: Normalized steel cylinders.

(2) The porous mass in an acetylene cylinder must conform to ISO 3807–2: Cylinders for acetylene—Basic requirements—Part 2: Cylinders with fusible plugs. (IBR, *see* § 171.7 of this subchapter).

(l) *Design and construction requirements for UN composite cylinders.* (1) In addition to the general requirements of this section, UN composite cylinders must be designed for unlimited service life and conform to the following ISO standards, as applicable:

(i) ISO 11119–1: Gas cylinders of composite construction—Specification and test methods—Part 1: Hoop-wrapped composite gas cylinders. (IBR, *see* § 171.7 of this subchapter).

(ii) ISO 11119–2: Gas cylinders of composite construction—Specification and test methods—Part 2: Fully-wrapped fibre reinforced composite gas cylinders with load-sharing metal liners. (IBR, *see* § 171.7 of this subchapter).

(iii) ISO 11119–3: Gas cylinders of composite construction—Specification and test methods—Part 3: Fully wrapped fibre reinforced composite gas cylinders with non-load sharing metallic or non-metallic liners. (IBR, *see* § 171.7 of this subchapter).

(2) ISO 11119–2 and ISO 11119–3 gas cylinders of composite construction manufactured in accordance with the requirements for underwater use must bear the "UW" mark.

(m) *Design and construction requirements for UN metal hydride storage systems.* In addition to the general requirements of this section, metal hydride storage systems must conform to the following ISO standards, as applicable:

ISO 16111: Transportable gas storage devices—Hydrogen absorbed in reversible metal hydride (IBR, *see* § 171.7 of this subchapter).

(n) *Material compatibility.* In addition to the material requirements specified in the UN pressure receptacle design and construction ISO standards, and any restrictions specified in part 173 for the gases to be transported, the requirements of the following standards must be applied with respect to material compatibility:

(1) ISO 11114–1: Transportable gas cylinders—Compatibility of cylinder and valve materials with gas contents—Part 1: Metallic materials. (IBR, *see* § 171.7 of this subchapter).

(2) ISO 11114–2: Transportable gas cylinders—Compatibility of cylinder and valve materials with gas contents—Part 2: Non-metallic materials. (IBR, *see* § 171.7 of this subchapter).

(o) *Protection of closures.* Closures and their protection must conform to the requirements in § 173.301(f) of this subchapter.

(p) *Marking of UN refillable pressure receptacles.* UN refillable pressure receptacles must be marked clearly and legibly. The required markings must be permanently affixed by stamping, engraving, or other equivalent method, on the shoulder, top end or neck of the pressure receptacle or on a permanently affixed component of the pressure receptacle, such as a welded collar. Except for the "UN" mark, the minimum size of the marks must be 5 mm for pressure receptacles with a diameter greater than or equal to 140 mm and 2.5 mm for pressure receptacles with a diameter less than 140 mm. The minimum size of the "UN" mark must be 5 mm for pressure receptacles with a diameter less than 140 mm and 10 mm for pressure receptacles with a diameter of greater than or equal to 140 mm. The depth of the markings must not create harmful stress concentrations. A refillable pressure receptacle conforming to the UN standard must be marked as follows:

(1) The UN packaging symbol.

(2) The ISO standard, for example ISO 9809–1, used for design, construction and testing. Acetylene cylinders must be marked to indicate the porous mass and the steel shell, for example: "ISO 3807–2/ISO 9809–1."

(3) The mark of the country where the approval is granted. The letters "USA" must be marked on UN pressure receptacles approved by the United States. The manufacturer must obtain an approval number from the Associate Administrator. The manufacturer approval number must follow the country of approval mark, separated by a slash (for example, USA/MXXXX). Pressure receptacles approved by more than one national authority may contain the mark of each country of approval, separated by a comma.

(4) The identity mark or stamp of the IIA.

(5) The date of the initial inspection, the year (four digits) followed by the month (two digits) separated by a slash, for example "2006/04".

(6) The test pressure in bar, preceded by the letters "PH" and followed by the letters "BAR". The test pressure must be obtained from the results of a hydraulic volumetric expansion test.

(7) The rated charging pressure of the metal hydride storage system in bar, preceded by the letters "RCP" and followed by the letters "BAR."

(8) The empty or tare weight. Except for acetylene cylinders, empty weight is the mass of the pressure receptacle in kilograms, including all integral parts (*e.g.,* collar, neck ring, foot ring, *etc.*), followed by the letters "KG". The empty weight does not include the mass of the valve, valve cap or valve guard or any coating. The empty weight must be expressed to three significant figures rounded up to the last digit. For cylinders of less than 1 kg, the empty weight must be expressed to two significant figures rounded down to the last digit. For acetylene cylinders, the tare weight must be marked on the cylinders in kilograms (KG). The tare weight is the sum of the empty weight, mass of the valve, any coating and all permanently attached parts (*e.g.* fittings and accessories) that are not removed during filling. The tare weight must be expressed to two significant figures rounded down to the last digit. The tare weight does not include the cylinder cap or any outlet cap or plug not permanently attached to the cylinder.

(9) The minimum wall thickness of the pressure receptacle in millimeters followed by the letters "MM". This mark is not required for pressure receptacles with a water capacity less than or equal to 1.0 L or for composite cylinders.

(10) For pressure receptacles intended for the transport of compressed gases and UN 1001 acetylene, dissolved, the working pressure in bar, preceded by the letters "PW".

(11) For liquefied gases, the water capacity in liters expressed to three significant digits rounded down to the last digit, followed by the letter "L". If

the value of the minimum or nominal water capacity is an integer, the digits after the decimal point may be omitted.

(12) Identification of the cylinder thread type (*e.g.,* 25E).

(13) The country of manufacture. The letters "USA" must be marked on cylinders manufactured in the United States.

(14) The serial number assigned by the manufacturer.

(15) For steel pressure receptacles, the letter "H" showing compatibility of the steel, as specified in ISO 11114–1.

(16) Identification of aluminum alloy, if applicable.

(17) Stamp for nondestructive testing, if applicable.

(18) Stamp for underwater use of composite cylinders, if applicable.

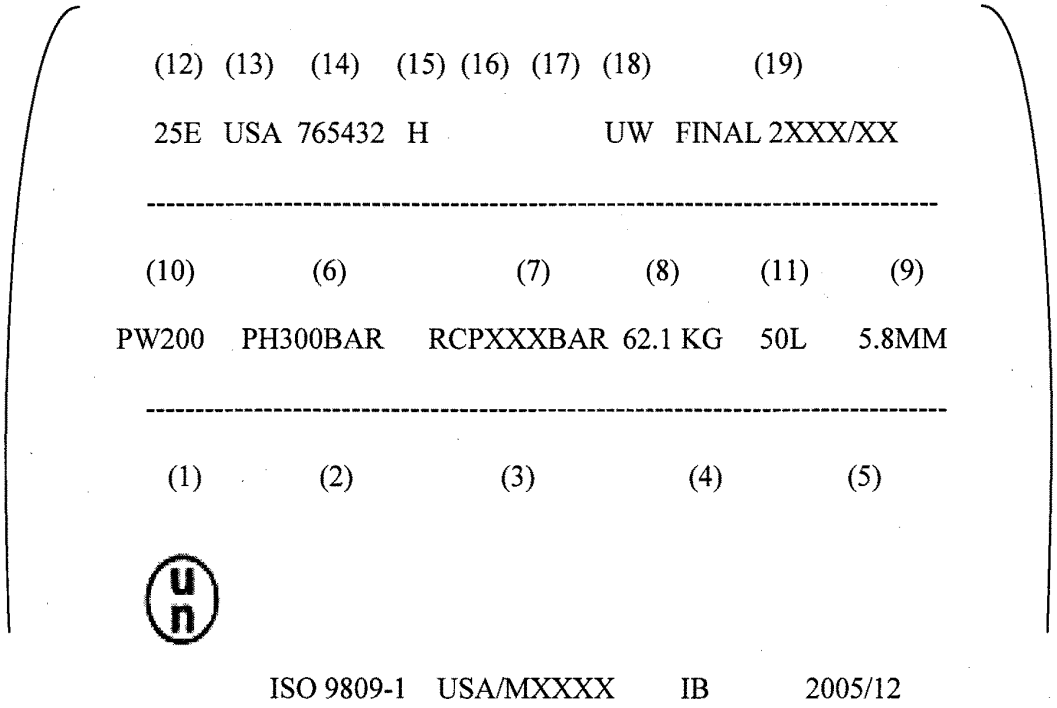
(19) For metal hydride storage systems having a limited life, the date of expiration indicated by the word "FINAL," followed by the year (four digits), the month (two digits) and separated by a slash.

(q) *Marking sequence.* The marking required by paragraph (p) of this section must be placed in three groups as shown in the example below:

(1) The top grouping contains manufacturing marks and must appear consecutively in the sequence given in paragraphs (p)(12) through (19) of this section.

(2) The middle grouping contains operational marks described in paragraphs (p)(6) through (11) of this section.

(3) The bottom grouping contains certification marks and must appear consecutively in the sequence given in paragraphs (p)(1) through (5) of this section.



(r) *Other markings.* Other markings are allowed in areas other than the side wall, provided they are made in low stress areas and are not of a size and depth that will create harmful stress concentrations. Such marks must not conflict with required marks.

(s) *Marking of UN non-refillable pressure receptacles.* Unless otherwise specified in this paragraph, each UN non-refillable pressure receptacle must be clearly and legibly marked as prescribed in paragraph (p) of this section. In addition, permanent stenciling is authorized. Except when stenciled, the marks must be on the shoulder, top end or neck of the pressure receptacle or on a permanently affixed component of the pressure receptacle, for example a welded collar.

(1) The marking requirements and sequence listed in paragraphs (p)(1) through (19) of this section are required, except the markings in paragraphs (p)(8), (9), (12) and (18) are not applicable. The required serial number marking in paragraph (p)(14) may be replaced by the batch number.

(2) Each receptacle must be marked with the words "DO NOT REFILL" in letters of at least 5 mm in height.

(3) A non-refillable pressure receptacle, because of its size, may substitute the marking required by this paragraph with a label. Reduction in marking size is authorized only as prescribed in ISO 7225, Gas cylinders—Precautionary labels. (IBR, *see* § 171.7 of this subchapter).

(4) Each non-refillable pressure receptacle must also be legibly marked by stenciling the following statement: "Federal law forbids transportation if refilled-penalty up to $500,000 fine and 5 years in imprisonment (49 U.S.C. 5124)."

(5) No person may mark a non-refillable pressure receptacle as meeting the requirements of this section unless it was manufactured in conformance with this section.

70. In § 178.347–1, paragraph (d)(9) is revised to read as follows:

§ 178.347–1 General requirements.

* * * * *

(d) * * *

(9) UW–12 in Section VIII of the ASME Code does not apply to a weld seam in a bulkhead that has not been radiographically examined under the following conditions:

(i) The strength of the weld seam is assumed to be 0.85 of the strength of the bulkhead.

(ii) The welded seam must be a full penetration butt weld.

(iii) No more than one seam may be used per bulkhead.

(iv) The welded seam must be completed before forming the dish radius and knuckle radius.

(v) *Compliance test:* Two test specimens of materials representative of those to be used in the manufacture of a cargo tank bulkhead must be tested to failure in tension. The test specimen must be of the same thickness and joined by the same welding procedure. The test specimens may represent all the tanks that are made in the same facility within 6 months after the tests are completed. Before welding, the fit-up of the joints on the test specimens must represent production conditions that would result in the least joint strength. Evidence of joint fit-up and test results must be retained at the manufacturers' facility for at least 5 years.

(vi) *Acceptance criteria:* The ratio of the actual tensile stress at failure to the actual tensile strength of the adjacent material of all samples of a test lot must be greater than 0.85.

71. In § 178.603, paragraph (f)(4) is revised to read as follows:

§ 178.603 Drop test.

* * * * *

(f) * * *

(4) The packaging or outer packaging of a composite or combination packaging must not exhibit any damage liable to affect safety during transport. Inner receptacles, inner packagings, or articles must remain completely within the outer packaging and there must be no leakage of the filling substance from the inner receptacles or inner packagings.

* * * * *

72. In § 178.703, paragraph (a)(1)(viii) is revised to read as follows:

§ 178.703 Marking of IBCs.

(a) * * *

(1) * * *

(viii) The maximum permissible gross mass, in kg.

* * * * *

73. In § 178.955, published February 2, 2010 (75 FR 5400), and effective October 1, 2010, new paragraphs (c)(6) and (c)(7) are added to read as follows:

§ 178.955 General requirements.

* * * * *

(c) * * *

(6) *Remanufactured Large Packaging* is a metal or rigid Large Packaging that is produced as a UN type from a non-UN type or is converted from one UN design type to another UN design type. Remanufactured Large Packagings are subject to the same requirements of this subchapter that apply to new Large Packagings of the same type.

(7) *Reused Large Packaging* is a Large Packaging intended to be refilled and has been examined and found free of defects affecting its ability to withstand the performance tests. *See also* § 173.36(c) of this subchapter.

* * * * *

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

74. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

75. In § 180.207, in paragraph (c), in Table 1, between the right-hand column entries "Composite pressure receptacles" and "Pressure receptacles used for," a new entry "Metal hydride storage systems" is added in the right-hand column and the number"5" is added for the entry in the left-hand column.

76. In § 180.350, in paragraph (b), the second sentence is revised to read as follows:

§ 180.350 Applicability and definitions.

* * * * *

(b) * * * For the purposes of this subchapter, the replacement of the rigid inner receptacle of a composite IBC with one from the original manufacturer is considered repair. * * *

* * * * *

Issued in Washington, DC, on August 6, 2010, under authority delegated in 49 CFR part 106.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 2010–19952 Filed 8–23–10; 8:45 am]

BILLING CODE 4910–60–P

Federal Register

Tuesday,
August 24, 2010

Part III

Department of Defense

Science and Technology Reinvention Laboratory Personnel Management Demonstration Project, Department of the Navy (DON), Space and Naval Warfare Systems Center (SSC), SSC Atlantic and SSC Pacific; Notice

DEPARTMENT OF DEFENSE

Office of the Secretary

Science and Technology Reinvention Laboratory Personnel Management Demonstration Project, Department of the Navy (DON), Space and Naval Warfare Systems Center (SSC), SSC Atlantic and SSC Pacific

AGENCY: Office of the Deputy Under Secretary of Defense (Civilian Personnel Policy) (DUSD (CPP)), Department of Defense (DoD).

ACTION: Notice of proposal to design and implement a personnel management demonstration project.

SUMMARY: Section 342(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1995, Public Law (Pub. L.) 103–337 (10 U.S.C. 2358 note), as amended by section 1109 of NDAA for FY 2000, Public Law 106–65, and section 1114 of NDAA for FY 2001, Public Law 106–398, authorizes the Secretary of Defense to conduct personnel demonstration projects at DoD laboratories designated as Science and Technology Reinvention Laboratories (STRLs). The above-cited legislation authorizes DoD to conduct demonstration projects to determine whether a specified change in personnel management policies or procedures would result in improved Federal personnel management. Section 1105 of the NDAA for FY 2010, Public Law 111–84, 123 Stat. 2486, October 28, 2009, designates additional DoD laboratories as STRLs for the purpose of designing and implementing personnel management demonstration projects for conversion of employees from the personnel system which applied on October 28, 2009. The SSC Atlantic and SSC Pacific are listed in subsection 1105(a) of NDAA for FY 2010 as two of the newly designated STRLs. These two STRLs will be the participants in the demonstration project proposal described in this **Federal Register** notice (FRN).

DATES: The SSC Atlantic and SSC Pacific demonstration project proposal may not be implemented until a 30-day comment period is provided, comments addressed, and a final **Federal Register** notice published. To be considered, written comments must be submitted on or before September 23, 2010. Implementation of this demonstration project, once approved, will begin no earlier than February 1, 2011, and no later than April 28, 2011.

ADDRESSES: Send comments on or before the comment due date by mail to Ms. Betty A. Duffield, CPMS–PSSC, Suite B–200, 1400 Key Boulevard, Arlington, VA 22209–5144; by fax to (703) 696–5462; or by e-mail to *Betty.Duffield@cpms.osd.mil.*

FOR FURTHER INFORMATION CONTACT:

SSC Atlantic: Mr. Erick Fry, SSC Atlantic STRL Transition Project Lead, SSC Atlantic, P.O. Box 190022, North Charleston, SC 29419–9022: or via e-mail: *Erick.fry@navy.mil.*

SSC Pacific: Mr. Michael McMillan, SSC Pacific STRL Transition Project Lead, Space and Naval Warfare Systems Center Pacific, 53560 Hull Street, San Diego, CA 92152–5001; or via e-mail: *Michael.mcmillan1@navy.mil.*

SUPPLEMENTARY INFORMATION:

1. Background

SSC Atlantic and SSC Pacific are in a unique position relative to most DoD STRL laboratories. They previously participated in the development of and operated under the China Lake/Naval Ocean Systems Center demonstration project before being converted to the National Security Personnel System (NSPS). As a direct result of these personnel system experiences, SSC Atlantic and SSC Pacific have the benefit of being in earlier personnel systems designed to correct and alleviate shortfalls related to flexibilities in hiring, compensating, and retaining employees while assessing performance and its results in a dynamic environment. Given this exposure, SSC Atlantic and SSC Pacific consider STRL conversion an ideal evolutionary opportunity in employee management, and further intend to incorporate the most effective philosophies, methods, practices, and procedures from both legacy systems, as well as the experiences of other DoD STRL projects.

The Centers' organizational experience indicates that the contribution-based personnel management and compensation methodology affords the best opportunity to appropriately evaluate and compensate employees, while emphasizing the employees' contributions towards organizational goals and objectives.

SSC Atlantic and SSC Pacific must be able to compete with the private sector for the best talent, and be able to make job offers in a timely manner with the attendant compensation that attracts high-quality employees. Once these employees are hired, it is necessary to have the means to appropriately reward and incentivize their contribution to ensure that the creative and motivational process is continually renewed. Compensation must be directly linked to the levels of individual contributions to the organization. High contributors must be rewarded both to encourage their continued contributions and to increase the probability of their retention. Similarly, lower contributing individuals should receive less compensation than high contributors and unacceptable performance must be addressed by appropriate corrective measures, *e.g.,* an improvement plan, demotion, or removal. Compensation must also be appropriate to the position held and its responsibilities relative to the organizational goals.

The Systems Centers will also take advantage of flexibilities that will simplify and speed classification and staffing actions for employees, such as competitive examining, expanded details and temporary promotions, and modified term appointments.

2. Overview

The NDAA for FY 2010 not only designated new STRLs but also repealed the National Security Personnel System (NSPS) mandating conversion of NSPS covered employees to their former personnel system or one that would have applied absent the NSPS. A number of SSC Atlantic and SSC Pacific employees are covered by the NSPS and must be converted to another personnel system. Section 1105 of NDAA for FY 2010 stipulates the STRLs designated in subsection (a) of section 1105 may not implement any personnel system, other than a personnel system under an appropriate demonstration project as defined in section 342(b) of Public Law 103–337, as amended, without prior congressional authorization. In addition, any conversion under the provisions of section 1105 shall not adversely affect any employee with respect to pay or any other term or condition of employment; shall be consistent with title 5 United States Code (U.S.C.) 4703(f); and shall be completed within 18 months after enactment of NDAA for FY 2010. Therefore, since SSC Atlantic and SSC Pacific are both designated STRLs by section 1105 of NDAA for FY 2010 and have NSPS covered employees, they must convert, at a minimum, their NSPS covered employees to a personnel management demonstration project before the end of April 2011.

3. Access to Flexibilities of Other STRLs

Flexibilities published in this **Federal Register** shall be available for use by the STRLs previously enumerated in section 9902(c)(2) of title 5, United States Code, which are now designated in section 1105 of the NDAA for FY 2010, Public Law 111–84, 123 Stat. 2486, October 28, 2009, if they wish to adopt them in

accordance with DoD Instruction (DoDI) 1400.37; pages 73248 to 73252 of volume 73, **Federal Register**; and after the fulfilling of any collective bargaining obligations.

Dated: August 18, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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I. Introduction

A. Purpose

The goal of this personnel demonstration project is to implement a personnel management system incorporating the practices from existing STRL and other personnel management systems best suited to the specific needs of SSC Atlantic and SSC Pacific. As the Navy's leader in Command, Control, Communications, Computers, Intelligence, Surveillance, and Reconnaissance (C4ISR), SSC Atlantic and SSC Pacific must be able to attract, hire, and retain the best scientists, engineers, business, and support personnel in the labor market. The organization's human resources management authorities, policies, and practices must have the flexibility needed to respond quickly to changes in mission, organizational constraints, workload, and market conditions. Unless specifically stated otherwise, the Technical Directors/Commanding Officers of SSC Atlantic and SSC Pacific may delegate their authority to effectively implement the provisions of this notice. Any such delegations, including details of implementation, will be documented by local business rules and/or implementing instructions.

Many aspects of a demonstration project are experimental. Modifications may be made from time to time as experience is gained, results are analyzed, and conclusions are reached on how the system is working. The provisions of this project plan will not be modified, or extended to individuals or groups of employees not included in the project plan without the approval of the DUSD(CPP). The provisions of DoDI 1400.37 are to be followed for any modifications, adoptions, or changes to this demonstration project plan.

B. Expected Benefits

In order to remain the DON leader in C4ISR, SSC Atlantic and SSC Pacific must be able to compete with the private sector for the most talented, technically proficient candidates, and must have in place a system that fosters their development, enhances their performance and experience, and provides a strong retention incentive.

The SSC STRL demonstration project must enable and enhance:

1. The ability to attract highly qualified scientific, technical, business,

and support employees in today's competitive environment;

2. The ability to select personnel and make job offers in a timely and efficient manner, with the attendant compensation that attracts high-quality, in-demand employees;

3. Improved employee satisfaction with pay setting and adjustment, recognition, and career advancement opportunities;

4. Human Resource (HR) flexibilities needed to staff, shape, and adjust to evolving requirements associated with sustaining a quality workforce for the future;

5. Increased retention of high-level contributors; and

6. Simpler and more cost effective HR management processes.

To effectively meet the above expectations, the SSC STRL demonstration project has identified and established in this notice those features and flexibilities that provide the mechanisms to achieve its objectives. Those features and flexibilities alone, however, will not ensure success.

The nature of the SSC STRL and its ambitious workforce goals will require human resources support at an enhanced level. A traditional process-oriented and reactive construct will serve neither the mission nor the management needs of the two organizations. A primary emphasis of the SSC demonstration project is its streamlined hiring, sophisticated contribution-based compensation system, talent acquisition/retention, and professional human capital planning and execution. Accordingly, successful execution of that vision includes a human resources service delivery model that is highly proactive, expertly skilled in analytical tools, and fully capable of engaging as a strategic partner and trusted agent of a modern multi-faceted defense laboratory.

C. Participating Organizations, Employees, and Union Representation

Both SSC Atlantic and SSC Pacific will participate in the project. The primary sites of SSC Atlantic and SSC Pacific are in two major geographic locations, Charleston, SC, and San Diego, CA respectively, but the organizations employ personnel at more than two dozen locations worldwide. Locations are diverse in employment profiles and size, ranging from several thousand personnel, to a single embedded employee. Both major SSC sites are engaged in the full spectrum of research, development, test and evaluation, engineering, and fleet support.

Both SSC Atlantic and SSC Pacific are predominantly Navy Working Capital Fund organizations. Instead of receiving congressionally appropriated funds, operations are funded by dollars received from other government agencies on a fee-for-service/break-even basis. In order to fully meet naval requirements and successfully assist in the execution of the Navy's mission, SSC Atlantic and SSC Pacific must maximize management effectiveness and efficiency in order to control expenditures, which support a cost competitive position as compared with other government agencies.

SSC Atlantic's and SSC Pacific's STRL personnel management demonstration project is intended to govern all SSC Atlantic and SSC Pacific employees with the following exceptions: Bargaining Unit employees (as stipulated in the paragraph below), Federal Wage System employees, Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) personnel.

SSC Atlantic's and SSC Pacific's human capital complement includes a small number of employees (under 150 total) that are represented by exclusive bargaining units. Prior to including any employees in bargaining units in the STRL demonstration project, SSC Atlantic and SSC Pacific will fulfill their obligation to consult and/or negotiate with these labor organizations in accordance with 5 U.S.C. 4703(f) and 7117, as appropriate. Figure 1–1 identifies SSC Atlantic and SSC Pacific employees by major geographic location.

D. Project Overview

In response to the authority granted by Congress to develop a personnel management demonstration project, SSC Atlantic and SSC Pacific chartered a Transition Team tasked with the design and implementation of the new demonstration project plan. The joint team is responsible for developing all associated deliverables, proposals, and implementation details. The Transition Team developed its initial concept as a result of information-seeking and assistance visits at the NRL, Office of Naval Research, and Naval Sea Systems Command, Surface Warfare Center, Dahlgren Division, as well as from consultative sessions with numerous other STRL laboratory representatives across the DoD. The Transition Team continues to solicit and receive information and advice from the DUSD(CPP), DoD Civilian Personnel Management Service, and a number of organizations with ongoing demonstration projects. Information and suggestions have been solicited from SSC Atlantic and SSC Pacific employees through an ongoing series of interviews, briefings, and small-group meetings.

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Figure 1-1. Employee Distribution by Geographic Location

Location	State	Employees	Bargaining Unit Members
MOBILE	AL	1	
MANAMA	BAHRAI	1	
SAN DIEGO	CA	3767	
MONTEREY	CA	2	
TWENTY NINE PALMS	CA	4	
PASADENA	CA	1	
NEW LONDON	CT	8	
COLORADO SPRINGS	CO	9	
WASHINGTON	DC	163	
PANAMA	FL	94	
TAMPA	FL	48	
KINGS BAY	GA	6	
WARNER ROBINS	GA	4	
STUTTGART	GER	37	
BARRIGADA	GUAM	39	2
HONOLULU	HI	314	
KAPOLEI	HI	1	
LAFAYETTE	IN	1	
RIGBY	ID	1	
NAPLES	ITALY	4	
SIGONELLA	ITALY	1	
YOKOSUKA	JAPAN	36	
YOKOTA AFB	JAPAN	1	
OKINAWA / SASEBO / ZUKERAN	JAPAN	6	
SEOUL	KOREA	1	
NEW ORLEANS	LA	187	
BATH	ME	1	
ABERDEEN/INDIAN HD/LEXINGTON	MD	3	
ANNAPOLIS/FT MEADE/NMIC	MD	4	
PATUXENT RIVER/SUITLAND	MD	24	
MINNEAPOLIS	MN	1	
ST LOUIS	MO	1	
STENNIS SPACE	MS	2	
LEJEUNE/FAYETVILLE/FT.BRAGG/M	NC	17	
LA MOURE	ND	1	
NASHUA	NH	2	
ALBUQUERQUE/KIRTLAND AFB	NM	2	
WRIGHT PATTERSON AFB	OH	1	
PHILADELPHIA	PA	95	
LESTER/NEWTON/PITTSBURGH	PA	4	
NEWPORT/NAVAL BASE	RI	2	
CHARLESTON/GREENVILLE/SHAW	SC	2092	
LACKLAND AFB	TX	2	
LONDON	UK	2	
NORFOLK/ VA BEACH/CHESAPEAKE	VA	494	144
ARLINGTN/CHANTILLY/CHECK/FALL	VA	20	
SEATTLE	WA	10	
MARINETTE	WI	1	
TOTAL		7518	146
Data Valid 02/02/10			

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II. Methodology

A. Project Design

There are four fundamental elements of the SSC STRL personnel management system. The fundamentals are (1) hiring and staffing flexibilities, (2) simplified classification, (3) pay banding, and (4) contribution-based compensation and assessment. The hiring and staffing flexibilities are being implemented in order to better recruit, hire, and retain the most capable, qualified, and competent workforce in the job market today. Simplified classification is being implemented to streamline the job classification process, simplify the effects of administrative processes on personnel, and allow for more flexibility in making job reassignments. The pay banding structure will create five career paths with multiple pay bands within each career path representing the phases of career progression that are typical for the respective careers. This banding structure will enable managers to more appropriately reward and retain a diverse workforce using principles of pay equity and career progression. The contribution-based compensation system is characterized by an assessment of an employee's contribution to the organization and an appropriate pay allocation predicated on the assessed level of contribution. The contribution-based compensation and assessment is being implemented to more appropriately recognize and

reward the employees' overall efforts and results.

While much of the demonstration project will be applied uniformly across both Systems Centers, there are decisions that will be delegated to the respective Systems Centers so that the needs and cultures of those organizations may be taken into account. Decisions at the local level will be made through established governance boards set up by the appropriate Center Technical Director or Commanding Officer.

B. Personnel System Changes

1. Hiring and Appointment Authorities

a. Expanded Detail Authority

SSC Atlantic and SSC Pacific will have an Expanded Detail Authority providing the ability to: (1) Effect details up to one year to specified positions at the same or similar level without the current 120-day renewal requirement specified at 5 U.S.C. 3341; and (2) effect details to a higher level position up to 1 year within a 24-month period without competition. Details to higher level positions beyond one year in a 24-month period require approval of the Technical Director/Commanding Officer and are subject to competitive procedures. The specifics of these authorities will be stipulated by local business rules, policies, or procedures as organizational experience dictates.

b. Non-Citizen Hiring

Where Executive Orders or other regulations limit hiring non-citizens to the excepted service, both SSC Atlantic and SSC Pacific will have the authority to approve the hiring of non-citizens into competitive service positions when there are no qualified U.S. citizens, and the candidate meets all applicable immigration and security requirements. In order to make a determination that there are no qualified candidates, the position will be advertised extensively using paid advertisements in venues such as major newspapers, scientific journals, and electronic media as well as through "normal" recruiting methods. If a non-citizen candidate is the only qualified candidate for the position, the candidate may be appointed. The selection is subject to approval by the SSC Atlantic and SSC Pacific Technical Director/Commanding Officer. This authority will not be delegated further.

c. Extended Probationary/Trial Period

(1) *Initial Probationary Period.* Candidates hired under the demonstration project into positions classified to the Science and Engineering and Administrative Specialist/Professional occupational families (the nature of whose work requires the manager to have more than one year to assess the employee's job performance) will serve a three-year probationary/trial period. Personnel assigned to positions classified to the Science and Engineering Technical/Technician and General Support occupational families will serve a one-year probationary/trial period.

(2) *Supervisory Probationary Period.* Personnel assigned for the first time to supervisory/managerial positions which have a career path pay plan indicator of NM will serve a one-year supervisory probationary period. The one-year supervisory/managerial probationary period may run concurrently with the required initial probationary period for the occupational family to which an employee's position is classified.

(3) *Transitional Probationary Periods.* Any personnel entering the demonstration project from another Federal government personnel management system, who have served an initial or supervisory probationary period under that system, will be deemed to have met the SSC STRL probationary period requirements. Personnel transitioning into the SSC STRL demonstration project who have begun, but have not yet completed an initial or supervisory probationary period under another Federal government system, will have met the probationary requirements of SSC STRL when they have completed the terms of the initial and/or supervisory probationary periods under which they were hired or placed.

(4) *Termination of Initial Probationary Period Employees.* Initial probationary employees may be terminated when they fail to demonstrate proper conduct, technical competency, and/or acceptable performance for continued employment, and for conditions arising before employment. When a supervisor decides to terminate an employee during the initial probationary period because his/her work performance or conduct is unacceptable, the supervisor shall terminate the employee's services by written notification stating the reasons for termination and the effective date of the action. The information in the notice shall, at a minimum, consist of the supervisor's conclusions as to the inadequacies of the employee's performance or conduct, or those conditions arising before employment that support the termination.

(5) *Termination of a Supervisory Probationary Period.* The supervisory probationary period may be terminated when supervisors fail to demonstrate proper conduct, technical competency, and/or acceptable performance for continued assignment as a supervisor, and for conditions arising before supervisory assignment. When a supervisory probationary period is terminated by the supervisor (the manager) of the supervisor in question the manager shall terminate the supervisory assignment by written notification stating the reasons for supervisory assignment termination and the effective date of the action. The information in the notice shall, at a minimum, consist of the manager's conclusions as to the inadequacies of the supervisor's performance or conduct, or those conditions arising before supervisory assignment that support the termination of the assignment.

(6) All initial and supervisory probationary period requirements will be outlined in local business rules, policies, or procedures. Preference eligibles will maintain their rights under applicable law and regulation in both the competitive and excepted service.

d. Expanded Term Appointments

The Systems Centers perform engineering and scientific work that often has project durations of three to six years. The current four-year limitation on term appointments, as described in 5 CFR part 316, imposes a burden on the Centers by forcing the termination of some term employees prior to completion of projects they were hired to support. This disrupts the engineering and acquisition process and reduces the Centers' ability to serve their customers. Under the demonstration project, SSC Atlantic and SSC Pacific have the authority to appoint individuals under modified term appointments for a period of more than one year but not more than five years when the need for an employee's services is not predicted to be permanent. These appointments may be extended one additional year for a total of six years. Employees hired under the modified term appointment authority may be eligible for conversion to career or career-conditional appointments in the competitive service. To be converted, the employee must have: (1) Been selected for the term position under competitive procedures, with the announcement specifically stating that the individual(s) selected for the term position(s) may be eligible for conversion to a career or career-conditional appointment at a later date; (2) served a minimum of two years of continuous service in the term position; and (3) have a current contribution score consistent with acceptable contribution/performance criteria as

established by each Systems Center. Applicable probationary periods apply to both temporary and permanent positions.

Employees serving under term appointments at the time of conversion to the SSC STRL demonstration project may be converted to modified term appointments provided they were hired for their current positions under competitive procedures. These employees may be eligible for conversion to career-conditional or career appointments provided they have completed at least two years of continuous service, and are performing at a satisfactory level. Should this criterion not be met, legacy term employees will remain on existing appointments until the not-to-exceed date or until some other terminating event occurs. These appointments may be extended in accordance with the requirements of 5 CFR part 316. The positions under this feature will be defined by local business rules, policies, or procedures.

e. Voluntary Emeritus Program

SSC Atlantic and SSC Pacific will establish a Voluntary Emeritus Program. Under the demonstration project, the Systems Centers' Technical Directors/Commanding Officers have the authority to offer retired or separated employees in Science and Engineering (S&E) or Administrative/Professional occupational families (*see* Appendix B) voluntary assignments (non-paid) in the Centers. This authority may not be further delegated. The Voluntary Emeritus Program ensures continued quality research, mentoring, support, and program management while reducing the overall base pay by allowing higher paid employees to retire with the opportunity to retain a presence in the Center's workplace. The program is beneficial during manpower reductions as senior personnel accept retirement and return to provide valuable on-the-job training or mentoring to less experienced employees. This authority includes employees who have retired or separated from Federal service. Voluntary Emeritus Program assignments are not considered employment by the Federal government, except for purposes of on-the-job injury compensation. Thus, such assignments do not affect an employee's entitlement to retain buyouts or severance payments based on an earlier separation from Federal service.

To be accepted into the Voluntary Emeritus Program, a volunteer must be recommended by a manager within the Centers. Everyone who applies is not automatically entitled to a voluntary assignment. The process must be clearly documented and records retained at the command level in accordance with established business rules, procedures, or processes.

To encourage participation, the volunteer's Federal civilian or military retirement pay will not be affected while serving in a voluntary capacity.

Volunteers are not permitted to monitor contracts on behalf of the government or to participate on any contracts or solicitations where a conflict of interest exists.

An agreement is established between the volunteer and the respective Center and is reviewed by the local legal counsel representative. The agreement must be finalized in advance and shall include as a minimum:

(1) A statement that the voluntary assignment does not constitute an appointment in the Civil Service and is without pay or any other form of compensation;

(2) The volunteer waives any and all claims against the Government because of the voluntary assignment except for purposes of on-the-job injury compensation as provided in 5 U.S.C. 8101(1)(B);

(3) Volunteer's work schedule as needed or requested;

(4) Length of agreement (defined by length of project or time defined by weeks, months, or years);

(5) Support provided by the Center (travel, administrative, office space, supplies);

(6) A provision that states no additional time will be added to a volunteer's service credit for such purposes as retirement, severance pay, and leave as a result of being a member of the Voluntary Emeritus Program;

(7) A provision allowing either party to void the agreement with written notice to the other. (There are no appeal or grievance rights for a volunteer); and

(8) The level of security access required—any security clearance required by the assignment is managed by the appropriate Systems Center while the volunteer is a member of the Voluntary Emeritus Program.

f. Direct Hire Authority for Candidates With Advanced Degrees for Scientific and Engineering Positions

(1) Background

The Systems Centers have an urgent need for direct hire authority to appoint qualified candidates possessing an advanced degree to scientific and engineering positions in competitive and excepted service. The market is extremely competitive with industry and academia for the small supply of highly-qualified and security clearable candidates with a Masters Degree or PhD in science or engineering. There are 35,000 scientists and engineers employed in the DoD laboratories; 27% hold Masters Degrees, while 10% are in possession of a PhD. The Systems Centers employ around 3,308 S&Es; 29% holding Masters Degrees, while 4% are in possession of a PhD. Over the next five years, the Systems Centers plans to hire approximately 400 of the country's best and brightest S&Es just to keep pace with attrition. This number does not reflect the impact of other actions affecting the demand of S&Es in the Systems Centers, *e.g.,* Base Realignment and Closure, in-sourcing, and other initiatives which add to the increased demand for scientific and engineering expertise. Additionally, statistics indicate that the available pool of advanced degree, clearable candidates is substantially diminished by the number of non-U.S. citizens granted degrees by U.S. institutions. For instance, in 2006, 20% of Masters Degrees in science and over 35% of PhDs in science were awarded to temporary residents.

It is expected that this hiring authority, together with streamlined recruitment processes, will be very effective in accelerating the hiring process for candidates possessing a PhD. For instance, under a similar authority in the National Defense Authorization Act for Fiscal Year 2009, section 1108 (Pub. L. 110–417), October 28, 2009, one STRL had fifteen PhD selectees in 2009 for the sixteen vacancies for which they were using this hiring authority. Another STRL, using this expedited hiring authority in calendar year 2009, made thirty firm hiring offers in an average of thirteen days from receipt of paper work in the Human Resources Office. Of these thirty selectees, twenty-three possessed PhDs.

(2) Definitions:

(a) Scientific and engineering positions are defined as all professional positions in scientific and engineering occupations (with a positive education requirement) utilized by the Centers.

(b) An advanced degree is a Master's or higher degree from an accredited college or university in a field of scientific or engineering study directly related to the duties of the position to be filled.

(c) Qualified candidates are defined as candidates who:

i. Meet the minimum standards for the position as published in OPM's operating manual, "Qualification Standards for General Schedule Positions," or the laboratory's

demonstration project qualification standards specific to the position to be filled;

ii. Possess an advanced degree; and

iii. Meet any selective factors.

(d) "Employee" is defined by section 2105 of title 5, U.S.C.

(3) Provisions:

(a) Use of this appointing authority must comply with merit system principles when recruiting and appointing candidates with advanced degrees to covered occupations.

(2) Qualified candidates possessing an advanced degree may be appointed to both competitive and excepted service without regard to the provisions of subchapter 1 of chapter 33 of title 5, United States Code, other than sections 3303, 3321, and 3328 of such title.

(3) The hiring threshold for this authority shall be consistent with DoD policy and legislative language as expressed in any National Defense Authorization Act addressing such.

(4) When completing the personnel action, the following will be given as the authority for the Career-Conditional, Career, Term, Temporary, or special demonstration project appointment authority: Section 1108, NDAA for FY 09.

(5) This authority will be administered by the servicing Human Resource Office and Human Resources Service Center in accordance with the Department of Navy's common business processes, systems and tools.

(6) Evaluation of this hiring authority will include information and data on its use such as numerical limitation, hires made, declinations, how many veterans hired, declinations, difficulties encountered, and/or recognized efficiencies in accordance with established internal business rules, policies, or procedures.

g. Delegated Examining

The Systems Centers need a process that will allow for the rapid filling of vacancies, is less labor intensive, and is responsive to the needs of the Centers.

(1) *Delegated Examining Authority.* The Systems Centers propose to demonstrate a streamlined examining process for both permanent and non-permanent positions. Competitive service positions with SSC ATLANTIC and SSC PACIFIC will be filled through Merit Staffing or under Delegated Examining. This authority will be administered by the applicable servicing Human Resource Office and Human Resources Service Center consistent with veterans' preference and merit principles in accordance with the Department of Navy's common business processes, systems, and tools.

(2) *Description of Examining Process:* The primary change in the examining process to be demonstrated is the elimination of consideration according to the "rule of three." When there are no more than 15 qualified applicants and no preference eligibles, all eligible applicants are immediately referred to the selecting official without rating or ranking. Rating and ranking will be required only when the number of qualified candidates exceeds 15 or there is a mix of preference and non-preference applicants. Statutes and regulations covering veterans' preference will be observed in the selection process and when rating and ranking are required.

h. Distinguished Scholastic Achievement Appointments

SSC Atlantic and SSC Pacific Distinguished Scholastic Achievement Appointment Authority (DSAA) uses an alternative examining process which provides the authority to appoint individuals with undergraduate or graduate degrees through the doctoral level to positions up to the equivalent of GS–12 for positions in the S&E pay bands. This enables both Centers to respond quickly to hiring needs for eminently qualified candidates possessing distinguished scholastic achievements.

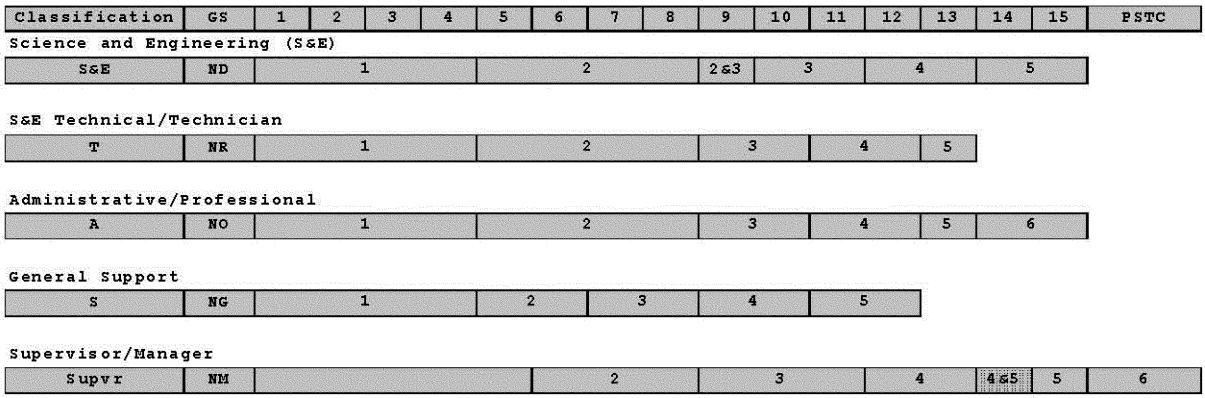
Candidates may be appointed provided they meet the minimum standards for the position as published in OPM's operating manual, "Qualification Standards for General Schedule Positions," and the candidate has a cumulative grade point average of 3.5 (on a 4.0 scale) or better in their field of study (or other equivalent score) or are within the top 10 percent of a university's major school of graduate studies.

Preference eligibles who meet the above criteria will be considered ahead of non-preference eligibles. In making selections, to pass over any preference eligible(s) to select a non-preference eligible requires approval under current objection procedures.

2. Career Path Pay Band Structure

A fundamental element of the Centers' demonstration project is a simplified classification and pay component. Like other STRL demonstration projects, the proposed pay banding approach is tied to the fifteen GS grade levels and the above GS–15 level (discussed in paragraph II.B.2.c), and reduces them into five to six pay bands within a career path (Figure 2–1). GS occupations are further broken down into five separate career paths: Science and Engineering (ND), S&E Technical/Technician (NR), Administrative Specialist/Professional (NO), General Support (NG), and Supervisor/Manager (NM). In the figure below, dotted areas in the ND and NM pay bands are indicative of an overlap in pay, rather than a separate pay band. For example, the ND 2 pay band begins at the equivalent of the GS–5, step 1, and ends at the GS–9, step 10; while the ND 3 band begins at the equivalent of the GS–9, step 1, and ends at the GS–11, step 10.

Figure 2-1. SSC STRL Career Path and Pay Band Structure



SSC STRL will develop new and streamlined career path pay band descriptors that will replace the OPM classification standards. While the SPAWAR pay band descriptors will be based on OPM classification standards, they will be different in that these generic pay band descriptors encompass multiple occupational series and provide maximum flexibility for the organization to assign individuals consistent with the needs of the organization and the individual's qualifications. These generic career path pay band descriptors will include the essential criteria for each pay band within each career path by listing the characteristics of the work, the responsibilities of the position, and the skills required to perform the function. New pay band descriptors will make personnel packages easier to prepare by minimizing writing time and will be a more useful tool for other management functions. Career progression between pay bands will occur by promotion or through seamless pay band movement (paragraph II.B.2.d), and pay progression within pay bands will occur primarily through contribution-based pay.

a. Career Paths

The Systems Centers classification system will be based upon career paths and pay bands. Occupations with similar characteristics (as defined under OPM guidance) will be grouped together into one of five career paths, with pay bands designed to facilitate pay progression. Each career path will be composed of pay bands corresponding to recognized advancement and career progression expected within the occupations. Pay bands will replace individual grades and will not be the same in each career path. The designated career paths are: Science and Engineering (S&E) (ND), S&E Technical/Technician (NR), Administrative Specialist/Professional (NO), General Support (NG), and Supervisor/Manager (NM). Like the other STRL Demonstration projects, the GS classification occupational series would be retained. SSC STRL currently has positions in approximately 156 occupational series in 16 occupational groupings. Titles of the career paths and associated classification occupational series for each path are provided in Appendices A and B respectively. The distribution of the occupational series to career paths reflects only those occupational series which currently exist within the two Systems Centers. Additional occupational series may be added as a result of changes in mission requirements or OPM recognized occupations. These additional occupational series will be placed in the appropriate career path consistent with the established career path definitions.

The Science and Engineering career path includes professional engineering and scientific positions in the physical, biological, psychological (engineering psychology), mathematical, and computer sciences and student positions for training in these disciplines. Specific course work or educational degrees are required for these occupations. Employees with advanced degrees or qualifications may be advanced more rapidly, or hired at higher pay bands than others. Occupational series and their titles included in this career path are listed in Appendices A and B. Five pay bands have been established for the Science and Engineering career path.

The Technical/Technician career path includes the nonprofessional technician positions that support scientific and engineering activities through the application of various skills and techniques in electrical, mechanical, physical science, biology, mathematics, information technology and computer fields, and student positions for training in these disciplines. This career path includes positions such as computer technician, engineering technician, and physical sciences technician. Employees in these positions may or may not require specific course work, and will otherwise progress through bands on the basis of evaluated contribution. Specific series and their titles included in this career path are listed in Appendices A and B. Five pay bands have been established for this career path.

The Administrative Specialist/Professional career path includes the professional or specialist positions in such administrative, technical, and managerial fields as finance, procurement, human resources, information technology, legal, librarianship, public information, safety, social sciences, program and project management, and analysis, and student positions for training in these disciplines. This career path includes legal counsel, management and other analysts, finance, accounting, contract specialists, and information technology managers. Employees in this career path may or may not have specific educational requirements, and will otherwise advance through bands based on evaluated contribution. Series and their titles included in this career path are listed in Appendices A and B. Six pay bands have been established for this career path.

The General Support career path includes the assistant and clerical positions providing support in such fields as budget, finance, supply, human resources; positions providing support through application of typing, clerical, or secretarial knowledge and skills; and student positions for training in these

disciplines. This career path includes mail and correspondence clerks, typists, purchasing, contracting, and legal clerks/assistants, and property disposal technicians. Employees in this career path may or may not have specific educational requirements, and will otherwise advance through bands based on evaluated contribution. Series and titles included in this career path are listed in Appendices A and B. Five pay bands have been established for this career path.

The Supervisor/Manager career path includes employees performing the supervisory functions listed as follows: Assign work to subordinates based on priorities, difficulty of assignment, and the capabilities of employees; provide technical or specialized oversight; develop contribution plans and rate employees; interview candidates for subordinate positions; recommend hiring, promotion, or reassignments; take corrective action, such as warnings and reprimands; identify developmental and training needs of employees; and provide and arrange for needed training. A supervisory position cannot be established on the basis of only one subordinate position. A supervisory position cannot be established on the basis of contractor personnel. The Supervisor/Manager career path can include any series. Placement within the supervisory career path will take into account the level of work of the employees being supervised as well as the level of the non-supervisory duties. Employees in this career path may or may not have specific requirements as established by internal business rules, policies, or procedures, and will otherwise advance through bands based on evaluated contribution. Six pay bands have been established for this career path (this career path omits pay band 1 to maintain numerical parity with other career paths).

b. Career Path Pay Bands and Levels of Responsibility

A fundamental purpose of pay banding is to make the distinctions between levels easier to discern and more meaningful. The wider scope of classification criteria with pay bands provides more flexibility in moving individuals to other positions quickly within the pay band as mission needs dictate. These wider pay ranges provide a better ability to offer more competitive starting salaries to attract candidates to highly specialized positions and appropriate compensation for work results achieved thereby increasing retention. The basis for the demonstration project pay system is each pay band having a base pay that exactly corresponds to base pay of the encompassed GS grade levels. This continued linkage with the GS system will result in adjustments to the pay band base pay ranges through future general pay increases under the GS System. Within each career path, pay bands typically include the following categories of positions: Student trainee and/or entry level, developmental, full performance level, and expert.

With fewer classification grades of difficulty and responsibilities of work than the General Schedule, the level of responsibility reflected in each pay band typically encompasses the responsibilities of two or more GS grades. For example, the responsibilities of a pay band covering work at the full performance level may represent a synthesis of GS–10 and GS–11 responsibilities.

The S&E ND 2 and ND 3 pay bands overlap at the GS–9 level. Some of the engineers and scientists with a Bachelor of Science degree are hired with a starting base salary pay that exceeds the equivalent of a GS–8, step 10. In order to continue to accommodate the current flexibility of our managers to set base pay at this level, a pay band that extends to the GS–9, step 10-equivalent, yet at the same time accommodates classification of entry-level duties at the GS–7 level, is required. Furthermore, master's degree scientists and engineers are hired at the base pay equivalent of a GS–10 or GS–11, but the pay band still needs to accommodate classification of duties at the GS–9 level. In order to do this, both an entry-level pay band that goes up to the GS–9, step 10, and a second level pay band that begins at the GS–9, step 1, are required. The Systems Centers' experience with very wide pay bands for developmental positions was somewhat problematic for managers and supervisors. Due to the inconsistency in application and timing of promotions, there was a wide variation in base pay for employees performing similar functions. In order to overcome this potentially confusing scenario, SSC STRL will implement an additional level in the pay band, as has previously been employed by NAVSEA in other pay bands. NAVSEA introduced the overlapping GS level in their Administrative/Technical NT pay band at the GS–14 equivalent level in both NT 5 and NT 6. For the SSC STRL demonstration project, the overlap at the GS–9 level in the ND 2 and ND 3 pay bands allows more flexibility in adjusting base pay of our employees to an appropriate level, commensurate with contribution.

c. Above GS–15

The pay banding plan for the Supervisor/Manager career path includes a pay band 6 to accommodate classification of professional scientific and engineering positions having duties and responsibilities that exceed the GS–15 classification criteria. This pay band is based on the Above GS–15 position concept found in other STRL personnel management demonstration projects that was created to solve a critical classification problem. The STRLs have positions warranting classification above GS–15 because of their technical expertise requirements including inherent supervisory and managerial responsibilities. However, these positions are not considered to be appropriately classified as Scientific and Professional Positions (STs) because of the degree of supervision and level of managerial responsibilities. Neither are these positions appropriately classified as Senior Executive Service (SES) positions because of their requirement for advanced specialized scientific or engineering expertise and because the positions are not at the level of general managerial authority and impact required for an SES position.

The original Above GS–15 Position concept was to be tested for a five-year period. The number of trial positions was set at 40 with periodic reviews to determine appropriate position requirements. The Above GS–15 Position concept is currently being evaluated by DoD management for its effectiveness; continued applicability to the current STRL scientific, engineering and technology workforce needs; and appropriate allocation of billets based on mission requirements. The degree to which the Centers plan to participate in this concept and develop classification, compensation and performance management policy, guidance, and implementation processes will be based on the final outcome of the DoD evaluation.

d. Seamless Movement to a Higher Pay Band Level

Under the SSC STRL demonstration project, non-competitive movement to a higher pay band may occur via the current accretion of duties process, as determined by local business rules, and in accordance with DoD/DON guidance and regulation; and once a year as a direct result of the Contribution Assessment and Recognition System (CARS) process (*see* paragraph II.B.5), as long as certain specific conditions are met. Movement to pay band 6 of the NM pay plan will be governed by DoD guidance and regulation. A key concept

of the demonstration project is that career growth in a career path may be accomplished by movement through a career path's pay bands by significantly increasing levels of responsibilities, scope of work, and duties providing opportunities for increasing employee contributions toward the organizational mission. An employee's contribution is a reflection of his/her contribution score, which is derived from the employee's performance relative to contribution elements. Because contribution elements are written at progressively higher levels of expected contribution, and equate therefore to work performed at higher pay band levels, higher scores reflect that the employee's contribution is equivalent to the pay band level associated with the score he/she is awarded.

The pay band level of a position may be increased when an employee consistently contributes at the higher pay band level through increased expertise and by performing expanded duties and responsibilities commensurate with the higher pay band's contribution elements. If an employee's contributions consistently enhance and broaden the scope, nature, intent and expectations of the position and are reflective of higher pay band level contribution elements, the classification of the position can be updated accordingly. This form of movement through pay bands in a career path is referred to as a seamless pay band movement and can only happen within the same career path; employees cannot cross over career paths through this process. The criteria is similar to that used in SSC Atlantic's and SSC Pacific's current accretion of duties process and must be met for an employee to move seamlessly to the higher pay band level. For this movement to occur: (1) The employee's current position is absorbed into the reclassified position, with the employee continuing to perform the same basic duties and responsibilities, albeit at a higher level and (2) the employee's current position is reclassified to a higher pay band as a result of additional higher level duties and responsibilities. No additional pay band movement to another higher pay band level is guaranteed. It may take a number of years for contribution levels to increase to the extent a pay band move is warranted, and not all employees will achieve the increased contribution levels required for such moves.

Movement to a higher level pay band may be "triggered" by the CARS process and deferred to the standard accretion schedule or may be carried out following the appraisal cycle as an immediate result of the CARS process. In either case, pay band movement is always at the discretion of the leadership of the Centers and only as a result of direct leadership decision. In no cases is such movement "automatic" on the basis of contribution score-based performance alone.

Any resulting changes in pay bands that occur as a result of the CARS process will be processed and documented with the appropriate personnel action. Management also has the option to fill vacancies throughout the year using various staffing avenues, including details, reassignments, or competitive selection procedures as applicable and/or required for competitive promotions or temporary promotions. Employees may be considered for vacancies at higher pay band positions consistent with the demonstration project competitive selection procedures.

3. Classification

a. Simplified Classification Process

The Systems Centers will create one page generic, pay band descriptors with appropriate titles that also serve as the core of pre-classified position descriptions within the demonstration project. Those descriptions may be further tailored with addenda that provide information on Fair Labor Standards Act (FLSA) coverage, selective placement factors, specialized knowledge/skills/abilities, *etc.* Within the SSC STRL demonstration project, the term "classification of a position" for positions covered by pay banding is defined as the placement of a position in its appropriate career path, occupational series, and pay band based on the application of standards that are referred to as pay band descriptors established at the Systems Center level. Line managers will be meaningfully involved in the classification process to make it more relevant to their organization's needs.

b. Delegation of Classification Authority

The Systems Centers' Technical Directors/Commanding Officers may delegate classification authority to the designated management authority for all positions except those in Science and Engineering pay band 6. Classification authority for Science and Engineering pay band 6 will be consistent with DoD guidance. Requesting supervisors at any level will provide classification recommendations. Support of the applicable Human Resources Organization (HRO) will be available for guidance and recommendations concerning the classification process. Any dispute over the proper classification between a manager and the HRO will be resolved by the Technical Director/Commanding Officer. Those to whom authority is delegated are accountable to the Technical Director/Commanding Officer and are expected to comply with demonstration project guidelines on classification and position management, observe the principle of equal pay for work of equal value, and ensure that position descriptions are current and accurate. All positions must be approved through the appropriate Center chain of command, as established by internal business rules, policies, and procedures.

c. Classification Appeals

An employee may appeal the occupational series, career path, or pay band of his or her position at any time. Classification appeal procedures for employees placed in pay band 6 of the NM career path are governed by DoD and are not affected by the appeal procedures described in this demonstration project. For all other employees, the Classification Appeals to OPM will be replaced by a two-level appeal process modeled after the demonstration project previously approved for the Naval Weapons Center, China Lake, and Naval Ocean Systems Center, San Diego. The two levels of classification appeals are (1) within each Systems Center under guidelines developed by governance boards established, or as otherwise delegated, by each Center's Technical Director/Commanding Officer, and if not resolved locally, (2) at the other Systems Center, *i.e.,* at SSC Pacific for SSC Atlantic appeals and vice versa. Decisions made at the second level of the appeal process are final.

An employee may not appeal the demonstration project classification criteria, the accuracy of the pay band descriptor, or the pay setting criteria; the assignment of occupational series to a career path; the title of a position; the propriety of a base pay schedule; or matters grievable under an administrative or an alternative dispute resolution procedure. The evaluation of a classification appeal under this demonstration project is based upon the demonstration project classification criteria. Case files and final adjudication documentation will be forwarded to the servicing HRO.

d. Simplified Assignment Process

Today's environment of rapid technology development and workforce transition mandates that the organization have maximum flexibility

to assign individuals. Pay banding can be used to address these needs. As a result of the assignment to a particular pay band descriptor, the organization will have maximum flexibility to assign an employee within pay band descriptors consistent with the needs of the organization, the individual's qualifications and rank, and pay band. Subsequent assignments to projects, tasks, or functions anywhere within the organization requiring the same area of expertise and qualifications would not constitute an assignment outside the scope or coverage of the employee's pay band descriptor. Such assignments within the coverage of the generic descriptors are accomplished as realignments and do not constitute a position change. For instance, an employee can be assigned to any project, task, or function requiring similar technical expertise. Likewise, a manager could be assigned to manage any similar function or organization consistent with that individual's qualifications. This flexibility allows broader latitude in assignments and further streamlines the administrative process and system.

4. Pay Setting outside the Contribution Assessment and Recognition System (CARS)

The following definitions and policies will apply to the pay setting of new hires, movement of employees within the demonstration project from one career path or pay band to another, as well as any other pay action outside the CARS.

a. Advanced In-hire Rate

Upon initial assignment into the STRL demonstration project, base pay may be set anywhere within the pay band consistent with the special qualifications of the individual and the unique requirements of the position. These special qualifications may be in the form of education, training, experience, scarcity of qualified candidates, labor market considerations, programmatic urgency, or any combination thereof that is pertinent to the position in which the employee is being placed. Management of base pay approval decisions will be delineated in internal business rules, policies, or procedures. Consideration should be given to the base pay of employees performing similar work within the work unit. This provision applies to any action which places a non-demonstration project employee into the demonstration project, specifically initial hires, transfers, and reinstatements (or rehires). Specific guidelines for application of Advanced In-hire rate will be established in internal business rules, policies or procedures.

b. Promotion

Within the SSC STRL demonstration project career path pay banding system, a promotion will be defined as the movement of an employee from a lower to a higher pay band in the same career path, or from one career path to another wherein the pay band in the new career path has a higher maximum base pay than the pay band from which the employee is moving (seamless pay band movement under the CARS is not considered a promotion under this definition). The minimum base pay increase upon promotion to a higher pay band will be 6% or the minimum base pay of the new pay band, whichever is higher. Promotions will follow Federal Merit Promotion policy that provides for competitive and non-competitive promotions. Promotion pay thresholds may be modified by internal business rules, policies, or procedures as organizational experience dictates. Promotion increases may not result in base pay higher than the maximum base pay of the pay band. Other specific guidelines regarding promotions will be documented in internal business rules, policies, or procedures.

c. Reassignment

A reassignment occurs when an employee moves, voluntarily or involuntarily, to a different position or set of duties within his/her pay band or to a position in a comparable pay band at a comparable level of work, on either a temporary or permanent basis. Under this system, employees may be eligible for an increase to base pay upon temporary or permanent reassignment as described in this section. A decision to increase an employee's base pay under this section will be based upon clear Systems Centers' business rules that will define criteria necessary to justify a base pay increase. Examples of criteria may include, but are not limited to, one or more of the following factors:

(1) A determination that an employee's responsibilities will significantly increase;

(2) Critical mission or business requirements;

(3) Need to advance multi-functional competencies;

(4) Labor market conditions, *e.g.,* availability of candidates and labor market rates;

(5) Reassignment from a nonsupervisory to a supervisory position;

(6) Employee's past and anticipated performance and contribution;

(7) Physical location of position;

(8) Specialized skills, knowledge, or education possessed by the employee in relation to those required by the position; and

(9) Base pay of other employees in the organization performing similar work.

When an employee is reassigned within his/her current pay band or to a comparable pay band, an authorized management official will set base pay at an amount no less than the employee's current base pay and may increase the employee's current base pay by up to five percent. If the employee's current base pay exceeds the maximum of the new pay band, no increase is provided, and the employee's base pay will be set at that maximum base pay rate. There is no limit to the number of times an employee can be reassigned, but local business rules will be established to monitor and control all cases that receive reassignment base pay change to ensure fairness and consistency across the workforce. Reassignment base pay thresholds may be modified or increased by internal business rules, policies, or procedures as organizational experience dictates.

d. Change to Lower Pay Band

Within the SSC STRL demonstration project, a change to a lower pay band will be defined as the movement of an employee from a higher pay band to a lower pay band within the same career path, or from one career path to another where the pay band in the new career path has a lower maximum base pay than the pay band from which the employee is moving. This action may or may not result in a pay reduction; however, an employee's base pay may not exceed the maximum of the assigned pay band unless the employee is entitled to pay retention as described in 5 CFR part 536. In cases where change to a lower pay band is involuntary and accompanied by a reduction in pay, adverse action procedures under 5 CFR part 752 remain unchanged.

e. Locality Pay

All employees will be entitled to the locality pay authorized for their official duty station in accordance with 5 CFR part 531 subpart F. In addition, the locality-adjusted pay of any employee may not exceed the rate for Executive Level IV. Geographic movement within the demonstration project will result in the employee's locality pay being recomputed using the newly applicable locality pay percentage, which may result in a higher or lower locality pay and, thus, a higher or lower adjusted

base pay. This adjustment is not an adverse action.

f. Staffing Supplements

At the time of conversion, the SSC Atlantic and SSC Pacific will not incorporate the use of special salary rates (SSR). If at a later time, SSRs are deemed necessary by SSC Atlantic and SSC Pacific leadership, they will be implemented via a staffing supplement. If implemented, additional internal business rules, policies, and procedures will be established on the use and application of staffing supplements including any limitations. Employees assigned to occupational categories and geographic areas where GS special rates apply may be entitled to a staffing supplement if the maximum adjusted base pay rate for the demonstration band to which the employee is assigned is exceeded by a GS special rate for the employee's occupational category and geographic area. The staffing supplement is added to the base pay, much like locality rates are added to base pay.

The staffing supplement plus the base pay is the staffing supplement adjusted pay. To calculate the staffing supplement a staffing factor must be determined. The staffing factor will be determined by dividing the maximum special rate for the banded grades by the GS unadjusted rate corresponding to that special rate (step 10 of the GS rate for the same grade as the special rate). The employee's staffing supplement is then derived by multiplying the base pay rate by the staffing factor minus one. Therefore, the employee's final staffing supplement adjusted pay equals the base pay rate plus the staffing supplement. The specific formulas are:

Staffing factor = Maximum special rate for the banded grades ÷ GS unadjusted rate corresponding to that special rate

Staffing supplement = Base pay rate * (staffing factor − 1)

Staffing supplement adjusted pay = base pay rate + staffing supplement

For newly hired employees into the demonstration project basic pay will be determined in accordance with section II.B.4.a. (Advanced In-hire Rate). Any applicable staffing supplement will be calculated after base pay is determined. If a staffing supplement has been authorized by Systems Center leadership, any GS or special rate schedule adjustment will require re-computing the staffing supplement. Employees receiving a staffing supplement remain entitled to an underlying locality rate, which may over time supersede the need for a staffing supplement. If OPM discontinues or decreases a special rate schedule, pay retention provisions will be applied. Upon geographic movement of employees, the applicability and amount of any staffing supplement will be re-determined. Any resulting reduction in pay will not be considered an adverse action or a basis for pay retention.

An established base pay rate plus the staffing supplement will be considered adjusted base pay for the same purposes as a locality rate under 5 CFR 531.610, *i.e.,* for purposes of retirement, life insurance, premium pay, severance pay, and advances in pay. It will also be used to compute worker's compensation payments and lump-sum payments for accrued and accumulated annual leave.

g. Other Provisions

(1) *Grade and Pay Retention.* The new system will eliminate retained grade but will preserve retained pay in accordance with 5 CFR part 536. Former NSPS employees retaining a rate that exceeds the limits or conditions imposed by 5 CFR part 536 will retain that pay until it falls back within those limits or conditions or until the employee's eligibility is lost or the retained pay is terminated in accordance with 5 CFR 536.308.

(2) *Highest Previous Rate.* Employees in the demonstration project may have their base/basic pay set consistent with the highest previous rate provisions at 5 CFR 531.221 through 223. The use of highest previous rate will be governed by local pay setting policies.

(3) *Recruitment, Retention, and Relocation Incentives.* The demonstration project may continue to employ these incentives, as described in 5 CFR part 575, and provide internal policy, guidance, and/or internal procedures for utilizing the incentives as necessary.

(4) *Qualification Standards for Demonstration Project Positions.* OPM's "Qualification Standards for General Schedule Positions" will be used to determine qualifications for demonstration project positions except with minor modifications to address application of OPM qualifications in a pay banding environment.

h. Distinguished Contribution Allowance (DCA)

SSC Atlantic and SSC Pacific will implement a Distinguished Contribution Allowance, a temporary monetary allowance up to 25 percent of base pay, which, when added to an employee's rate of base pay, may not exceed the rate of base pay for Executive Level IV. It is paid on either a bi-weekly basis concurrent with scheduled pay days or as a lump sum following completion of a designated contribution period, or combination of these, at the discretion of the Technical Director/Commanding Officer of the appropriate System Center. It is not base pay for any purpose, *e.g.,* retirement, life insurance, severance pay, promotion, or any other payment or benefit calculated as a percentage of base pay. The DCA will be available to certain employees whose present contributions are worthy of scores found at a higher career level and whose level of contribution is expected to continue at the higher career level for at least one year.

Award of the DCA rather than a change to a higher career level will generally be appropriate for employees under the following circumstances: (1) Employees have reached the top of their target career levels; (2) when it is not certain that the higher level contributions will continue indefinitely (*e.g.,* a special project expected to be of one- to five-year duration); (3) when no further promotion or compensation opportunities are available, but in all situations, when current market conditions compensate similar contributions at a greater rate in private industry and academia than the organization is able to do under normal compensation conditions. To be eligible for DCA, employees must meet the criteria below:

(1) Employees in the S&E, Technical, Administrative Professional, General, and Supervisor/Manager Career Tracks are eligible for the DCA if their contribution to the organization is deemed worthy, as determined by the appropriate Center Technical Director/Commanding Officer.

(2) Employees may receive a DCA for up to five years. The DCA authorization will be reviewed and reauthorized as necessary, but at least annually at the time of the CARS appraisal through nomination by the pay pool manager and approval by the appropriate Technical Director/Commanding Officer.

(3) Monetary payment may be up to 25 percent of base pay.

(4) Nominees are required to sign a statement indicating they understand that the DCA is a temporary allowance; it is not a part of base pay for any purpose; it is subject to review at any time, but at least on an annual basis, and the reduction or termination of the DCA is not appealable or grievable.

All other details regarding nomination, termination, reduction, allocation, and budget determination will be stipulated by internal business rules, policies, or procedures approved

by the applicable Center Technical Director/Commanding Officer.

i. Pay Differential for Supervisory Functions

SSC Atlantic and SSC Pacific will establish a pay differential to be provided at the discretion of the appropriate Center Technical Director or assigned delegates to incentivize and reward personnel performing supervisory functions but the functions do not meet all the specific criteria to be classified to the formal supervisory career path, or the functions are temporary in nature, or the functions are otherwise considered not eligible for supervisory career path pay band classification. Pay differential-eligible positions will be further defined and managed by internal business rules, policies, or procedures. A pay differential is a cash incentive that may range up to 10 percent of the employee's base rate of pay. It is paid on a pay period basis and is not included as part of the employee's base rate of pay. The pay differential must be terminated if the employee is removed from the designated position/duties (and is not placed in a position with equivalent duties/responsibilities), regardless of cause, or who initiates removal. All personnel actions involving a pay differential will require a statement signed by the employee acknowledging that the differential is not part of base pay for any purpose, and may be terminated or reduced as dictated by fiscal limitations, changes in assignment or scope of work, or by the appropriate Center Technical Director/Commanding Officer. Positions, titles, duties and responsibilities which are eligible for supervisory differential, as well as standards for differential awards will be defined in internal business rules, policies, or procedures. The termination or reduction of the differential is not an adverse action and is not subject to appeal or grievance.

j. Accelerated Compensation for Developmental Positions

SSC Atlantic and SSC Pacific will implement Accelerated Compensation for Developmental Positions (ACDP) to facilitate applicability to a compensation-based assessment approach. Accelerated Compensation for Developmental Positions (ACDP) is an increase to base pay that may be provided to employees participating in Center training programs or in other developmental capacities as determined by Center policy. ACDP recognizes growth and development in the acquisition of job related competencies combined with successful contribution to the organization. The use of ACDP is limited to: (1) Employees in a developmental pay band of a non-supervisory pay plan who are in developmental or trainee level positions (Developmental/trainee positions will be defined by local business rules, policies, or procedures.); and (2) employees in positions which are assigned to the SCEP.

Standards by which ACDP increases are provided and development criteria by which additional base pay increases may be given will be established and documented in internal business rules, policies, or procedures. The amount of the ACDP increase generally will not exceed 20 percent of an employee's base pay. The decision to grant an ACDP exceeding 20 percent of an employee's base pay must be made on a case-by-case basis and approved by the appropriate Center Technical Director/Commanding Officer or their delegates as established by internal business rules, policies, or procedures. The amount of the ACDP increase may not cause the employee's base pay to exceed the top of the employee's pay band or that set by internal business rules, policies, or procedures. An ACDP increase may not be granted unless an employee is in a pay and duty status under the SSC STRL demonstration project on the effective date of the increase.

k. Educational Base Pay Adjustment

SSC Atlantic and SSC Pacific will establish an educational base pay adjustment which is separate from other incentive pay(s) and may not exceed the top of the employee's assigned pay band. The educational base pay adjustment may be used to adjust the base pay of individuals who have acquired a level of mission-related education that would otherwise make the employee qualified for an appointment at a higher level and would be used in lieu of a new appointment. For example, this authority may be used to adjust the base pay of employees who are participating in a graduate level Student Career Experience Program (SCEP) or employees who have obtained an advanced degree, *e.g.,* a PhD in a field related to the work of their position or the mission of their organization.

l. Expanded Development Opportunity

(1) SSC Atlantic and SSC Pacific will establish an Expanded Development Opportunities Program which will cover all demonstration project employees. An expanded developmental opportunity provides possibilities such as (1) long-term training, (2) one-year work experiences in an industrial setting via the Relations With Industry Program, (3) one-year work experiences in laboratories of allied nations via the Science and Engineer Exchange Program, (4) rotational job assignments within both SSC Atlantic and SSC Pacific, (5) developmental assignments in higher headquarters within the DON and DoD, (6) self-directed study via correspondence courses and at local colleges and universities, (7) details within SSC Atlantic and SSC Pacific and to other Federal agencies, (8) Intergovernmental Personnel Act Program Agreements, and (9) sabbaticals.

Each developmental opportunity period should benefit the organization, while increasing the employee's individual effectiveness as well. Various learning or uncompensated developmental work experiences may be considered, such as advanced academic teaching or research and sabbaticals. An expanded developmental opportunity period will not result in loss of or reduction in base pay, leave to which the employee is otherwise entitled, or credit for time or service. Input for performance rating purposes will be obtained from the gaining supervisor to ensure a rating of record is on file and, if warranted, a contribution award and/or bonus and retention years' credit for RIF purposes is documented.

Expanded Development Opportunities Program openings will be announced as opportunities arise. Instructions for application and the selection criteria will be included in the announcement. Final selection/approval for participation in the program will be made by activity Commanding Officers/Technical Directors. The position of employees on an expanded developmental opportunity may be backfilled by temporary assignment of another employee(s) or temporary redistribution of work. However, that position or its equivalent must be made available to the employee returning from the expanded developmental opportunity.

An employee accepting an Expanded Developmental Opportunity must sign a continuing service agreement up to three times the length of the assignment with the service obligation to the respective Systems Center organization. If the employee voluntarily leaves the organization before the service obligation is completed, the employee is liable for repayment unless the service agreement or the repayment is waived by the SSC Atlantic or SSC Pacific Technical Director/Commanding Officer.

(2) Critical Skills Training

(a) The Commanding Officers/Technical Directors have the authority to approve academic degree training consistent with 5 U.S.C. 4107. Training is an essential component of an organization that requires continuous acquisition of advanced and specialized knowledge. Degree training is also a critical tool for recruiting and retaining employees with or requiring critical skills.

(b) Each academic degree training program in its entirety can be approved based upon a complete individual degree study program plan; it will ensure continuous acquisition of advanced specialized knowledge essential to the organization and enhance our ability to recruit and retain personnel critical to the present and future requirements of the organization. Degree or certificate payment may not be authorized where it would result in a tax liability for the employee without the employee's express and written consent. Any variance from this policy must be rigorously determined and documented. Guidelines will be developed to ensure competitive approval of degree or certificate payment and that such decisions are fully documented. Employees approved for degree training must sign a service obligation agreement to continue service in the respective Systems Center for a period three times the length of the training period commencing after the completion of the entire degree program. If an employee voluntarily leaves the Systems Center before the service obligation is completed, he/she is liable for repayment of expenses incurred by the SSC STRL that are related to the critical skills training. Expenses do not include salary costs. The Commanding Officers/Technical Directors have the authority to waive this requirement. Criteria for such waivers will be addressed in the operating procedures.

(c) Student Career Experience Program (SCEP) Service Agreement. The extended repayment period also applies to employees under the SCEP who have received tuition assistance. They will be required to sign a service agreement up to three times the length of the academic training period or periods (semesters, trimesters, or quarters). In addition, the Commanding Officers/Technical Directors of the Systems Centers may approve relocation incentives for new SCEP students; and relocation incentives to SCEP students whose worksite is in a different geographic location than that of the college enrolled.

m. Awards

To provide additional flexibility in motivating and rewarding individuals and groups, some portion of the performance award budget will be reserved for special acts and other categories as they occur. Awards may include, but are not limited to, special achievements, patents, inventions, suggestions, on-the-spot, and time-off. The funds available to be used for awards are separately funded within the constraints of the organization's overall award budget. While not directly linked to CARS, this additional flexibility is important to encourage outstanding accomplishments and innovation in accomplishing the diverse mission of the Centers. Additionally, to foster and encourage teamwork among its employees, organizations may give group awards. Under the SSC STRL demonstration project, a team leader or supervisor may allocate a sum of money to a team for outstanding performance, and the team may decide the individual distribution of the total dollars among themselves, with any disputes being resolved by the award allocator. The appropriate Center Technical Director/Commanding Officer will have the authority to grant special achievement awards to covered employees of up to $25,000.

n. Retention Incentives

The employment of retention incentives will be in accordance with 5 CFR 575, and under the singular authority of each Center Technical Director/Commanding Officer and will be governed by internal business rules, policies, or procedures.

5. Performance/Contribution Management Principles

The philosophical base of this demonstration project is that employees are valued and trusted and are the organization's most critical assets. Accordingly, the primary objectives of the SSC STRL demonstration project are to: Develop employees to meet the changing needs of the organization; help employees achieve their career goals; improve contribution in current positions; retain high performers; and improve communication with customers, colleagues, managers, and employees. The system focuses on continuous contribution improvement and minimizes administrative requirements.

a. Performance Development Assistance

At the heart of the performance-contribution system is the concept of providing organizational resources to support the development process. While the design of these resources will be delegated to each Systems Center, they will typically consist of performance development assistance, specific to each pay pool, for employees or supervisors requiring developmental support. These resources will act as a support system to identify or help provide for the needs of employees and supervisors in the development process.

Performance development assistance will be available to facilitate communications around expectations and needs and help supervisors and employees seek agreement throughout all aspects of the performance development process. Should performance problems arise, these resources will be particularly useful in diagnosing issues impacting performance, *e.g.,* employee skills, attitudes and motivation, clarity of job expectations, systemic issues, access to information and resources, and relationships with co-workers and supervisor. Additional support may take the form of identifying options for addressing these issues, *e.g.,* development opportunities, tools or equipment to support improved performance, and/or reassignment of the employee to a position that better matches his/her capabilities and interests. Referrals may also be made to other beneficial resources/services and systemic or organizational issues may be examined. Supervisors are expected to utilize performance development assistance in order to prevent and alleviate performance problems. Employees may also seek performance development assistance to help in correcting self identified performance deficiencies, development planning to enhance their career opportunities consistent with the needs of the organization, and facilitating communication and feedback with their supervisors, *etc.*

b. Two-Level Performance Rating System

Employee performance ratings will be documented annually. The system employs a two-level performance rating system: "acceptable" and "unacceptable" performance. "Acceptable" performance is defined as "performance that fulfills the requirements for which the position exists." Basic performance standards will be established for each contribution element; however, a baseline standard of performance from which element-specific performance standards are derived is provided in Appendix C. This baseline is intended to represent the methodology on which performance will be evaluated for all employees, and may be modified as organizational

experience with the demonstration project dictates. A formal determination of unacceptable performance is made only if the employee does not meet the requirements detailed in a Performance Improvement Plan (PIP) (*see* paragraph II.B.5.f). No performance-related adverse action will be initiated against an STRL employee under title 5 U.S.C. chapter 43 until a formal PIP has been completed and an employee's performance has been found to be unacceptable. Nothing in this section will preclude a performance-related adverse action under title 5 U.S.C. chapter 75.

c. Establishing Contribution Expectations

Clear, mutually understood contribution expectations that are linked to organizational goals, strategies, and values are fundamental to successful individual and organizational performance. The outcome of mutually understood contribution expectations is clear communication of the products and/or services to be delivered by the employee(s), and the success criteria against which those outputs will be assessed. Documentation of outputs and success criteria is required to facilitate mutual understanding of contribution expectations.

The most effective means of creating a common understanding is through a process in which the supervisor and employee discuss requirements and establish contribution goals and expectations. Documentation of contribution expectations will be done annually, at a minimum, at the beginning of the evaluation cycle. Employees and supervisors are expected to actively participate in these discussions to seek clarity regarding expectations and identify potential obstacles to meeting goals. In addition, employees should explain to the extent possible what they need from their supervisor to support goal accomplishment. More frequent task specific discussions of expectations may be appropriate. In cases where work is accomplished by a team, team discussions regarding goals and expectations may be appropriate. Expectations for individual contributions to the team goals, however, should always be clearly specified.

Documentation of contribution expectations is a helpful mechanism for ensuring clarity of understanding and providing a focus for later discussions on progress and developmental needs. In addition to the yearly documentation of contribution expectations, documentation of expectations is required within 30 days of when an employee begins a new or substantially different job.

It is important that employees understand what is expected in order to receive a base pay increase. Supervisors will interpret organizational criteria for their employees to clarify how it applies to their work and have periodic assessment discussions with employees to prevent surprise decisions at the time of payout. In addition, supervisors will document their payout recommendation decisions and discuss their decision rationale with employees.

d. On-Going Contribution Dialogue

To facilitate contribution development, employees and supervisors will engage in on-going dialogue. Ideally this dialogue will occur as part of the day-to-day interactions for the purpose of ensuring a common understanding of expectations, reviewing whether expectations are being met, providing support in identifying resources or solving problems, providing coaching on complex or sensitive issues, providing information to increase the understanding of the project context, and keeping the supervisor informed of progress. In addition to this on-going interaction, however, more formal dialogues will occur focused on reviewing progress, discussing customer feedback, exploring process improvements that could remove obstacles to effective performance, and identifying developmental needs to support continual improvement and career growth. At a minimum, the employee and supervisor will meet twice annually—once at mid-year and again at the end of the contribution evaluation period. Documentation of these discussions and resulting plans to support the continuous improvement of individual contribution and organizational performance will be accomplished as described in each organization's internal business rules, policies, or procedures.

e. Feedback from Multiple Sources

The primary purpose of feedback in CARS is to provide employees with information regarding how well the results of their performance is meeting customer requirements in order to help the employees continually improve their contribution to the organization. This feedback provides input to the review and continuous improvement planning discussed as part of the on-going dialogue component.

The responsibility for employee development and continuous improvement is jointly held between the supervisor and employee. They are expected to work together to identify internal and external customers and to define and implement a process by which the employee can regularly receive feedback. A variety of mechanisms may be appropriate, such as customer surveys, process measures which track customer requirements, and discussions with customers. Supervisors are expected to facilitate this process and work with employees to interpret the feedback and establish improvement goals.

Managers and supervisors are also expected to obtain feedback from their customers, including their employees, and to use that feedback as a basis for establishing their own personal and organizational performance development goals.

f. Performance Improvement Plan (PIP)

When an employee has continued performance difficulties, as evidenced by the employee's repeated failure to perform even at the basic performance level specified for all employees, the supervisor will develop a formal PIP to support the employee in resolving performance problems. Performance development assistance may be an integral part of this effort. Supervisors may request assistance in preventing or alleviating performance problems before the need for formal action arises. When there is an indication that the results of an employee's performance are consistently failing to meet customer and organizational requirements, supervisors are expected to provide performance development assistance to analyze the causes of the difficulty and develop an approach for resolving it. Development of a formal PIP is indicated if and when it is determined that the employee's performance is lagging, as evidenced by the employee's repeated failure to perform even at the basic performance level specified for all employees and informal intervention has not been successful in correcting the problem. Use of the performance development assistance is expected throughout the period of the PIP in an attempt to facilitate a solution to the problem. The PIP must be written and will clearly document organizational expectations for successful job performance, specify accountability, identify developmental resources to correct any skill deficiencies, define the time frame of the PIP, specify organizational support that will be provided and how performance results will be monitored. In addition, the PIP will clearly specify potential consequences if performance does not improve to an acceptable level. Discussions between the supervisor and

employee will occur during the time frame of the PIP to review progress; these discussions must be documented. Unacceptable performance may ultimately be addressed via adverse action procedures available in 5 U.S.C. chapter 43 or 5 U.S.C. chapter 75.

Following the PIP, if an employee's performance is found to be "unacceptable," one of three actions will be taken: (1) Removal from the Federal service, (2) placement in a lower pay band (demotion) with or without a corresponding reduction in pay, or (3) reduction in pay while remaining in the same pay band. Following any base pay reduction, the objective is to restore performance, produce acceptable results, and maintain base pay commensurate with contribution. A plan will be established to maximize the opportunity for success in the assignment by clearly identifying performance expectations and defining a plan to achieve them within an appropriate time frame, not to exceed 12 months. Typically, PIPs should be complete prior to or within 90 days after the end of an appraisal period. If a PIP is not completed in that timeframe the Technical Director/Commanding Officer may grant an additional 90 day extension. Ratings of record and any contribution scores and associated payouts following a PIP that completed after the appraisal period will be made retroactive to the end of the appraisal period. Formal and informal performance guidance will always be made available. If and when performance improves during the period, some or all of the reduced base pay may be restored. Such restoration is not retroactive and is separate and apart from incentive pay.

For the demotion actions, the employee may be moved to a lower pay band within the most appropriate career path, and the employee's new base pay cannot exceed the top of the lower pay band. Within the SSC STRL demonstration project, a change to a lower band without a reduction in pay would not be considered an adverse action and would not be appealable through a statutory appeals process.

6. Contribution Assessment and Recognition System (CARS)

SSC Atlantic and SSC Pacific plan to model a contribution-based system similar to that in use at the NAVSEA Warfare Center's Dahlgren Division and NRL's Contribution-based Compensation System (CCS) models, with some specific modifications designed to integrate elements of each system. SSC Atlantic and SSC Pacific will conduct a careful financial review prior to demonstration project implementation and will make minor adjustments as needed within the specific budgetary guidelines of the NAVSEA contribution-based system procedures.

The purpose of the CARS is to provide an effective means for evaluating and compensating the SSC Atlantic and SSC Pacific workforces. It will enhance and increase fairness and consistency in the appraisal process, facilitate natural career progression for employees, and provide an understandable basis for career progression by linking contribution to compensation determinations.

Supervisors will conduct an annual review of each employee's base pay and contribution in order to decide how base pay should be adjusted to reflect the employee's contribution to the organization. The adjustment may be made as a continuing increase to base pay and/or as a one-time cash bonus. The philosophical foundation for contribution-based pay is described below:

One of the outcomes of pay banding, defined here as any base pay range that includes the base pay range of two or more GS grades, is an expanded range of base pay progression opportunities for employees consistent with proper classification of duties. Contribution-based pay is awarded to personnel based on the combination of their contribution and their current base pay. With this comes the necessity to ensure that pay decisions are consistent with the needs and values of the organization. At the same time, they should be seen as fair and equitable. While the SSC STRL demonstration project provides discretion for SSC Atlantic and SSC Pacific to substantially define the criteria and process for managing contribution-based pay, it is appropriate that there be general project wide principles that provide a policy framework for organizational decisions. The following are those principles.

(a) PRINCIPLE: "The organization succeeds through the collective contributions of personnel in all occupations."

SSC Atlantic and SSC Pacific perform critical missions for the Navy in support of national defense. These missions require the collective efforts of all personnel. While certain positions and occupations are highly visible, it is the entirety of the organization operating as a collective team toward the same goals that enables the Centers to excel. In that regard, no occupational groups under this demonstration project will be excluded from opportunities for contribution-based pay and bonuses, incentive awards, or other forms of reward or recognition. Further, all personnel whose performance is deemed "acceptable" in an annual SSC STRL demonstration project performance rating can participate in contribution assessment and recognition. Amounts and time intervals will be set by SSC Atlantic and SSC Pacific.

(b) PRINCIPLE: "Base pay should be commensurate with value of contribution to the organization."

There should be relative base pay equity among personnel whose contributions to the organization are of equal value. Consistent with this principle, base pay increases should be commensurate with contribution. It follows that as an individual's base pay increases, there is a corresponding increase in expected level of contribution to the organization.

Typically, when a person is hired or promoted to a higher pay band, and base pay is at or near the lower end of that band, there are expected successive increases in base pay toward the mid-range of the corresponding pay band. This base pay growth is reflective of the expected learning curve upon entering a new position and the corresponding increase in contribution commensurate with increasing experience. Pay progression through the mid- range occurs with progressively higher levels of contribution. Beyond that, increasingly higher levels of contribution are expected for base pay to correspondingly increase through the upper range of the pay band.

a. Rating and Contribution Assessment Process

(1) Eligibility

All employees whose performance is determined to be acceptable in an annual performance rating can participate in contribution assessment and recognition. Employees receiving an unacceptable rating are ineligible for participation in contribution assessment and recognition. Additionally, the annual General Pay Increase (GPI) will be denied for those with a current rating of "unacceptable."

(2) Contribution-based Pay Pool

Payments under the Contribution-based Pay System are made from the contribution-based pay pool. Each Systems Center will have authority to manage the contribution-based pay allocation derived from the base pay of employees in that Center that are participating in this demonstration project. Within the contribution-based pay pool, there are separate funds for

base pay increases and bonus payments. The contribution-based pay pool is not used to fund promotions between pay bands. Pay pool panels or managers may reduce or deny the next annual GPI for employees whose contributions are in the "contribution significantly below expectations" category. Such reduction or denial may not place an employee in the "contribution above expectations" category. The employees on retained pay in the demonstration project will receive base pay adjustments in accordance with 5 U.S.C. 5363 and 5 CFR part 536. An employee receiving retained pay is not eligible for a Contribution Base Pay Increase, but may be eligible for a Contribution Bonus.

The contribution-based pay pool will be operated within the parameters of the overall finance system governing the Systems Centers. As a predominately Navy Working Capital Fund (NWCF) activity, SSC Atlantic and SSC Pacific operate on a fee-for-service/break-even basis within the Department of Defense. Under NWCF, the Centers provide reimbursable services for their customers and receive payments based on published stabilized rates. The Assistant Secretary of the Navy for Financial Management and Comptroller oversees the establishment of these stabilized rates through reviews of Biannual Financial Management Budget submissions, which are highly visible at all Command levels. This funding process imposes a discipline in controlling costs.

The size of the base pay fund is based on appropriate factors, including the following:

(a) Historical spending for base pay increase (prior China Lake/Naval Ocean Systems Center demonstration project C Points Fund);

(b) Labor market conditions and the need to recruit and retain a skilled workforce to meet the business needs of the organization; and

(c) The fiscal condition of the organization.

The size of the bonus fund will be based on appropriate factors, including the following:

(a) Historical spending for Bonuses (prior China Lake/Naval Ocean Systems Center demonstration project B Points Fund);

(b) The organization's fiscal condition and financial strategies; and

(c) Employee retention rates.

The decision process for defining the size of the contribution-based pay pool and the funds within that pool will be established at the Systems Center level.

(3) Contribution Assessment and Recognition System (CARS)

CARS combines performance appraisal and contribution assessment into a single annual process. At the end of each appraisal period, base pay adjustment decisions are made based on each employee's actual contribution to the organization's mission during the period and the employee's current base pay. A separate but related function is also accomplished by determining if an employee's performance fulfills the requirements for which the position was established. Supervisory officials recommend scores to reflect each employee's contribution, considering both how well the employee is performing and at what level the employee is contributing. Often the two considerations are inseparable. The performance planning and rating portions of the demonstration project's appraisal process constitute a performance appraisal program which complies with 5 CFR part 430 and the DoD Performance Management System, except where waivers have been approved. Performance-related actions initiated prior to implementation of the demonstration project (under DON performance management regulations) shall continue to be processed in accordance with the provisions of the appropriate system.

Supervisors will use CARS to measure employee contributions. CARS employs standardized contribution elements that represent contribution areas for all employees. Each employee in the SSC STRL demonstration project will have four basic contribution elements defined in Appendix D. The four basic elements may be further differentiated, or additional elements derived for specific job functions as demonstration project experience dictates.

Each contribution element will be broken down into specific target language, designed to capture the contribution of the jobs in each pay band of each career path. For each element, this more detailed guidance will assist in distinguishing levels of contribution within a specific pay band and ultimately serve as guidance for managers and supervisors relative to an employee's contribution. Base pay adjustments are based on a comparison of the employee's actual level of contribution and current base pay to an expected level of contribution for typical employees in a pay band and corresponding base pay range.

A sample chart showing detailed language for the Technical Contribution Element in the Scientific and Engineering career path (ND) is provided in Appendix E. This example, representative of a single contribution element in one career path, is intended to demonstrate the model, methodology, and approach to evaluating employee contribution. Currently written at the highest contribution standard for the contribution elements, specific language and target level may be adjusted with demonstration project experience, and based on further modifications to contribution elements themselves.

The CARS process will be carried out by supervisors and pay pools in order to facilitate equity and consistency across the organization. Contribution assessments and base pay adjustments may be recommended by the supervisor and must be approved by the appropriate pay pool manager after being validated by the respective pay pool panel, which will consist of supervisory officials or other individuals who are familiar with the organization's work and the contributions of its employees.

The first official appraisal cycle under SSC STRL will be the 2011–2012 appraisal cycle, commencing with transition out of NSPS in March 2011 (as dictated by OCHR). Both SSC Atlantic and SSC Pacific expect to have their evaluation year run from July 1–June 30, and expect to conduct the annual payout no later than October of each year. The first SSC STRL appraisal cycle is expected to commence from March 2011–June 2012 (after which the cycle will revert to 1 July 2012–30 June 2013), with pay adjustments being effective no later than the first full pay period in October 2012, and each year thereinafter. Dates of rating and evaluation cycles may be modified as organizational experience dictates.

(4) Contribution Expectations and Element Weighting

Supervisors and/or managers may decide that some contribution elements are more important than others relative to the applicability of the individual employee's function or that some do not apply at all to the effective accomplishment of the organization's mission. In such instances, element weights may be established in increments of 5% including a weight of zero which renders the element not applicable to a given employee's position. These supervisor-recommended weights should be reviewed by a higher level supervisor. Contribution elements and any supplemental criteria will be assigned and agreed to by the employee and their supervisor. In cases of disagreement between employee and supervisor, the higher level supervisor will finalize

element weighting and any supplemental criteria.

(5) Assessment

The appraisal period will generally be one year, with a minimum appraisal period of 90 days. At the beginning of the appraisal period, upon an employee's arrival at either Systems Center, or into a new position, the following information will be communicated to employees so that they are informed of the basis on which their performance and contributions will be assessed: their career path and pay band; applicable contribution elements, element details, element weights, any established supplemental criteria, and basic acceptable performance standards. This communication will be documented and retained in accordance with internal business rules, policies, or procedures. The communication of information described by this paragraph constitutes performance planning as required by 5 CFR 430.206(b).

At each mid-year assessment and the end of the appraisal period, employees will have the opportunity to provide input describing their contributions. Standard operating procedures will provide guidance for supervisors, pay pools and employees on the requirement, content and format of their annual supervisory and employee contribution assessments, and on other types of information about employee contributions which should be developed and considered by supervisors. This will include procedures for capturing contribution information regarding employees who serve on details, who change positions during the appraisal period, who are new to the Systems Center, and other such circumstances.

If an employee changes positions before the final 90 days of the appraisal period, feedback will be provided by the losing supervisor to the gaining supervisor. If an employee changes positions within the demonstration project during the final 90 days of the appraisal period, the losing supervisor will conduct a performance rating and recommend a contribution score at the time the employee moves to the new position. All employees who have worked 90 days or more by the end of the appraisal period will receive a performance rating of record and a contribution score. For employees currently under a formal PIP at the end of the appraisal period, their rating may be delayed up to 90 days to allow for completion of the PIP. Employees who report to SSC Atlantic or SSC Pacific, during the last 90 days of the appraisal period, will receive a presumed rating of "acceptable," but will not be eligible for a contribution assessment. These employees mentioned above who are not appraised under CARS will not be eligible for base pay increases or bonus awards, but will be given full GPI and locality increases. For other position changes within the last 90 days, the rating and contribution assessment will be conducted in accordance with local business rules, policies, and procedures.

Contributions will be assessed consistent with the organization's policy and criteria as reflected in the written guidance for all employees except those not meeting the minimum 90-day performance threshold or those receiving an unacceptable rating. Supervisors will then review any available employee input and the contribution elements to recommend an appropriate contribution score for each employee. Recommendations on appropriate base pay increases and/or bonuses, both amount and type, will be made based on the employee's contribution score and current base pay in accordance with organizational guidance. These recommendations will be reviewed by the second-level supervisor. Decisions regarding approval/disapproval of recommendations will be made at the organizational level to which authority has been delegated to manage the pay pool.

The pay pool panel will meet to compare scores, make appropriate adjustments, and approve/determine the final base pay adjustment for each employee. Final approval of contribution scores, summary ratings and base pay/bonus award decisions will rest with the pay pool manager (unless higher level approval is requested or deemed necessary). Supervisors will communicate the ratings, scores, and base pay adjustment and/or bonus award to each employee, in accordance with timeline and guidance determined by internal business rules, policies, or procedures.

(6) Normal Pay Range (NPR)—Base Pay versus Contribution

The NPR is defined as a numerical range of base pay corresponding to a related range of contribution scores in which the ideal combination of contribution score and base pay falls within that expected range. The mathematical output follows a directly proportional relationship between contribution score and base pay for each career path and pay band centered around a Normal Pay Line, on which a minimum contribution score directly corresponds to the minimum base pay of the pay band and a maximum contribution score corresponds to the maximum base pay of the pay band. By this methodology a base pay equal to 50% of the maximum base pay in a specific pay band would correspond roughly to a contribution score of 50% (±x %) of the maximum score possible in order to fall within the NPR.

A sample Normal Pay Range/Contribution Chart is represented in Appendix F. This example is intended to demonstrate the methodology, model and approach to be used in determining the relationship between employee contribution and current salary, and will further be used to assist in determining future compensation adjustments. Certain specifics, including contribution element score range (0–10 in this example), the NPR (as defined by the normal pay line, and both sets of upper and lower "rails"), and associated nomenclature ("zone" labeling/designation) may be adjusted by the demonstration project in accordance with normal salary growth, as well as organizational experience with the contribution system.

CARS assumes a relationship between the assessed contribution of the employee and an expected range of base pay commensurate with an employee's contribution score. Employees whose contribution scores are higher than the expected level of contribution for their base pay are considered to have "contribution above expectations," while employees whose contribution scores are lower than the expected level of contribution for their base pay are considered to have "contribution below expectations." All other cases are considered "appropriately compensated" or within the "contribution as expected" category. Each year the boundaries for the NPR plus the minimum and maximum rate of base pay for each pay band will be adjusted by the amount of the GPI increase granted to the Federal civilian workforce as applied in the GS increase.

b. Compensation Decision Process

(1) Employee Compensation

Employee compensation can be established, adjusted, and/or augmented in a variety of ways, including general pay increases, base pay increases, locality pay increases, contribution and incentive awards, and promotions. Under the SSC STRL demonstration project, SSC Atlantic and SSC Pacific will distribute the budget authority from the sources listed above into five categories:

(a) General pay increases (not part of contribution-based pay pool funds);

(b) Locality pay increases (not part of contribution-based pay pool funds);

(c) Continuing base pay increases;

(d) Contribution bonuses; and

(e) Incentive awards (not part of contribution-based pay pool funds).

From these categories, two annual personnel actions will be authorized based primarily on employees' contributions, relative to the NPR. Continuing base pay and contribution bonuses typically become effective no later than October following each appraisal cycle. General Pay Increases (dependent on employee's contribution score in relationship to the NPR) and Locality Pay adjustments will be issued at the same time they are issued for the greater Federal workforce. Payout dates may be redefined as organizational experience is gained.

In general, the goal of CARS is to pay in a manner such that base pay is consistent with employee contribution. A basic matrix of compensation eligibility vs. placement relative to NPR is provided in Appendix G. More detailed industry and organizational-based guidance is being developed to provide industry and organizationally-based guidance for specific compensation recommendations to pay pool management. This data will change as market, and organizational experience dictates. All contribution-based pay pool amounts, and consequently payouts, will be in terms of dollars.

After the annual appraisal process has been completed and the employees' contribution scores, and base pay adjustments and/or contribution awards have been initially assigned by the appropriate supervisory authority, the pay pool manager, in consultation with the pay pool panel or other pay pool supervisory and staff officials, will finalize/approve the base pay increases, portions of the GPI, and contribution bonuses. Internal policies will provide guidance to assist pay pool managers in making payout determinations. In most cases, the pay pool manager will approve contribution-based continuing pay changes and bonuses. In some cases; however, approval of a higher level official will be required.

(2) General Pay Increases

General pay increase budget authority will be available as derived under 5 U.S.C. 5303 or similar authority. Pay pool panels or managers may reduce or deny the annual GPI for employees whose contributions are in the "contribution significantly below expectations" category. Such reduction or denial may not place an employee in the "contribution above expectations" category.

(3) Base Pay Increases

Base pay increases will normally be granted to employees whose contribution places them in the "contribution as expected" or "contribution above expectations" categories. In general, the level of continuing base pay increase should correspond to the level of contribution relative to the normal pay range for the career path and pay band. In other words, contribution above the level of the established pay range should result in a corresponding increase in base pay. The following limitations apply in that a base pay increase should not place any employee's:

(a) Base pay in the "contribution below expectations" category;

(b) Adjusted base pay in excess of Executive Level IV;

(c) Base pay in excess of the maximum rate of base pay for the individual's pay band (unless the employee is being concurrently advanced to a higher pay band). Continuing base pay increase guidance will be outlined in internal business rules.

Each Systems Center's base pay increase category will be set each year at or near 2.4 percent of their individual total base pay rates. The 2.4 percent figure will be adjusted as necessary to facilitate the most efficient business operations.

The amount of budget authority available to each pay pool will be determined annually by the appropriate Center Technical Director/Commanding Officer. Factors to be considered by the Technical Director/Commanding Officer in determining annual budget authority may include market salaries, mission priorities, and organizational growth. Because statistical variations will occur in year-to-year personnel growth, any unexpended base pay increase allocation may be transferred to the contribution-bonus category.

(4) Contribution Bonus Awards

Authority for contribution bonuses (lump-sum payments recognizing significant contributions not adequately recognized through a base pay increase) will be initially available to pay pools as a straight 1.0 percent of the total of employees' base pay. The percentage rate may be adjusted in future years of the demonstration project. In addition, unexpended bonus dollars may be used to augment the category of base pay increases budget authority. Generally, bonuses will be granted to those employees whose contributions place them in the "contribution as expected," or in the "contribution above expectations," category. Internal business rules will provide guidance to pay pool managers in establishing and applying criteria and contribution-based bonus award limits to determine significant contributions which warrant awards.

Much of the terminology used above is consistent with both performance, and contribution-based evaluation and compensation. Use of terms such as "elements" and categories of "contribution above expectations" or "contribution below expectations" are to provide the direct linkage between the SSC STRL demonstration project, and those systems from which it has evolved. As SSC STRL is implemented, language associated with these areas may be modified in order to facilitate workforce understanding and acceptance of contribution theory, as well as to effectively integrate annual performance requirements with contribution evaluation. Any such changes in terms or associated language will not change the essential meaning of performance/objective/contribution theory.

c. Reconsideration of Rating and Scoring Decisions

Employees will have the opportunity to request reconsideration of their ratings of record and/or assessed contribution scores. In this way, SSC Atlantic and SSC Pacific believe that contribution assessment disputes will be focused on the substantive and relevant contribution issues, which in turn guide base pay and bonus decisions. While the specific purpose of the reconsideration dispute is for employees to address concerns about such decisions, the process is also intended to facilitate communication and understanding between employees and supervisors/managers concerning contributions and their impact on pay decisions. In addition, the process seeks to identify possible systemic problems that need to be addressed. In that regard, reconsideration is considered a positive and integral component of an effective contribution-based pay system by providing a mechanism to support continuous improvement. Accordingly, employees will not be discouraged from requesting reconsideration, nor will they be subjected to reprisal or stigma. The specific process for reconsideration will be defined at the Systems Center level. That process will include, but will not necessarily be limited to, the following characteristics: It should be administratively streamlined; provide expedited resolution; maintain

appropriate confidentiality; be fair and impartial; address assertions of harmful error involving issues of process and procedure; and ensure that management rating and scoring decisions reflect reasonableness in judgment in evaluating applicable criteria. Harmful error is defined as: Error by the Systems Center in the application of its procedures which, in the absence or cure of the error, might have caused the Systems Center to reach a conclusion different than the one reached. The burden is upon the appellant to show that based upon the record as a whole the error was harmful, *i.e.,* caused substantial harm or prejudice to his/her rights.

SSC Atlantic and SSC Pacific will employ an appeal process in which the employee desiring reconsideration appeals directly to the organization's Technical Director/Commanding Officer or delegate. Prior to this consolidated appeal process, employees will be encouraged to seek informal reconsideration with first-, second- or third-level supervisors. The formal consolidated process will eliminate costly and staggered review processes, and will provide the employees timely and high-level appeal decisions by a senior third party. The Technical Director/Commanding Officer's ruling is final. If an employee's rating or contribution score is changed during the reconsideration process, the new score will be applied to the compensation adjustment process. The following are not considered appealable under the reconsideration process: compensation decisions such as receipt, non-receipt, or amount of general increase, base pay increase, and bonus.

Appeals that contain allegations that a performance rating was based on prohibited action(s) that are subject to formal review and adjudication by a third party may not be processed through the reconsideration process, but instead may be processed by the employee through the applicable third party process. Such third parties include, but are not limited to: the Merit Systems Protection Board (MSPB), the Office of Special Counsel (OSC), the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), and the Equal Employment Opportunity Commission (EEOC).

7. Reduction-in-Force (RIF)

Flexible and responsive alternatives are needed to restructure an organization in a short period of time. The proposed RIF system will have a single round of competition to replace the "two round" process. Once the position to be abolished has been identified, the incumbent of that position may "displace" another employee when the incumbent has a higher retention standing and meets OPM and agency qualification standards for the position occupied by the employee with a lower standing. Retention standing is based on tenure, veterans' preference, and RIF Service Computation Date (SCD) as adjusted by the employee's contribution scores. Adjustments applied and RIF procedures will be specified in internal business rules, policies, or procedures, and will be consistent across all pay bands and career paths. An employee rated as unacceptable during the 12-month period preceding the effective date of a RIF may only displace an employee rated unacceptable during that same period.

5 CFR 351.702 will serve as the criteria to determine employee qualification in RIF placement. The displaced individual may similarly displace other employees. If/when there is no position in which an employee can be placed by this process or assigned to a vacant position, that employee will be separated. Displacement is limited to one pay band below the employee's present level. A preference eligible employee with a compensable service connected disability of 30 percent or more may displace up to two pay bands (or the equivalent of five GS grades) below the employee's present level. The new system will eliminate retained grade but will preserve retained pay in accordance with 5 CFR part 536. The competitive area may be determined by career paths, business units, product lines, organizational units, funding lines, occupational series, competency, geographic location or a combination of these elements, and must include all STRL demonstration project employees within the defined competitive area. All positions included in the demonstration project within an activity at a specific geographic location will be considered a separate competitive area. RIFs are conducted by the DON Human Resources Service Centers.

8. Conversion From NSPS Into the Demonstration Project

a. Placement Into Demonstration Project Pay Plans and Pay Bands From NSPS

The employee's NSPS occupational series, pay plan, pay band, and supervisory code will be considered upon converting into the demonstration project as follows:

(1) Determine the Appropriate Demonstration Project Pay Plan. Employees will be converted into a pay plan based on the occupational series of their position. For supervisors, conversion to that pay plan will be without regard to the occupational series. In cases where the employee is assigned to a NSPS-unique occupational series, a corresponding OPM occupational series must be identified using OPM GS classification standards and guidance to determine the proper demonstration project pay plan.

(2) Determine the Appropriate Pay Band. The appropriate pay band will be determined primarily by classifying each employee's position using the applicable classification standards for the Demo project. Relevant background information such as GS conversion grade, grade/level held previously, *etc.,* may be an indicator of the level of classification review required.

b. Pay Upon Conversion

Conversion from NSPS into the demonstration project will be accomplished with full employee pay protection. Adverse action provisions will not apply to the conversion action. In accordance with section 1113(c)(1) of NDAA for 2010, which prohibits a loss of or decrease in pay upon transition from NSPS, employees converting to the demonstration project will retain the adjusted base salary (as defined in 5 CFR 9901.304) from their NSPS permanent position at the time the position converts or have base pay adjusted to correspond to the base pay of the pay band minimum to which they are converting. Upon conversion, the retained NSPS adjusted salary may not exceed Level IV of the Executive Schedule plus 5 percent. If the employee's base/basic pay exceeds the maximum rate for his or her assigned demonstration project pay band, the employee will be placed on indefinite pay retention until an event, as described in 5 CFR 536.308, results in a loss of eligibility for or termination of pay retention. Increases to the retained rate after conversion will be in accordance with applicable regulations; however, for any NSPS employee whose retained rate exceeds EX–IV upon conversion, any adjustment to the retained rate in accordance with applicable pay retention regulations may not cause the employee's adjusted pay to exceed EX–IV plus 5 percent.

Employees who were covered by an NSPS targeted local market supplement (TLMS) prior to conversion to the demonstration project will no longer be covered by a TLMS. Instead they may receive a locality or, if applicable similar supplement (*e.g.,* a staffing supplement), whichever is greater, or pay retention, if applicable. The

adjusted base pay upon conversion will not change.

Once converted, employees may receive other adjustments and/or differentials if applicable, as described in this regulation or an implementing issuance.

(1) *Fair Labor Standards Act (FLSA) Status.* Since FLSA provisions were not waived under NSPS and duties do not change upon conversion to the demonstration project, the FLSA status determination will remain the same upon conversion. Employees will be converted to the demonstration project with the same FLSA status they had under NSPS.

(2) *Transition Equity.* During the first 12 months following conversion to the demonstration project, management may approve certain adjustments within the pay band for pay equity reasons stemming from conversion. For example, if an employee would have been otherwise promoted but demonstration project pay band placement no longer provides the opportunity for a promotion, a pay equity adjustment may be authorized provided the adjustment does not cause the employee's base pay to exceed the maximum rate of his or her assigned pay band and the employee's contribution warrants an adjustment. The decision to grant a pay equity adjustment is at the sole discretion of management and is not subject to employee appeal procedures.

During the first 12 months following conversion, management may approve an adjustment of not more than 10 percent, provided the adjustment does not cause the employee's base pay to exceed the maximum rate of his or her assigned pay band and the employee's contribution warrants an adjustment, to mitigate compensation inequities that may be caused by artifacts of the process of conversion into STRL pay bands.

c. Pay Band Retention

Employees converting from NSPS to the demonstration project will not be granted pay band retention based on the pay band formerly assigned to their NSPS position.

d. Converting Employees on NSPS Term and Temporary Appointments

Employees serving under term appointments at the time of conversion to the demonstration project will be converted to modified term appointments provided they were hired for their current positions under competitive procedures. These employees will be eligible for conversion to career or career-conditional appointments in the competitive service provided they:

(1) Have served two years of continuous service in the term position;

(2) Were selected for the term position under competitive procedures; and

(3) Are performing at a satisfactory level.

Converted term employees who do not meet these criteria may continue on their term appointment up to the not-to-exceed date established under NSPS. Extensions of term appointments after conversion may be granted in accordance with 5 CFR part 316, subpart D.

Employees serving under temporary appointments under NSPS when their organization converts to the demonstration project will be converted and may continue on their temporary appointment up to the not-to-exceed date established under NSPS. Extensions of temporary appointments after conversion may be granted in accordance with 5 CFR 213.104 for excepted service employees and 5 CFR part 316, subpart D, for competitive service employees.

e. Probationary Periods

(1) *Initial Probationary Period.* NSPS employees who have completed an initial probationary period prior to conversion from NSPS will not be required to serve a new or extended initial probationary period. NSPS employees who are serving an initial probationary period upon conversion from NSPS will serve the time remaining on their initial probationary period.

(2) *Supervisory Probationary Period.* NSPS employees who have completed a supervisory probationary period prior to conversion from NSPS will not be required to serve a new or extended supervisory probationary period. NSPS employees who are serving a supervisory probationary period upon conversion from NSPS will serve the time remaining on their supervisory probationary period.

9. Conversion From Other Personnel Systems

Employees who enter this demonstration project from other personnel systems (*e.g.,* Defense Civilian Intelligence Personnel System, DoD Civilian Acquisition Workforce Demonstration Project, or other STRLs) due to a reorganization, mandatory conversion, Base Closure and Realignment Commission decision, or other directed action will be converted into the SSC STRL demonstration project via movement of their positions using an 890 Nature of Action Code. Employees' positions will be classified based upon the position classification criteria under the laboratory demonstration project rules and their pay, upon conversion, maintained under applicable pay setting rules.

10. Movement Out of the SSC STRL Demonstration Project

a. Termination of Coverage under the SSC STRL Demonstration Project Pay Plans.

In the event employees' coverage under the SSC STRL demonstration project pay plans is terminated, employees move with their demonstration project position to another system applicable to SSC STRL employees. The grade of their demonstration project position in the new system will be based upon the position classification criteria of the gaining system. Employees when converted to their positions classified under the new system will be eligible for pay retention under 5 CFR part 536, if applicable.

b. Determining a GS-equivalent Grade and GS-equivalent Rate of Pay for Pay Setting Purposes when an SSC Employee's Coverage by a Demonstration Project Pay Plan Terminates or the Employee Voluntarily Exits the SSC STRL Demonstration Project.

If a demonstration project employee is moving to a GS or other pay system position, the following procedures will be used to translate the employee's project pay band to a GS-equivalent grade and the employee's project base pay to the GS-equivalent rate of pay for pay setting purposes. The equivalent GS grade and GS rate of pay must be determined before movement out of the demonstration project and any accompanying geographic movement, promotion, or other simultaneous action. For lateral reassignments, the equivalent GS grade and rate will become the employee's converted GS grade and rate after leaving the demonstration project (before any other action). For transfers, promotions, and other actions, the converted GS grade and rate will be used in applying any GS pay administration rules applicable in connection with the employee's movement out of the project (*e.g.,* promotion rules, highest previous rate rules, pay retention rules), as if the GS converted grade and rate were actually in effect immediately before the employee left the demonstration project.

(1) Equivalent GS-Grade-Setting Provisions

An employee in a pay band corresponding to a single GS grade is

provided that grade as the GS-equivalent grade. An employee in a pay band corresponding to two or more grades is determined to have a GS-equivalent grade corresponding to one of those grades according to the following rules:

(a) The employee's adjusted base pay under the demonstration project (including any locality payment or staffing supplement) is compared with step 4 rates in the highest applicable GS rate range. For this purpose, a GS rate range includes a rate in:

i. The GS base schedule;

ii. The locality rate schedule for the locality pay area in which the position is located; or

iii. The appropriate special rate schedule for the employee's occupational series, as applicable.

If the series is a two-grade interval series, only odd-numbered grades are considered below GS–11.

(b) If the employee's adjusted base pay under the demonstration project equals or exceeds the applicable step 4 adjusted base pay rate of the highest GS grade in the band, the employee is converted to that grade.

(c) If the employee's adjusted base pay under the demonstration project is lower than the applicable step 4 adjusted base pay rate of the highest grade, the adjusted base pay under the demonstration project is compared with the step 4 adjusted base pay rate of the second highest grade in the employee's pay band. If the employee's adjusted base pay under the demonstration project equals or exceeds the step 4 adjusted base pay rate of the second highest grade, the employee is converted to that grade.

(d) This process is repeated for each successively lower grade in the band until a grade is found in which the employee's adjusted base pay under the demonstration project rate equals or exceeds the applicable step 4 adjusted base pay rate of the grade. The employee is then converted at that grade. If the employee's adjusted base pay is below the step 4 adjusted base pay rate of the lowest grade in the band, the employee is converted to the lowest grade.

(e) Exception: An employee will not be provided a lower grade than the grade held by the employee immediately preceding a conversion, lateral reassignment, or lateral transfer into the project, unless since that time the employee has either undergone a reduction in band or a reduction within the same pay band due to unacceptable performance.

(2) Equivalent GS-Rate-of-Pay-Setting Provisions

An employee's pay within the converted GS grade is set by converting the employee's demonstration project rates of pay to GS rates of pay in accordance with the following rules:

(a) The pay conversion is done before any geographic movement or other pay-related action that coincides with the employee's movement or conversion out of the demonstration project.

(b) An employee's adjusted base pay under the demonstration project (*i.e.,* including any locality payment or staffing supplement) is converted to a GS adjusted base pay rate on the highest applicable GS rate range for the converted GS grade. For this purpose, a GS rate range includes a rate range in:

i. The GS base schedule,

ii. An applicable locality rate schedule, or

iii. An applicable special rate schedule.

(c) If the highest applicable GS rate range is a locality pay rate range, the employee's adjusted base pay under the demonstration project is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule, the rate must be set at the higher step. The converted GS unadjusted rate of base pay would be the GS base rate corresponding to the converted GS locality rate (*i.e.,* same step position).

(d) If the highest applicable GS rate range is a special rate range, the employee's adjusted base pay under the demonstration project is converted to a special rate. If this rate falls between two steps in the special rate schedule, the rate must be set at the higher step. The converted GS unadjusted rate of base pay will be the GS rate corresponding to the converted special rate (*i.e.,* same step position).

(3) Employees With Pay Retention

If an employee is receiving a retained rate under the demonstration project, the employee's GS-equivalent grade is the highest grade encompassed in his or her pay band level. Demonstration project operating procedures will outline the methodology for determining the GS-equivalent pay rate for an employee retaining a rate under the demonstration project.

III. SSC STRL Demonstration Project Duration

Section 342 of the National Defense Authorization Act for fiscal year 1995 (Pub. L. 103–337) does not require a mandatory expiration date for this demonstration project. The project evaluation plan addresses how each intervention will be comprehensively evaluated for at least the first 5 years of the demonstration project. Major changes and modifications to the interventions would be made using the provisions of DoDI 1400.37.

At the five-year point, the entire demonstration will be reexamined for either: (a) Permanent implementation, (b) modification and another test period, or (c) termination of the project.

IV. SSC STRL Demonstration Project Evaluation Plan

Consistent with guidance from DoD, SSC Atlantic and SSC Pacific propose utilizing the same evaluation plan as is being used by existing Demonstration Projects. Accordingly, standard language for Evaluation Plan, Evaluation, and Method of Data Collection (sections V.B., V.C, and V.D., respectively) provided by DoD is used in this document to describe SSC Atlantic's and SSC Pacific's plans and procedures for the demonstration project evaluation. The use of parallel evaluation methodologies will facilitate comparisons across demonstration projects to derive higher-order conclusions about the benefits, challenges, and overall effectiveness of these programs.

A. Overview

Chapter 47 of 5 U.S.C. requires that an evaluation be performed to measure the effectiveness of the proposed laboratory demonstration project, and its impact on improving public management. A comprehensive evaluation plan for the entire laboratory demonstration program, originally covering 24 DoD laboratories, was developed by a joint OPM/DoD Evaluation Committee in 1995. This plan was submitted to the Office of Defense Research & Engineering and was subsequently approved (*see* Proposed Plan for Evaluation of the Department of Defense S&T Laboratory Demonstration Program, Office of Merit Systems Oversight and Effectiveness, June 1995). The main purpose of the evaluation is to determine whether the waivers granted result in a more effective personnel system and improvements in ultimate outcomes (*i.e.,* laboratory effectiveness, mission accomplishment, and customer satisfaction). In March 1996, the Director of Defense Research & Engineering (DDR&E), who is responsible for laboratory management, entered into an agreement with OPM's Personnel Resources and Development Center (PRDC) to conduct the external evaluation of the project from FY1996 to FY2001. The Centers will make

arrangements for the continued evaluation of the project beyond the PRDC evaluation period and throughout the life of the demonstration project so as to fulfill the requirements of 5 U.S.C. chapter 47.

B. Evaluation Model

Appendix C shows an intervention model for the evaluation of the demonstration project. The model is designated to evaluate two levels of organizational performance: Intermediate and ultimate outcomes. The intermediate outcomes are defined as the results from specific personnel system changes and the associated waivers of law and regulation expected to improve human resource (HR) management (*i.e.,* cost, quality, and timeliness). The ultimate outcomes are determined through improved organizational performance, mission accomplishment, and customer satisfaction. Although it is not possible to establish a direct causal link between changes in the HR management system and organizational effectiveness, it is hypothesized that the new HR system will contribute to improved organizational effectiveness.

Organizational performance measures established by the organization will be used to evaluate the impact of a new HR system on the ultimate outcomes. The evaluation of the new HR system for any given organization will take into account the influence of three factors on organizational performance: Context, degree of implementation, and support of implementation. The context factor refers to the impact which intervening variables (*e.g.,* downsizing, changes in mission, or the economy) can have on the effectiveness of the program. The degree of implementation considers the extent to which the:

(1) HR changes are given a fair trial period;

(2) Changes are implemented; and

(3) Changes conform to the HR interventions as planned.

The support of implementation factor accounts for the impact that factors such as training, internal regulations and automated support systems have on the support available for program implementation. The support for program implementation factor can also be affected by the personal characteristics (*e.g.,* attitudes) of individuals who are implementing the program.

The degree to which the project is implemented and operated will be tracked to ensure that the evaluation results reflect the project as it was intended. Data will be collected to measure changes in both intermediate and ultimate outcomes, as well as any unintended outcomes, which may happen as a result of any organizational change. In addition, the evaluation will track the impact of the project and its interventions on veterans and other protected groups, the Merit Systems Principles, and the Prohibited Personnel Practices. Additional measures may be added to the model in the event that changes or modifications are made to the demonstration plan.

The intervention model at Appendix H will be used to measure the effectiveness of the personnel system interventions implemented. The intervention model specifies each personnel system change or "intervention" that will be measured and shows:

(1) The expected effects of the intervention,

(2) The corresponding measures, and

(3) The data sources for obtaining the measures.

Although the model makes predictions about the outcomes of specific interventions, causal attributions about the full impact of specific interventions will not always be possible for several reasons. For example, many of the initiatives are expected to interact with each other and contribute to the same outcomes. In addition, the impact of changes in the HR system may be mitigated by context variables (*e.g.,* the job market, legislation, and internal support systems) or support factors (*e.g.,* training and automation support systems).

C. Evaluation

A modified quasi-experimental design will be used for the evaluation of the STRL Personnel Demonstration Program. Because most of the eligible laboratories are participating in the program, a title 5 U.S.C. comparison group will be compiled from the Central Personnel Data File (CPDF). This comparison group will consist of workforce data from Government-wide research organizations in civilian Federal agencies with missions and job series matching those in the DoD laboratories. This comparison group will be used primarily in the analysis of pay banding costs and turnover rates.

D. Method of Data Collection

Data from several sources will be used in the evaluation. Information from existing management information systems and from personnel office records will be supplemented with perceptual survey data from employees to assess the effectiveness and perception of the project. The multiple sources of data collection will provide a more complete picture as to how the interventions are working. The information gathered from one source will serve to validate information obtained through another source. In so doing, the confidence of overall findings will be strengthened as the different collection methods substantiate each other.

Both quantitative and qualitative data will be used when evaluating outcomes. The following data will be collected:

(1) Workforce data;

(2) Personnel office data;

(3) Employee attitude surveys;

(4) Focus group data;

(5) Local site historian logs and implementation information;

(6) Customer satisfaction surveys; and

(7) Core measures of organizational performance.

The evaluation effort will consist of two phases, formative and summative evaluation, covering at least five years to permit inter- and intra-organizational estimates of effectiveness. The formative evaluation phase will include baseline data collection and analysis, implementation evaluation, and interim assessments. The formal reports and interim assessments will provide information on the accuracy of project operation, and current information on impact of the project on veterans and protected groups, Merit System Principles, and Prohibited Personnel Practices. The summative evaluation will focus on an overall assessment of project outcomes after five years. The final report will provide information on how well the HR system changes achieved the desired goals, which interventions were most effective, and whether the results can be generalized to other Federal installations.

V. Demonstration Project Costs

SSC Atlantic and SSC Pacific will model their demonstration project on existing Demonstration Projects, but must assume some expanded demonstration project costs, as detailed below.

Current cost estimates associated with implementing the SSC Atlantic and SSC Pacific demonstration project are shown in Figure 3–1. These include possible automation of training and project evaluation systems. The automation and training costs are startup costs. Transition costs are one-time costs. Costs for project evaluation will be ongoing for at least 5 years.

Figure 3-1. Projected Implementation Costs (Then Year Dollars)

	FY10	FY 11	FY 12	FY 13	FY 14
Software Development & Automation	$200K	$600K	$100K	$75K	$75K
Software Hosting & Sustainment	$100K	$175K	$175K	175K	175K
Training Development & Workforce Training	$400K	$2.8M	$350K	$75K	$75K
Project Evaluation	$0	$0	$50K	$100K	$50K
STRL Transition	$350K	$350K	$0	$0	$0
STRL Sustainment / Management	$0	$0K	$200K	$200K	$200K
TOTALS	$1.050M	$3.925M	$875K	$625K	$575K

VI. Automation Support

A. General

One of the major goals of the demonstration project is to streamline the personnel processes to increase cost effectiveness. Automation must play an integral role in achieving that goal. Without the necessary automation to support the interventions proposed for the demonstration project, optimal cost benefit cannot be realized. In addition, adequate information to support decisionmaking must be available to managers if line management is to assume greater authority and responsibility for human resources management.

Automation to support the demonstration project is required at the DON and DoD level (in the form of changes to the Defense Civilian Personnel Data System (DCPDS)) to facilitate processing and reporting of demonstration project personnel actions, and may be ultimately required by the Systems Centers to assist in processing of a variety of personnel-related actions in order to facilitate management processes and decisionmaking.

B. Defense Civilian Personnel Data System (DCPDS)

DCPDS is the Department of Defense's authoritative personnel data system and program of record and, as such, will be the system of choice for the STRL labs. The detailed specifications for required changes to DCPDS will be provided in the System Change Request (SCR), Form 804, concurrent with submission of this document.

VII. Project Oversight and Management

A. Oversight and Management

Project oversight and management will be carried out by the Systems Centers' Senior Leadership, composed of the Commanding Officers and Technical Directors of both organizations. They will be assisted initially by the SSC STRL Demonstration Project Implementation Committee, and once established, by the permanent SSC STRL Project Management team.

B. Personnel Administration

All personnel laws, regulations, and guidelines not waived by this plan will remain in effect. Basic employee rights will be safeguarded and merit system principles will be maintained.

C. Modifications

Many aspects of a demonstration project are experimental. Modifications may be made from time to time as experience is gained, results are analyzed, and conclusions are reached on how the new system is working. Modifications would be made in accordance with Department of Defense Instruction (DoDI) 1400.37.

VIII. Required Waivers to Law and Regulation

Public Law 106–398 gave the DoD the authority to experiment with several personnel management innovations. In addition to the authorities granted by the law, the following are waivers of law and regulation that will be necessary for implementation of the demonstration project. In due course, additional laws and regulations may be identified for waiver request.

The following waivers and adaptations of certain title 5 U.S.C. and 5 CFR provisions are required only to the extent that these statutory provisions limit or are inconsistent with the actions contemplated under this demonstration project. Nothing in this plan is intended to preclude the demonstration project from applying, adopting or incorporating any law or OPM, DoD, or DON regulation enacted, adopted, or amended after the effective date of this demonstration project.

A. Waivers to Title 5, U.S.C.

Chapter 5, section 552a: Records. Waive to the extent required to clarify that volunteers under the Voluntary Emeritus Program are considered employees of the Federal government for purposes of this section.

Chapter 31, section 3111: Acceptance of volunteer service. Waived to allow for a Volunteer Emeritus Program in addition to student volunteers.

Chapter 33, section 3317(a): Competitive service, certification from register (in so far as "rule of three" is eliminated under the demonstration project).

Chapter 33, section 3318(a): In so far as "rule of three" is eliminated under the demonstration Project. Veterans' preference provisions remain unchanged.

Chapter 33, section 3321: Competitive Service; Probationary Period. This section waived only to the extent necessary to replace grade with "pay band."

Chapter 33, section 3341: Details. Waived in its entirety.

Chapter 41, section 4108 (a)–(c): Employee Agreements; Service after Training. Waived to the extent necessary to: (1) Provide that the employee's service obligation is to the respective Systems Center organization for the period of the required service; (2) permit the Commanding Officers/ Technical Directors to waive in whole or in part a right of recovery; and (3) require employees under the Student Career Experience Program who have received tuition assistance to sign a service agreement up to three times the length of the training.

Chapter 43, section 4303: Only insofar as it applies to the downward movement between pay bands because of failure to receive base pay increases.

Chapter 43, section 4304(b)(1) and (3): Responsibilities of the OPM. Waived in its entirety to remove the

responsibilities of the OPM with respect to the performance appraisal system.

Chapter 45, section 4502: Limitation of cash awards to $10K. Waived to allow Technical Director/Commanding Officer to award up to $25K.

Chapter 51, section 5101–5112: Purpose, definitions, basis, classification of positions, review, authority—to the extent that white collar employees will be covered by broad banding.

Chapter 53, section 5301; 5302(1), (8), and (9); section 5303; and section 5304: Pay Comparability System. (To the extent necessary to allow demonstration project employees covered by broad banding to be treated as General Schedule employees and to allow basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay.)

Chapter 53, section 5305: Special Pay Authority. Waived in its entirety.

Chapter 53, section 5331–5336: General Schedule Pay Rates. Waived in its entirety.

Chapter 53, section 5362: Grade Retention. Waived in its entirety.

Chapter 53, section 5363: Pay Retention. Waived only to the extent necessary to (1) replace "grade" with "pay band;" (2) allow demonstration Project employees to be treated as General Schedule employees; and (3) provide that pay retention does not apply to reductions in basic pay due solely to the operation of the pay setting rules for geographic movement within the demonstration project. (This waiver does not apply to SL/ST employees unless they move to a GS equivalent position under conditions that trigger entitlement to pay retention.)

Chapter 55, section 5545(d): Related to hazardous duty premium pay (only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees).

Chapter 57, sections 5753, 5754, and 5755: Related to recruitment, relocation, retention payments, and supervisory differential. (These sections waived to the extent necessary to allow: (1) Employees and positions under the Demonstration Project to be treated as employees and positions under the GS; and (2) that management may offer a bonus to incentivize geographic mobility to a SCEP student.)

Chapter 59, section 5941: Allowances based on living costs and conditions of environment; employees stationed outside continental United States or Alaska (Only to the extent necessary to provide that COLA's paid to employees under the demonstration project are paid in accordance with regulations prescribed by the President (as delegated to OPM)).

Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii): Adverse Actions—Definitions. Waived to the extent necessary to allow for up to a three-year probationary period and to permit termination during the extended probationary period without using adverse action procedures for those employees serving a probationary period under an initial appointment except for those with veterans' preference.

Chapter 75, section 7512(3); To the extent necessary to (1) replace "grade" with "pay band" and (2) exclude reductions in pay band not accompanied by a reduction in pay taken under Chapter 43.

Chapter 75, section 7512(4): Adverse Action. (Only to the extent necessary to provide that adverse action provisions do not apply to (1) conversions from General Schedule special rates to demonstration project pay and reallocations of demonstration project pay rates within special rate extensions to locality adjusted pay rates due to promotions of general or locality pay increases, as long as the employee's total rate of pay is not reduced; and (2) reductions in basic pay due solely to the operations of the pay setting rules for geographic movement within the demonstration project.)

B. Waivers to Title 5, CFR

Part 300, sections 300.601 through 300.605: Time-in-grade restrictions are eliminated in the demonstration project.

Part 308, sections 308.101 through 308.103: Volunteer service. Waived to allow for a Volunteer Emeritus Program in addition to student volunteers.

Part 315, section 315.801(a), 315.801(b)(1), (c), and (e), and 315.802(a) and (b)(1): Probationary period and Length of probationary period. Waived to the extent necessary to allow for up to a three-year probationary period and to permit termination during the extended probationary period without using adverse action procedures for those employees serving a probationary period under an initial appointment except for those with veterans' preference.

Part 316, sections 316.301, 316.303, and 316.304: Term Employment. These sections are waived to allow modified term appointments as described in this **Federal Register**.

Part 332, section 332.402: "Rule of three" will not be used in the demonstration project. When there are no more than 15 qualified applicants and no preference eligible, all eligible applicants are referred to the selection official without rating or rankings. Statutes and regulations covering veterans' preference are observed in the selection process and when rating and ranking are required.

Part 332, section 332.404: Waived to provide that the order of selection is not limited to highest three eligibles.

Part 335, section 335.103: Agency promotion programs. Waived to the extent necessary to extend the length of details and temporary promotions without requiring competitive procedures or numerous short-term renewals.

Part 337, section 337.101(a): Rating applicants. Waived to the extent necessary to allow referral without rating when there are 15 or fewer qualified candidates and no qualified preference eligibles.

Part 340, subpart A, subpart B, and subpart C: Other than Full-Time Career Employment. These subparts are waived to the extent necessary to allow a Volunteer Emeritus Program.

Part 351, section 351.402(b): Competitive area to the extent that "part of the agency" can be defined by career paths, business units, product lines, organizational units, funding lines, occupational series, competency, and geographic locations.

Part 351, sections 351.403(a) and (b): Competitive levels to the extent that there is no requirement for the establishment of competitive levels in the demonstration project.

Part 351, section 351.404(a) and (b): Retention register to the extent that the requirement to establish separate retention registers by competitive level is eliminated.

Part 351, section 351.501(a)(3): For order of retention, delete "as augmented by credit for performance" under section 351.504.

Part 351, section 351.504: Credit for performance to the extent that the demonstration project eliminates service credit for performance.

Part 351, section 351.504: Performance Credit for RIF, to the extent veteran standing is based on Service Computation Data (SCD), veterans' preference and contribution scores.

Part 351, section 351.601 through 351.608: References to competitive levels are eliminated.

Part 351, section 351.701(b) and (c) Assignment rights (bump and retreat): To the extent that the distinction between bump and retreat is eliminated and the placement of demonstration project employees is restricted to no more than one broad band below the employee's current level, except that for a preference eligible with a

compensable service connected disability of 30 percent or more, the limit is two pay bands (or the equivalent of five General Schedule grades) below the employee's present level.

Part 410, section 410.308(a) and (c) sufficient to allow the Systems Centers to pay for all courses related to an academic degree program approved by the applicable Systems Centers' Technical Director/Commanding Officer.

Part 410, section 410.309: Agreements to continue in service. Waived to the extent necessary to allow the applicable Systems Centers' Technical Director/Commanding Officer to determine requirements related to continued service agreements, including employees under the Student Career Experience Program who have received tuition assistance.

Part 430, Subpart B: Performance appraisal for General Schedule, Prevailing Rate and certain other employees: Employees under the demonstration project will not be subject to the requirements of this subpart.

Part 430, section 430.208(a)(1) and (2): Rating Performance. Waived to allow presumptive ratings for new employees hired 90 days or less before the end of the appraisal cycle or for other situations not providing adequate time for an appraisal.

Part 432: Only insofar as it applies to the downward movement between pay bands because of failure to receive base pay increases. Also modified to delete reference to critical element. For employees who are reduced in pay band without a reduction in pay, sections 432.105 and 432.106(a) do not apply.

Part 432, section 432.104 and 432.105: Proposing and Taking Action Based on Unacceptable Performance: Insofar as references to "critical elements" are deleted and adding that the employee may be "reduced in grade or pay or removed" if performance does not improve to acceptable levels after a reasonable opportunity.

Part 451, subpart A, section 451.103(c)(2): Waived with respect to performance awards under the SPAWAR CARS and Distinguished Contribution Allowance.

Part 511, section 511.201: To the extent that White Collar positions are covered by broad banding.

Part 511, subpart A: General Provisions and subpart B: Coverage of the GS. Waived to the extent necessary to allow for the demonstration project classification system and pay banding structure.

Part 511, section 511.601: Applicability of regulations. Classification appeals modified to the extent that white collar positions established under the project plan, although specifically excluded from title 5 CFR, are covered by the classification appeal process outlined in this FRN section III.B.5., as amended below.

Part 511, section 511.603(a): Right to appeal. Waived to the extent necessary to substitute pay band for grade.

Part 511, section 511.607(b): Non-Appealable Issues. Add to the list of issues that are neither appealable nor reviewable, the assignment of series under the project plan to appropriate occupational families and the demonstration project classification criteria.

Part 530, subpart C: Special Rate Schedules for Recruitment and Retention. Waived in its entirety to allow for staffing supplements.

Part 531, Subparts B, D, and E: Determining the Rate of Basic Pay, Within-Grade Increases and Quality Step Increases. (Except that the provisions relating to highest previous rate under § 531.202 and 531.203 are waived only to the extent necessary to work in a broad banding system.)

Part 531, subpart F: Locality-Based Comparability Adjustments. (This waiver applies only to the extent necessary to allow demonstration project employees covered by broad banding, except, to be treated as General Schedule employees; and to allow basic rates of pay under the demonstration project to be treated as scheduled annual rates of pay. This waiver does not apply to FWS employees.)

Part 531, subpart B: Determining Rate of Basic Pay. Waived to the extent necessary to allow for pay setting and pay for performance/contribution under the provisions of the demonstration project.

Part 531, subparts D and E: Within-Grade Increases and Quality Step Increases. Waived in its entirety.

Part 531, subpart F: Locality-Based Comparability Payments. Waived to the extent necessary to allow demonstration project employees to be treated as GS employees and base rates of pay under the demonstration project to be treated as scheduled annual rates of pay.

Part 536: All provisions pertaining to grade retention. Waived in their entirety.

Part 536, section 536.104: Pay Retention. Waived only to the extent necessary to (1) replace "grade" with "pay band"; (2) allow demonstration project employees to be treated as General Schedule employees; and (3) provide that pay retention does not apply to reductions in basic pay due solely to the operation of the pay setting rules for geographic movement within the demonstration project. (This waiver does not apply to SL/ST employees unless they move to a GS equivalent position under conditions that trigger entitlement to pay retention.)

Part 550, section 550.703: Severance Pay, definition of "reasonable offer" waived by replacing "two grade or pay levels" with "one pay band" and "grade or pay level" with "pay band."

Part 550, section 550.902, definition of "employee": Hazardous Duty Pay. (Only to the extent necessary to treat demonstration project employees covered by broad banding as General Schedule employees.)

Part 575, Subparts A, B, and C: Recruitment Bonuses, Relocation Bonuses, Retention Allowances, and Supervisory Differentials. Waived only to the extent necessary to allow (1) employees and positions under the demonstration project covered by broad banding to be treated as employees and positions under the General Schedule; (2) relocation incentives to new SCEP students; and (3) relocation incentives to SCEP students whose worksite is in a different geographic location than that of the college enrolled.

Part 575, Subpart D: Waive in its entirety.

Part 591, Subpart B: Cost-of-Living Allowances and Post Differential-Non-foreign Areas. (To the extent necessary to allow demonstration project employees covered by broad banding to be treated as employees under the General Schedule.)

Part 752, sections 752.101, 752.201, 752.301 and 752.401: Principal statutory requirements and Coverage. Waived to the extent necessary to allow for up to a three-year probationary period and to permit termination during the extended probationary period without using adverse action procedures for those employees serving a probationary period under an initial appointment except for those with veterans' preference.

Part 752, sections 752.401(a)(3): Reduction in grade and pay (but only to the extent necessary to exclude reductions in pay band not accompanied by a reduction in pay) and 752.401(a)(4) (but only to the extent necessary to exclude conversions from a General Schedule special rate to demonstration project pay that do not result in a reduction in the employee's total rate of pay).

Part 752: section 752.401(a)(4): Adverse Action. (Only to the extent necessary to provide that adverse action provisions do not apply to—(1) conversions from General Schedule special rates or NSPS Targeted Local

Market Supplements to demonstration project pay and reallocations of demonstration project pay rates within special rate extensions to locality adjusted pay rates due to promotions or general or locality pay increases, as long as the employee's total rate of pay is not reduced; and (2) reductions in basic pay due solely to the operation of the pay setting rules for geographic movement within the demonstration project.

IX. Appendices

BILLING CODE 5001–06–P

Appendix A: STRL Demonstration Project Series

SSC STRL Demonstration Project Inclusive Series			
Series		Series	
0018	Safety and Occupational Health Management Series	0896	Industrial Engineering
0019	Safety Technician Series	0899	Student Trainee (Engineering)
0020	Community Planning Series	0904	Law Clerk Series
0021	Community Planning Technician	0905	General Attorney Series
0028	Environmental Protection Specialist Series	0950	Paralegal Specialist Series
0029	Environmental Protection Technician	0986	Legal Assistance
0080	Security Administration Series	1001	General Arts and Info Series
0086	Security Technician	1021	Office Drafting Series
0101	Social Science	1035	Public Affairs Series
0132	Intelligence Series	1040	Language Specialist Series
0134	Intelligence Technician	1060	Photography Series
0170	History Series	1071	Audiovisual Production Series
0180	Psychology Series	1082	Writing and Editing Series
0181	Psychology Technician	1083	Technical Writing and Editing Series
0184	Sociology Series	1084	Visual Information Series
0201	Human Resources Management	1087	Editorial Assistance Series
0203	Human Resources assistance	1101	Business
0260	Equal Employment Opportunity Series	1102	Contracting Series
0301	Misc. Administration & Program Series	1103	Industrial Property Management Series
0302	Messenger Series	1105	Purchasing Series
0303	Misc. Clerk and Assistant Series	1106	Procurement Clerical and Technician Series
0304	Information Receptionist Series	1107	Property Disposal Clerical and Technician Series
0305	Mail and File Series	1150	Industrial Specialist Series
0309	Correspondence Clerk Series	1152	Production Control Series
0312	Stenographer	1221	Patent Advisor Series
0318	Secretary Series	1222	Patent Attorney Series
0322	Clerk-Typist Series	1301	General Physical Science
0326	Office Automation Clerical and Assistance Series	1306	Health Physics
0335	Computer Clerk and Assistant Series	1310	Physics
0340	Program Manager	1311	Physical Science Technician
0341	Administrative Officer Series	1313	Geophysics
0342	Support Services Administration Series	1320	Chemistry
0343	Management and Program Analysis Series	1321	Metallurgy
0344	Management & Program Clerical and Assistance Series	1330	Astronomy and Space Science
0346	Logistics Management Series	1340	Meteorology
0350	Equipment Operator Series	1341	Meteorological Technician
0356	Data Transcriber Series	1350	Geology
0361	Equal Opportunity Assistance Series	1360	Oceanography
0390	Telecommunications Processing Series	1370	Cartography
0391	Telecommunications Processing Series	1386	Photographic Technology
0392	General Telecommunication Series	1410	Librarian Series
0394	Communications Clerical Series	1411	Library Technician Series
0399	General Analysis/Office Support Student	1412	Technical Information Services Series
0401	Trainee STND	1515	Operations Research
0403	Microbiology	1520	Mathematics
0404	Biological Science Technician Series	1521	Mathematics Technician Series
0408	Ecology	1529	Mathematical Statistics
0410	Zoology	1531	Statistical Assistant Series
0413	Physiology	1550	Computer Science Series
0501	Financial Administration and Budget Group	1599	Student Trainee (Mathematics and Statistics)
0503	Financial Clerical and Technician	1601	Equipment, Facilities, and Services
0505	Financial Management Series	1640	Facility Operations Services
0510	Accounting	1670	Equipment Services
0511	Auditing	1712	Training Instruction Series
0525	Accounting Technician	1750	Instructional System Series
0540	Voucher Examining	1801	General Inspection, Investigation, Enforcement, and Compliance
0544	Civilian Pay	1810	General Investigation
0560	Budget Analysis	1811	Criminal Investigation
0561	Budget Clerical and Assistance	1910	Quality Assurance Series
0599	Finance Student Trainee	2001	General Supply Series
0701	Veterinary Medical Science Series	2003	Supply Program Management Series
0801	General Engineering and Architecture	2005	Supply Clerical and Technician Series
0802	Engineering, Technical	2010	Inventory Management Series
0803	Safety Engineering	2030	Distribution Facilities and Storage Management Series
0806	Materials Engineering	2032	Packaging Series
0807	Landscape Architecture	2050	Supply Cataloging Specialist
0808	Architecture	2101	Transportation Specialist
0809	Construction Control Technical	2102	Transportation Industry Analysis Series
0810	Civil Engineering	2130	Traffic Management Series
0819	Environmental Engineering	2135	Transportatiton Loss and Damage Claims Examiner
0830	Mechanical Engineering	2150	Transportation Specialist
0840	Nuclear Engineering	2152	Air Traffic Assistance Series
0850	Electrical Engineering	0332	Computer Operator
0854	Computer Engineering	0335	Computer Technician
0855	Electronics Engineering	2210	Information Technology Management
0856	Electronics Technical	2299	Student Trainee (Information Technology)
0858	Bioengineering and Biomedical Engineering	1099	Information and Arts Student Trainee
0861	Aerospace Engineering	1199	Business Student Trainee
0893	Chemical Engineering		

Appendix B: SSC STRL Demonstration Project Series Distribution

SSC STRL Series Distribution									
Science and Engineering (ND)	0401	0403	0408	0410	0413	0801	0803	0806	0807
	0808	0810	0819	0830	0840	0850	0854	0855	0858
	0861	0893	0896	1301	1306	1310	1313	1320	1321
	1330	1340	1350	1360	1370	1386	1515	1520	1529
	1550	0701	0899	1599	0180	1399			
Administrative / Professional (NO)	0018	0020	0028	0080	0101	0132	0170	0184	
	0201	0260	0301	0340	0341	0342	0343	0346	0391
	0501	0505	0510	0511	0560	0904	0905	0950	1001
	1021	1035	1040	1071	1082	1083	1084	1101	1102
	1103	1150	1221	1222	1410	1412	1601	1640	1670
	1712	1750	1801	1810	1811	1910	2001	2003	2010
	2030	2032	2050	2101	2130	2150	2152	2210	0399
	0599	1099	1199	2299					
S&E Technician (NR)	0404	0802	0809	0856	0895	1311	1341	1521	1531
	0021	1060	1152						
General Support (NG)	0019	0029	0086	0134	0181	0203	0302	0303	0304
	0305	0309	0312	0318	0322	0326	0335	0344	0350
	0356	0361	0390	0392	0394	0503	0525	0540	0544
	0561	0986	1087	1105	1106	1107	1411	2005	2102
	2135	0332	0335						
Supervisor (NM)	All Series								

*NSPS-unique series 2203 & 2204 were directly converted in the SSC STRL Demonstration Project to series 0332 & 0335 (in the General Support Career Path), respectively.

Appendix C: Baseline Performance Standards (Career Path-Independent)

Work is timely, efficient, and of acceptable quality. Flexibility, adaptability, and decisiveness are exercised appropriately. Leadership effectively demonstrates commitment to mission, ethical behavior, and integrity. Interactions show respect for individual differences and diversity. Personal and organizational interactions exhibit and foster cooperation and teamwork. Communications are clear, concise, effective, and at appropriate level. Resources are utilized effectively and efficiently to accomplish the mission. Personal and organizational interactions also enhance customer relations and actively promote rapport with customers.

Appendix D: Core Contribution Elements

Technical: This element measures personal and organizational problem solving results. It is comprised of the following components: Scope/impact, Complexity/difficulty, Independence, and Creativity

Teamwork and Communication: This element measures individual and organizational teamwork and cooperation as well as effectiveness of oral/written communications. It is comprised of the following components: Scope of team effort, Contribution to team, Team effectiveness, Level of interaction (audience), and Communication (oral and written).

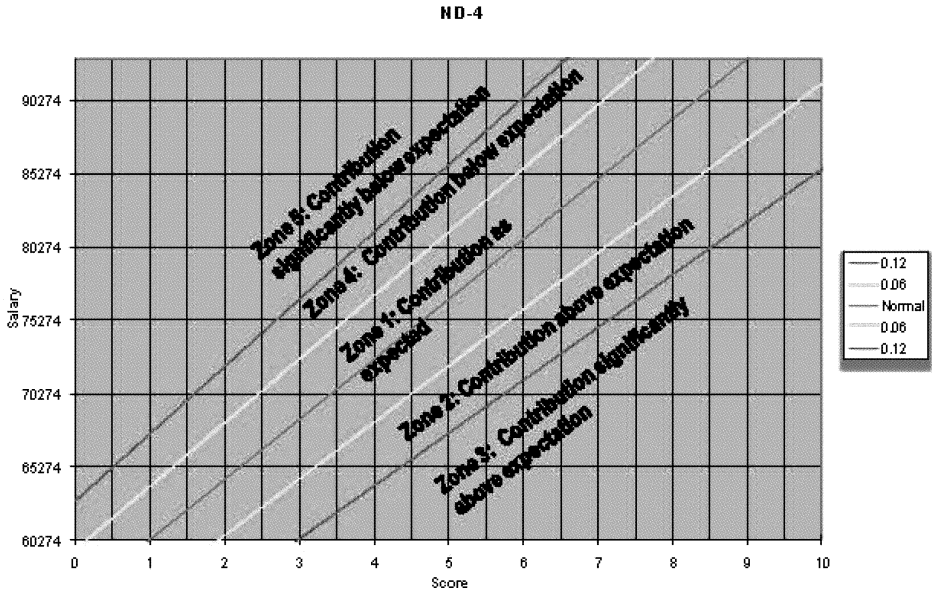
Management: This element measures personal and organizational utilization of resources to accomplish the mission. (Resources include but are not limited to personal time, equipment and facilities, human resources and funds.) This element also measures the effectiveness of personal and organizational interactions with customers, both internal and external. It is comprised of the following components: Scope of resource responsibility, Planning, Execution, Customer interaction level, Customer needs.

Leadership: This element measures individual and organizational leadership. It is comprised of the following components: Scope of leadership influence, Leadership activities, Mentoring/employee development.

Appendix E: Element Detail Example (Technical) for Science & Engineering Career Path (ND)

ELEMENT 1 — TECHNICAL - This element measures personal and organizational problem solving results.						
	GS Equiv	1-4	5-9	9-11	12-13	14-15
	STRL	ND 1	ND 2	ND 3	ND 4	ND 5
BASIC STANDARDS (Applicable accomplishments at all levels): **Work is timely, efficient, of acceptable quality and is performed on a regular basis. Completed work meets project/ program/ function objectives. Flexibility, adaptability, and decisiveness are excercised appropriately.**	Scope/ Impact	Executes routine activities with impact usually limited to the task level	Executes routine activities with impact usually limited to the team or project level	Executes complex activities with impact usually above the team level or at the project level and/or executes activities with visibility external to the organization	Executes multi-dimensional, complex activities with impact usually at a program level external to the command with visibility at the service/agency level and/or is a command-level subject matter expert	Executes multi-dimensional, complex projects with impact external to the command with visibility at the service/agency level or higher and/or is a subject matter expert at a service/agency level or higher
	Complexity/ Difficulty	Performs routine tasks with minimal dependencies, overcoming only minimal obstacles	Performs established tasks with multiple dependencies, analyzes and solves basic problems and overcomes minor obstacles	Performs moderately complex tasks with multiple dependencies, analyzes and solves moderately difficult problems, and overcomes moderately difficult obstacles	Performs complex tasks with multiple dependencies, analyzes and solves difficult problems without precedent, and overcomes and adapts to difficult obstacles	Performs complex tasks with multiple dependencies, analyzes and solves problems without precedent, and overcomes and adapts to difficult obstacles
	Independence	Completes assigned tasks with significant oversight from supervisor or team lead to review work products.	Independently completes assigned tasks, with periodic oversight from supervisor and team lead to review work products.	Independently completes tasks, with minimal oversight from supervisor and team lead with peer-level review of work products.	Independently manages and completes tasks with minimal oversight.	Independently manages and completes tasks without oversight. Work is generally reviewed only for overall effectiveness in representing the activity.
	Creativity	Understands and follows existing processes for routine work.	Initiates new ideas for improving existing processes or products. Identifies processes or products for new or unusual situations.	Independently selects and interprets guidelines, and implements procedures. Initiates new ideas for improving or adapting existing processes or products for new or unusual situations. Performs and documents necessary research, resulting in recommendations.	Develops guidelines and implements procedures. Initiates new ideas for improving or adapting existing processes or products for new or unusual situations. Performs and documents necessary research, and implements resulting recommendations.	Develops ideas which form a basis for technical efforts by others. Creates and implements policies, processes, or products for new or unusual situations.

Appendix F: Sample Pay Range/Contribution Chart (for ND4 Pay Band)



Appendix G: Basic Compensation Matrix

	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
CONTRIBUTION	AS EXPECTED	ABOVE EXPECTATION	SIGNIFICANTLY ABOVE EXPECTATION	BELOW EXPECTATION	SIGNIFICANTLY BELOW EXPECTATION
COMPENSATION					
SALARY ELIGIBLE	YES	YES	YES	NO	NO
BONUS ELIGIBLE	YES	YES	YES	YES (Pay Pool Manager Must Approve)	NO
GPI	FULL	FULL	FULL	FULL	100% 1ST YEAR 50% 2ND YEAR 0% 3RD YEAR

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APPENDIX H—INTERVENTION MODEL

Intervention	Expected effects	Measures	Data sources
1. COMPENSATION			
a. Pay banding	Increased organizational flexibility	Perceived flexibility	Attitude survey.
	Reduced administrative workload, paper work reduction.	Actual/perceived time savings	Personnel office data, PME results, attitude survey.
	Advanced in-hire rates	Starting salaries of banded v. non-banded employees.	Workforce data.
	Slower pay progression at entry levels.	Progression of new hires over time by band, career path.	Workforce data.
	Increased pay potential	Mean salaries by band, group, demographics.	Workforce data.
		Total payroll costs	Personnel office data.
	Increased satisfaction with advancement.	Employee perceptions of advancement.	Attitude survey.
	Increased pay satisfaction	Pay satisfaction, internal/external equity.	Attitude survey.

APPENDIX H—INTERVENTION MODEL—Continued

Intervention	Expected effects	Measures	Data sources
	Improved recruitment	Offer/acceptance ratios; Percent declinations.	Personnel office data.
b. Conversion buy-in	Employee acceptance	Employee perceptions of equity, fairness.	Attitude survey.
		Cost as a percent of payroll	Workforce data.
c. Pay differentials/adjustments.	Increased incentive to accept supervisory/team leader positions.	Perceived motivational power	Attitude survey.
2. CONTRIBUTION MANAGEMENT			
a. Cash awards/bonuses	Reward/motivate performance	Perceived motivational power	Attitude survey.
	To support fair and appropriate distribution of awards.	Amount and number of awards by group, demographics.	Workforce data.
		Perceived fairness of awards	Attitude survey.
		Satisfaction with monetary awards	Attitude survey.
b. Contribution-based pay progression.	Increased pay-contribution link	Perceived pay-contribution link	Attitude survey.
		Perceived fairness of ratings	Attitude survey.
	Improved feedback	Satisfaction with ratings	Attitude survey.
		Employee trust in supervisors	Attitude survey.
		Adequacy of feedback	Attitude survey.
	Decreased turnover of high performers/Increased turnover of low performers.	Turnover by contribution rating scores.	Workforce data.
	Differential pay progression of high/low performers.	Pay progression by contribution scores, career path.	Workforce data.
	Alignment of organizational and individual objectives and results.	Linkage of objectives to strategic plans/goals.	Performance objectives/contribution goals, strategic plans.
	Increased employee involvement in contribution planning and assessment.	Perceived involvement in contribution management.	Attitude survey/focus groups. Personnel regulations.
c. New appraisal process	Reduced administrative burden	Employee and supervisor perceptions of revised procedures.	Attitude survey.
	Improved communication	Perceived fairness of process	Focus groups.
d. Contribution development	Better communication of contribution expectations.	Feedback and coaching procedures used.	Focus groups. Personnel office data.
		Time, funds spent on training by demographics.	
		Training records.	
	Improved satisfaction and quality of workforce.	Perceived workforce quality	Attitude survey.
3. "WHITE COLLAR" CLASSIFICATION			
a. Improved classification systems with generic standards.	Reduction in amount of time and paperwork spent on classification.	Time spent on classification procedures.	Personnel office data.
		Reduction of paperwork/number of personnel actions (classification/promotion).	Personnel office data.
	Ease of use	Managers' perceptions of time savings, ease of use.	Attitude survey.
b. Classification authority delegated to managers.	Increased supervisory authority/accountability.	Perceived authority	Attitude survey.
	Decreased conflict between management and personnel staff.	Number of classification disputes/appeals pre/post.	Personnel records.
		Management satisfaction with service provided by personnel office.	Attitude survey.
	No negative impact on internal pay equity.	Internal pay equity	Attitude survey.
c. Dual career ladder	Increased flexibility to assign employees.	Assignment flexibility	Focus groups, surveys.
	Improved internal mobility	Perceived internal mobility	Attitude survey.
	Increased pay equity	Perceived pay equity	Attitude survey.
	Flatter organization	Supervisory/non-supervisory ratios.	Workforce data. Attitude survey.
	Improved quality of supervisory staff.	employee perceptions of quality or supervisory skill set.	Attitude survey.
4. Modified RIF			
	Minimize loss of high performing employees with needed skills.	Separated employees by demographics, contribution scores.	Workforce data. Attitude survey/focus group.
	Contain cost and disruption	Satisfaction with RIF Process	Attitude survey/focus group.

APPENDIX H—INTERVENTION MODEL—Continued

Intervention	Expected effects	Measures	Data sources
		Cost comparison of traditional vs. Modified RIF.	Personnel office/budget Data.
		Time to conduct RIF—personnel office data.	Personnel office data.
		Number of Appeals/reinstatements.	Personnel office data.
5. Hiring Authority			
a. Delegated Examining	Improved ease and timeliness of hiring process.	Perceived flexibility in authority to hire.	Attitude survey.
	Improved recruitment of employees in shortage categories.	Offer/accept ratios	Personnel office data.
		Percent declinations	Personnel office data.
		Timeliness of job offers	Personnel office data.
		GPAs of new hires, educational levels.	Personnel office data.
	Reduced administrative workload/paperwork reduction.	Actual/perceived skills	Attitude survey.
b. Term Appointment Authority	Increased capability to expand and contract workforce.	Number/percentage of conversions from modified term to permanent appointments.	Workforce data. Personnel office data.
c. Flexible Probationary Period	Expanded employee assessment	Average conversion period to permanent status.	Workforce data. Personnel office data.
		Number/percentage of employees completing probationary period.	Workforce data. Personnel office data.
		Number of separations during probationary period.	Workforce data. Personnel office data.
6. Expanded Development Opportunities			
a. Sabbaticals	Expanded range of professional growth and development.	Number and type of opportunities taken.	Workforce data.
	Application of enhanced knowledge and skills to work product.	Employee and supervisor perceptions.	Attitude survey.
b. Critical Skills Training	Improved organizational effectiveness.	Number and type of training	Personnel office data.
		Placement of employees, skills imbalances corrected.	Personnel office data. Attitude survey.
		Employee and supervisor perceptions.	Attitude survey/focus group.
		Application of knowledge gained from training.	
7. Combination Of All Interventions			
All	Improved organizational effectiveness.	Combination of personnel measures.	All data sources.
	Improved management of workforce.	Employee/Management job satisfaction (intrinsic/extrinsic).	Attitude survey.
	Improved planning	Planning procedures	Strategic planning documents.
		Perceived effectiveness of planning procedures.	Attitude survey.
	Improved cross functional coordination.	Actual/perceived coordination	Organizational charts.
	Increased product success	Customer satisfaction	Customer satisfaction surveys.
	Cost of innovation	Project training/development costs (staff salaries, contract cost, training hours per employee).	Demo project office records. Contract documents.
8. Context:			
Regionalization	Reduced servicing ratios/costs	HR servicing ratios	Personnel office data, workforce data.
		Average cost per employee served.	Personnel office data, workforce data.
	No negative impact on service quality.	Service quality, timeliness	Attitude survey/focus groups.

[FR Doc. 2010–20801 Filed 8–23–10; 8:45 am]

BILLING CODE 5001–06–P

Federal Register

Tuesday,
August 24, 2010

Part IV

Department of Commerce

Bureau of the Census

Proposed Urban Area Criteria for the 2010 Census; Notice

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 100701026–0260–02]

Proposed Urban Area Criteria for the 2010 Census

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of proposed criteria and request for public comment.

SUMMARY: This notice provides the Bureau of the Census' (hereafter, Census Bureau's) proposed criteria for defining urban areas based on the results of the 2010 Decennial Census (the term "urban area" as used throughout this notice refers generically to urbanized areas of 50,000 or more population and urban clusters of at least 2,500 and less than 50,000 population). It also provides a description of the changes from the final criteria used for Census 2000. The Census Bureau is requesting public comment on these proposed criteria.

The Census Bureau's urban-rural classification is fundamentally a delineation of geographical areas, identifying both individual urban areas and the rural areas of the nation. The Census Bureau's urban areas represent densely developed territory, and encompass residential, commercial, and other non-residential urban land uses. The Census Bureau delineates urban areas after each decennial census by applying specified criteria to decennial census and other data. Since the 1950 Census, the Census Bureau has reviewed and revised these criteria, as necessary, for each decennial census. The revisions over the years reflect the Census Bureau's desire to improve the classification of urban and rural territory to take advantage of newly available data, as well as advancements in geographic information processing technology.

DATES: Any comments, suggestions, or recommendations concerning the criteria proposed herein should be submitted in writing no later than November 22, 2010.

ADDRESSES: Please submit written comments on the proposed criteria to Timothy Trainor, Chief, Geography Division, U.S. Census Bureau, Washington, DC 20233–7400.

FOR FURTHER INFORMATION CONTACT: Vincent Osier, Chief, Geographic Standards and Criteria Branch, Geography Division, U.S. Census Bureau, via e-mail at *vincent.osier@census.gov* or telephone at 301–763–9039.

SUPPLEMENTARY INFORMATION: The Census Bureau's urban-rural classification is fundamentally a delineation of geographical areas, identifying both individual urban areas and the rural areas of the nation. The Census Bureau's urban areas represent densely developed territory, and encompass residential, commercial, and other non-residential urban land uses. The boundaries of this "urban footprint" have been defined using measures based primarily on population counts and residential population density, but also through criteria that account for non-residential urban land uses, such as commercial, industrial, transportation, and open space that are part of the urban landscape. Since the 1950 Census, when densely settled urbanized areas (UAs) of 50,000 or more people were first defined, the urban area delineation process has addressed non-residential urban land uses through criteria designed to account for commercial enclaves, special land uses such as airports, and densely developed noncontiguous territory.

In delineating urban and rural areas, the Census Bureau does not take into account or attempt to meet the requirements of any nonstatistical uses of these areas or their associated data. Nonetheless, the Census Bureau recognizes that some federal and state agencies use the Census Bureau's urban-rural classification for allocating program funds, setting program standards, and implementing aspects of their programs. The agencies that use the classification and data for such nonstatistical uses should be aware that the changes to the urban area criteria also might affect the implementation of their programs.

The Census Bureau is not responsible for the use of its urban-rural classification in nonstatistical programs. If a federal, tribal, state, or local agency voluntarily uses the urban-rural classification in a nonstatistical program, it is that agency's responsibility to ensure that the classification is appropriate for such use. In considering the appropriateness of the classification for use in a nonstatistical program, the Census Bureau urges each agency to consider permitting appropriate modifications of the results of implementing the urban-rural classification specifically for the purposes of its program. When a program permits such modifications, the Census Bureau urges each agency to describe and clearly identify the different criteria being applied to avoid confusion with the Census Bureau's official urban-rural classifications.

I. History

Over the course of a century in defining urban areas, the Census Bureau has introduced conceptual and methodological changes to ensure that the urban-rural classification keeps pace with changes in settlement patterns and with changes in theoretical and practical approaches to interpreting and understanding the definition of urban areas. Prior to the 1950 Census, the Census Bureau primarily defined "urban" as any population, housing, and territory located within incorporated places with a population of 2,500 or more. That definition was easy and straightforward to implement, requiring no need to calculate population density; to understand and account for actual settlement patterns on the ground in relation to boundaries of administrative units; or to consider densely settled populations existing outside incorporated municipalities. For much of the first half of the twentieth century, that definition was adequate for defining "urban" and "rural" in the United States, but by 1950 it became clear that it was incomplete.

Increasing suburbanization, particularly outside the boundaries of large incorporated places led the Census Bureau to adopt the UA concept for the 1950 Census. At that time, the Census Bureau formally recognized that densely settled communities outside the boundaries of large incorporated municipalities were just as "urban" as the densely settled population inside those boundaries. Due to the limitations in technology for calculating and mapping population density, delineation of UAs was limited to cities of at least 50,000 people and their surrounding territory. The geographic units used to analyze settlement patterns were enumeration districts, but to facilitate and ease the delineation process, each incorporated place was analyzed as a single unit—that is, the overall density of the place was calculated and if it met the minimum threshold, it was included in its entirety in the UA. Outside UAs, "urban" was still defined as any place with a population of at least 2,500. The Census Bureau recognized the need to identify distinct unincorporated communities existing outside the UAs, and thus created the "census designated place" (CDP) [1] and designated those with populations of at least 2,500 as urban.

[1] A CDP is a statistical geographic entity encompassing a concentration of population, housing, and commercial structures that is clearly identifiable by a single name, but is not within an incorporated place. CDPs are the statistical counterparts of incorporated places.

Starting with the 1960 Census and continuing through the 1990 Census, the Census Bureau made a number of changes to the methodology and criteria for defining UAs, but retained the 1950 Census basic definition of "urban," which was defined as UAs with a population of 50,000 or more and defined primarily on the basis of population density; and places with a population of 2,500 or more located outside UAs. The enhancements made by the Census Bureau to the methodology and criteria used during this period included:

(1) Lowering, and eventual elimination, of minimum population criteria for places that formed the "starting point" for delineating a UA. This made recognition of population concentrations independent of the size of any single place within the concentration.

(2) Identification of "extended cities"—incorporated places containing substantial amounts of territory with very low population density, which were divided into urban and rural components using 100 persons per square mile (ppsm) as the criterion. This kept the extent of urban territory from being artificially exaggerated by thinly settled corporate annexations.

(3) Implementation for the 1990 Census of nationwide coverage by census blocks, and use of interactive analysis of population density patterns at the census block level, or by groups of blocks known as "analysis units," using Census Bureau-developed delineation software. This enhancement allowed greater flexibility when analyzing and defining potential UAs, as opposed to using enumeration districts and other measurement units defined prior to data tabulation.

(4) Implementation of qualification criteria for incorporated places and CDPs for inclusion in a UA based on the existence of a densely populated "core" containing at least fifty percent of the place's population. This eliminated certain places from the urban area classification because much of their population was scattered rather than concentrated.

For Census 2000, the Census Bureau took advantage of technological advances associated with geographic information systems (GIS) and spatial data processing to classify urban and rural territory on a more consistent and nationally uniform basis than had been possible previously. Rather than delineating urban areas in an interactive and manual fashion, the Census Bureau developed and utilized software that automated the examination of population densities and other aspects of the criteria to delineate urban areas. This new automated urban area delineation methodology provided for a more objective application of criteria compared to previous censuses in which individual geographers applied the urban area criteria to delineate urban areas interactively. This new automated approach also established a baseline for future delineations to enable the Census Bureau to provide comparable data for subsequent decades.

Changes for Census 2000

The Census Bureau adopted six substantial changes to its urban area criteria for Census 2000:

(1) Defining urban clusters (UCs). Beginning with Census 2000, the Census Bureau created and implemented the concept of an urban cluster. Urban clusters are defined as areas of at least 2,500 and less than 50,000 people using the same residential population density-based criteria as applied to UAs. This change provided for a conceptually consistent, seamless classification of urban territory. For previous censuses, the lack of a density-based approach for defining urban areas of less than 50,000 people resulted in underbounding of urban areas where densely settled populations existed outside place boundaries or overbounding when cities annexed territory with low population density. Areas where annexation had lagged behind expansion of densely settled territory, or where communities of 2,500 up to 50,000 people were not incorporated and were not defined as CDPs, were most affected by the adoption of density-based UCs. As a result of this change, the Census Bureau no longer needed to identify urban places located outside UAs for the purpose of its urban-rural classification.

(2) Disregarding incorporated place and CDP boundaries when defining UAs and UCs. Taking place boundaries into account in previous decades resulted in the inclusion of territory with low population density within UAs when the place as a whole met minimum population density requirements, and excluded densely settled population when the place as a whole fell below minimum density requirements. Implementation of this change meant that territory with low population density located inside place boundaries (perhaps due to annexation, or the way in which a CDP was defined) no longer necessarily qualified for inclusion in an urban area. However, it also meant that non-residential urban land uses located inside a place's boundary and located on the edge of an urban area might not necessarily qualify to be included in a UA or UC.

(3) Adoption of 500 persons per square mile (ppsm) as the density criterion for recognizing some types of urban territory. The Census Bureau adopted a 500 ppsm population density threshold at the same time that it adopted its automated urban area delineation methodology. This ensured that census blocks that might contain a mix of residential and non-residential urban uses, but might not have a population density of at least 1,000 ppsm, could qualify for inclusion in an urban area. For the 1990 Census, geographers could interactively modify analysis units to include census blocks with low population density that might contain non-residential urban uses, while still achieving an overall population density of at least 1,000 ppsm. Adoption of the lower density threshold facilitated use of the automated urban area delineation methodology, and provided for comparability with the 1990 methodology. This change did not result in substantial increases to the extent of urban areas.

(4) Increase in the jump distance from 1.5 to 2.5 miles. The Census Bureau increased the jump distance from 1.5 to 2.5 miles. A "jump" is the distance across territory with low population density separating noncontiguous qualifying territory from the main body of an urban area. The increase in the jump distance was a result of changing planning practices that led to the creation of larger clusters of single-use development. In addition, research conducted prior to Census 2000 showed that some jumps incorporated in UA definitions in 1990 were actually longer than 1.5 miles as a result of the subjective identification of undevelopable territory. As used in previous censuses, only one jump was permitted along any given road connection.

(5) Introduction of the hop concept to provide an objective basis for recognizing small gaps within qualifying urban territory. For Census 2000, the Census Bureau officially recognized the term "hops," which is defined as gaps of 0.5 miles or less within a qualifying urban territory. Hops are used primarily to account for territory in which planning and zoning processes result in alternating patterns of residential and non-residential development over relatively short distances. This provided for a more consistent treatment of short gaps with low population density, some of which had been treated as jumps in the 1990 urban area delineation process (and not

permitted if identified as a second jump), while others were interpreted as part of the pattern of urban development and grouped with adjacent, higher density blocks to form qualifying analysis units.

(6) Adoption of a zero-based approach to defining urban areas. The urban area delineation process in previous censuses had generally been an additive process, where the boundary of a UA from the previous census providing the starting point for review for the next census. The changes made for Census 2000 were substantial enough to warrant the Census Bureau to re-evaluate the delineation of all urban areas as if for the first time, rather than simply making adjustments to the existing boundary. The Census Bureau adopted this zero-based approach to ensure that all urban areas were defined in a consistent manner.

The six changes described above represent the major modifications implemented for the 2000 Census. They illustrate the substantial shift in approach adopted by the Census Bureau in its procedure for delineating urban areas. However, the availability of new datasets and continued research since the 2000 Census show the potential for further improvements for the 2010 Census.

II. Differences Between the Proposed 2010 Census Urban Area Criteria and the Census 2000 Urban Area Criteria

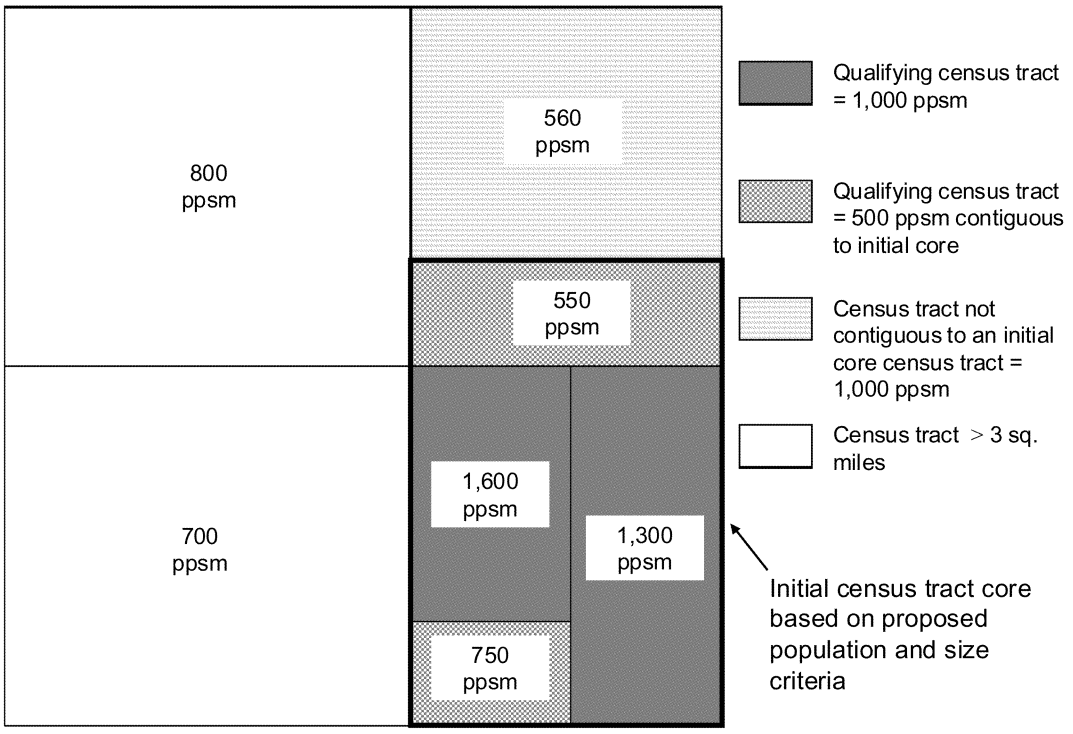
For the 2010 Census, the Census Bureau proposes moderate changes and enhancements to the criteria to improve upon the classification of urban and rural areas while continuing to meet the objective of a uniform application of criteria nationwide. The proposed changes and enhancements recognize that the Census Bureau's urban-rural classification provides an important national baseline definition of urban and rural areas.

The following summary describes the differences between the Census 2000 urban area criteria and the urban area criteria proposed for the 2010 Census.

Use of Census Tracts as Analysis Units in the Initial Phase of Delineation

For the Census 2000 urban area delineation process, the Census Bureau used blocks and block groups as analysis units (geographic building blocks). For the 2010 Census delineation process, the Census Bureau proposes replacing block groups with census tracts as the analysis unit during the delineation of the initial urban area core. Similar to the way block groups were used in 2000, if a census tract does not meet specified proposed area measurement and density criteria, the focus of analysis will shift to individual census blocks within the tract, and delineation will continue at the block level. During the initial urban area core delineation (*see* section B.1 in the proposed urban area criteria below for a description of an initial urban area core), the maximum size threshold for qualifying census tracts will be three square miles compared to the two square mile threshold adopted for block groups for Census 2000 (Figure 1). Changing the urban area core delineation analysis unit to the census tract offers advantages of increased consistency and comparability, since census tracts are more likely to retain their boundaries over time than block groups.

Figure 1: Initial Delineation Core Using Census Tract Analysis Units



Although census tracts will be used in the delineation of initial urban area cores, as in Census 2000 census blocks will continue to form the analysis units when analyzing territory beyond the qualifying tracts, for example on the edge of the urban area or when including noncontiguous territory via hops and jumps.

Test delineations of initial cores in selected areas of the United States

(Figure 2) show slight decreases in territory and only slight increases in population qualifying as urban when the initial analysis unit is changed from the block group to the census tract.[2]

Figure 2: Initial Core Test Delineation Regions

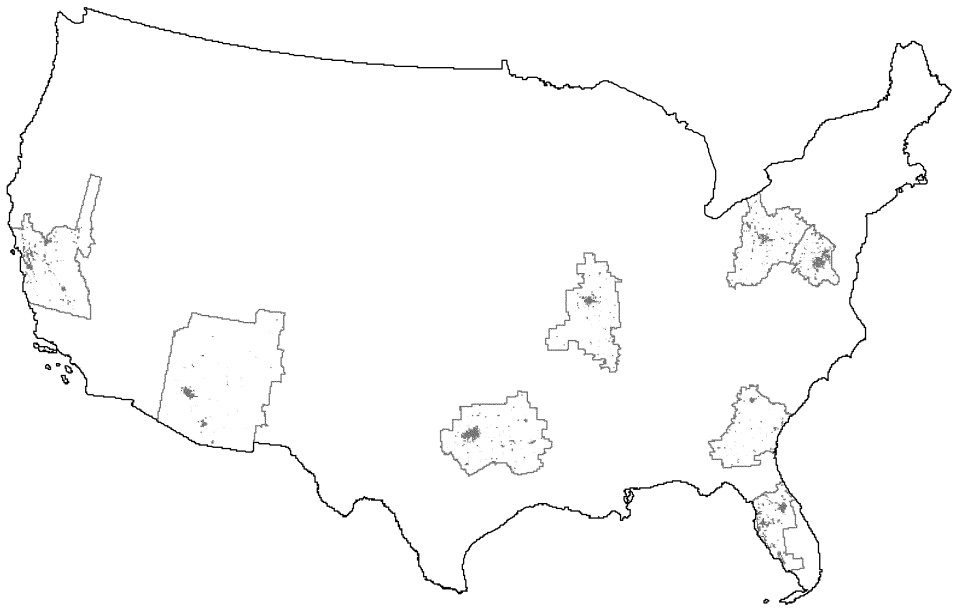


Table 1 provides a comparison of the number of cores defined using block groups as analysis units with the number defined using census tracts. Population, land area, and population density for the cores also are provided for comparison.

TABLE 1—COMPARISON OF INITIAL URBAN AREA CORES DEFINED USING BLOCK GROUPS OR CENSUS TRACTS AS ANALYSIS UNITS

	Number of cores	Population in cores (Census 2000)	Land area (sq. miles)	Population density (people per square mile)
Block group as analysis unit when defining cores	904	42,213,521	15,027	2,809
Census tract as analysis unit when defining cores	924	42,384,952	14,525	2,918

The small reduction in initial urban area core territory shown by the test data is due to the use of census tracts, which are larger geographic units, and therefore less likely than block groups to qualify under the density requirements. As a result, when using census tracts, the delineation process shifts to census block-level analysis sooner than would be the case when using block groups.

Maximum Distances of Jumps

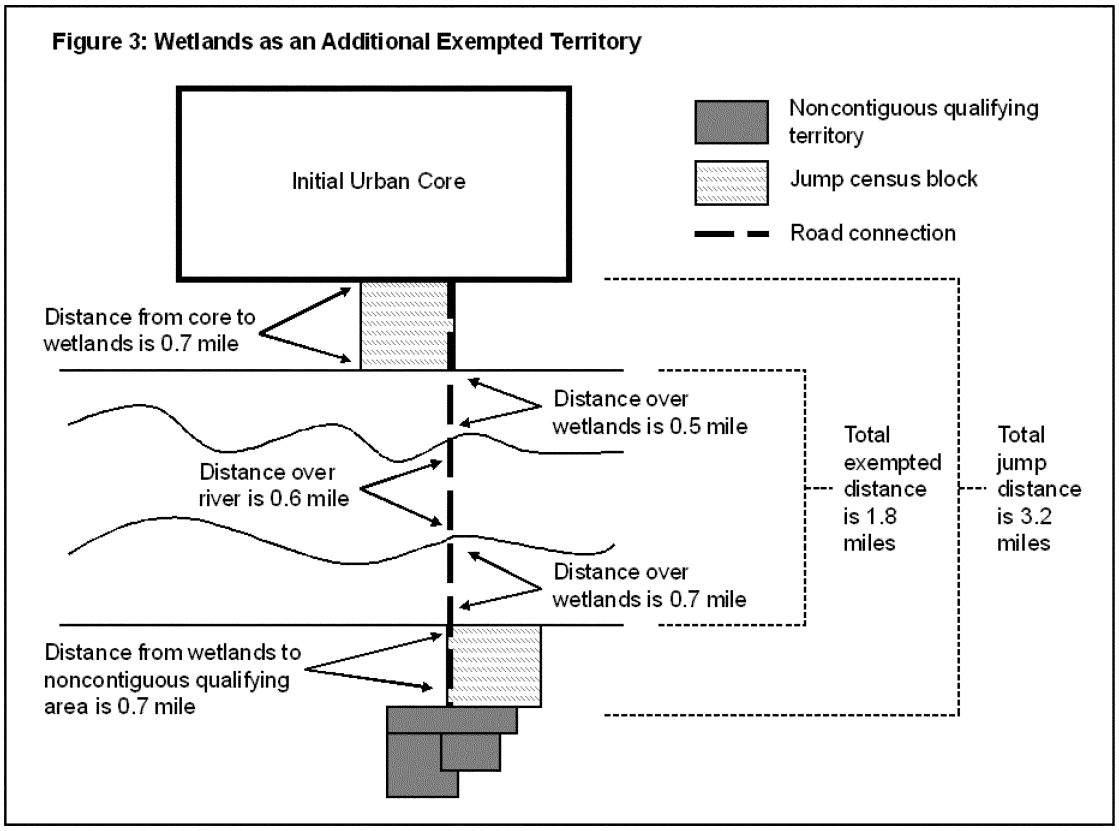
The Census Bureau is considering reducing the maximum jump distance to 1.5 miles based on data users' comments that the 2.5 mile distance adopted for the 2000 Census was too generous in some situations and resulted in the overextension of urban area territory. The Census Bureau seeks comment on whether the jump distance should revert to the 1.5 mile maximum that was in use from 1950 through 1990.

Use of Land Use/Land Cover Data

The Census Bureau plans to use the newly available National Land Cover Database (NLCD) developed by the Multi-Resolution Land Characteristics Consortium to identify business districts and commercial zones, located both on

[2] Two initial core test delineations were performed for eight test delineation regions covering an area of approximately 392,900 square miles. The first initial core test delineation used the same population count, population density, geographic area, and proximity criteria used for the Census 2000 urban area delineation. The second test used the proposed criteria for the same items, but also reflected the 2010 Census proposed use of census tracts in the identification of initial cores. Both tests used Census 2000 population counts and geography and implemented the impervious surface and enclave criteria proposed for the 2010 Census in this notice.

the edge and in the interior of an urban area that would not qualify as urban based on residential population measures alone. The NLCD is a consistently defined national land cover dataset [3] that would enable the Census Bureau to add further territory to the list of exempted territory and enforce its qualification criteria objectively (Figure 3). This nationwide dataset will assist the Census Bureau in identifying, and qualifying as urban, sparsely populated urban-related territory associated with a high degree of impervious surface land cover. It also will assist the Census Bureau to identify land cover types that restrict development, such as marshes, wetlands, and estuaries, which will be included as exempted territory. Without such recognition, these types of undevelopable land covers would otherwise prohibit two or more communities to connect via a jump, even though they share functional ties.



Qualification of Airports for Inclusion in Urban Areas

For Census 2000, airports with an annual enplanement (departing passengers) of 10,000 or greater qualified for inclusion in an urban area if adjacent to other qualifying territory. For the 2010 Census, the Census Bureau proposes lowering the minimum annual enplanement threshold to 2,500 passengers to provide a better inclusion of airports, particularly those adjacent to smaller initial urban cores. Based on annual passenger boarding and all-cargo data published by the Federal Aviation Administration for the 2007 calendar year, lowering the enplanement threshold would result in an additional 152 airports included in urban areas.[4]

Elimination of the Central Place Concept

The Census Bureau proposes to discontinue identifying central places as part of the 2010 Census urban area delineation process. A central place is the most populous place within an urban area or any other place that meets specified population criteria. Starting with the 1990 Census, the identification of central places was no longer necessary for the process of delineating urban areas. For Census 2000, the urban area delineation process moved away from a "place-based" definition of urban areas, which caused some central places to be split between urban and rural territory. Moreover, the Office of Management and Budget (OMB) identifies principal cities as part of the metropolitan and micropolitan statistical areas program.[5] The list of principal cities identified by the OMB is quite similar to what would emerge if the urban area process created a list of central places. The Census Bureau no longer sees a need for a second representation of the same concept in its statistical and geographic data products. Therefore, the Census Bureau proposes to eliminate the use of central places in the 2010 Census urban area delineation criteria.

Requirement for Minimum Population Residing Outside Institutional Group Quarters

The Census 2000 urban area delineation criteria resulted in the identification of 24 urban clusters consisting entirely or predominantly of

[3] The NLCD includes data for the entirety of the United States, Puerto Rico, and the U.S. Virgin Islands.

[4] The Federal Aviation Administration (FAA) annual passenger boarding and all-cargo data extracted from the Air Carrier Activity Information System published for the 2007 calendar year reports 409 airports had an annual enplanement of at least 10,000 passengers in any year between 2000 and 2007.

[5] See the "2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas," **Federal Register**, Vol. 75, No. 123, Monday, June 28, 2010.

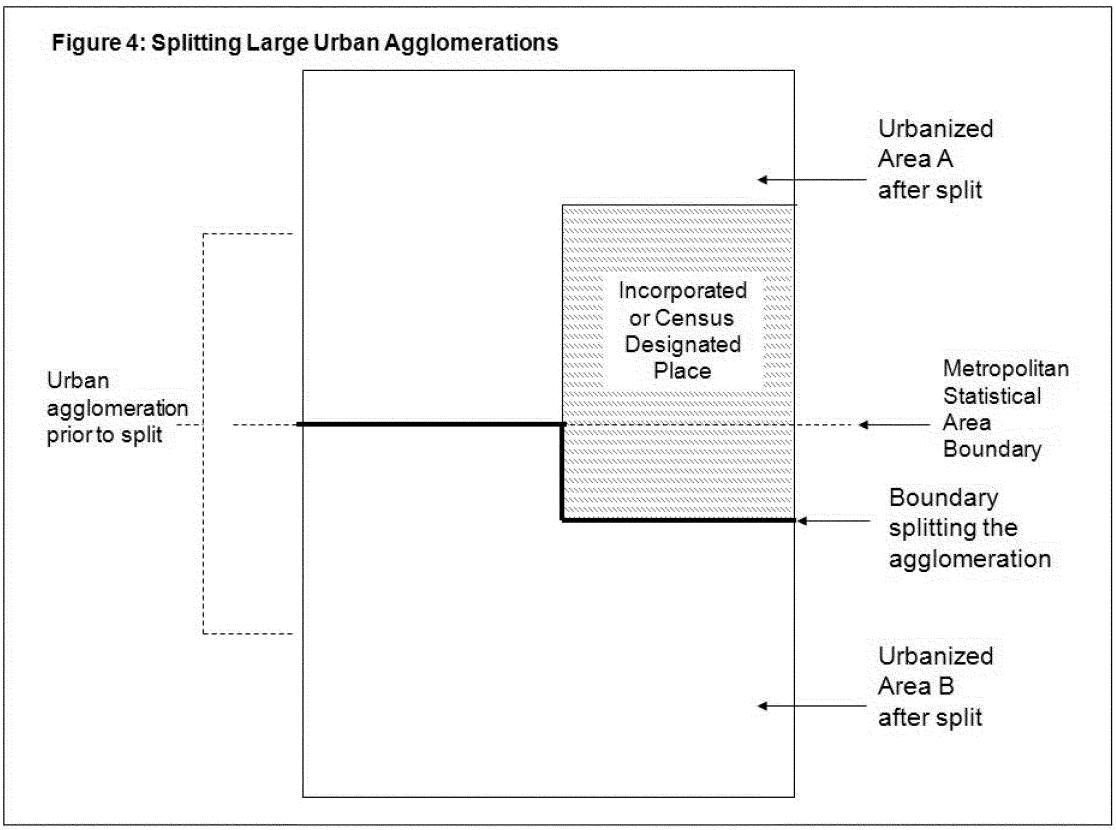
population residing in institutional group quarters (GQs). Most of these urban clusters comprised only the few census blocks in which the institutional GQ was located. These blocks met the population density requirements specified in the Census 2000 criteria, and encompassed at least 2,500 persons. Although the population densities of these areas exceed the minimum thresholds specified in the Census 2000 urban area criteria, and the total populations exceed 2,500, they lack most of the residential, commercial, and infrastructure characteristics typically associated with urban territory. The Census Bureau proposes that in addition to at least 2,500 total population, an area must contain at least 1,500 persons who reside outside institutional GQs to qualify as urban.

Splitting Large Urban Agglomerations

Similar to the delineation process used for the 2000 Census, the Census Bureau will use the same automated urban area delineation methodology for determining urban and rural areas in the 2010 Census. Use of this approach will result in some exceptionally large urban agglomerations of continuously developed territory. Although such areas do reflect the reality of urbanization at one scale, the areas may be cumbersome and less satisfactory for more localized applications. For example, an area of virtually continuous urbanization exists from northeastern Maryland through the Philadelphia area, central New Jersey, the New York City area, and central Connecticut to beyond Springfield, MA. This area of near-continuous urbanization encompasses nine UAs defined for Census 2000. Another area of continuous urbanization exists in the San Francisco Bay area, including the San Francisco-Oakland, San Jose, and several smaller areas.

The Census Bureau anticipates that many data users would find these large agglomerations to be inconvenient for meaningful analysis, and therefore, proposes that they be split in some consistent fashion. For example, the Census Bureau split large agglomerations for Census 2000 by using metropolitan statistical area and primary metropolitan statistical area (PMSA) boundaries as a guide to identify the narrowest area along the high density "corridor" between larger core areas. For instance, the corridor of high residential population density between Baltimore, MD, and Washington, DC, was narrowest in northern Prince George's County, MD, in the area of Beltsville, MD, and near the boundary between the Washington PMSA and the Baltimore PMSA.

For the 2010 Census urban area delineation process, the Census Bureau proposes splitting large agglomerations along metropolitan statistical area boundaries, resulting in the identification of individual UAs. In New England, large agglomerations would be split based on the boundaries of metropolitan New England city and town areas (NECTAs). In areas where an incorporated place or a CDP crosses the metropolitan statistical area or NECTA boundary, the boundary splitting the large agglomeration would be modified to follow the incorporated place or CDP boundary. The incorporated place or CDP would be assigned to the resulting UA that contains the largest proportion of the place's land area (Figure 4). Urban clusters would not be created as a result of splitting.



This approach has the advantage of simplicity and ease of implementation. It also maintains some comparability with previous decades' criteria and definitions. This approach, however, results in some circularity of outcomes—the metropolitan statistical area and NECTA definitions that would be used to split large agglomerations are

those that were defined on the basis of Census 2000 data, including Census 2000 urban area definitions; the 2010 UAs resulting from the splitting process will form the cores of metropolitan statistical areas and NECTAs. In addition, this approach will result in the movement of some territory and population from one UA to another. For example, the split between the Washington and Baltimore UAs would occur along the Howard County, MD-Prince George's County, MD boundary; territory in northern Prince George's County, MD that currently is in the Baltimore UA would be included in the Washington UA. The split between the San Francisco-Oakland and San Jose UAs would shift northward to follow the San Mateo County, CA-Santa Clara County, CA boundary.

Based on Census 2000 UAs, the Census Bureau has identified 52 potential agglomerations consisting of multiple and currently separate UAs. These agglomerations contain UAs that currently are contiguous as well as some that are in close proximity to each other and that potentially could form a continuous agglomeration when areas are redefined based on 2010 Census data (note, however, that inclusion in the list below does not necessarily mean that contiguity will exist between two UAs when redefined). The following table lists the potential agglomerations, the component UAs, and the estimated population based on the 2006–2008 ACS 3-year estimates (margins of error are not noted in the table below; 3-year estimates were used because not all UAs met the 65,000 person threshold for ACS 1-year estimates). The Census Bureau is considering applying a 1,000,000 person minimum population threshold to identify agglomerations to be split, but seeks comment on the appropriate population size threshold to determine which large agglomerations would be split. Other minimum population thresholds under consideration are 500,000 and 250,000. Based on 2006–2008 ACS estimates, 27 of the 52 potential agglomerations have populations less than 1,000,000; 14 have populations less than 500,000; and four have populations less than 250,000. If a threshold of 1,000,000 people is chosen as the minimum for splitting large agglomerations, all formerly separate UAs in agglomerations of less than 1,000,000 people would be merged to form a single UA. If 500,000 people is adopted as the minimum threshold, then all formerly separate UAs in agglomerations of less than that threshold would be merged. Because UAs form the cores of metropolitan statistical areas, the merger of formerly separate UAs might affect the delineation of metropolitan and micropolitan statistical areas. It is important to note that some of the agglomerations listed below are contained within the same metropolitan statistical area, and as a result, would not be split, regardless of the threshold chosen. The agglomerations are: Dallas-Fort Worth; Houston-Texas City; Phoenix-Mesa; San Diego-Mission Viejo; St. Louis-Alton; Pittsburgh-Uniontown-Monessen; Kansas City-Lee's Summit; Charlotte-Gastonia-Concord; Nashville-Murfreesboro; Oklahoma City-Norman; Honolulu-Kailua; Stockton-Lodi-Manteca; Boise City-Nampa; Modesto-Turlock; Santa Rosa-Petaluma; Beaumont-Port Arthur; and Fairfield-Vacaville.

TABLE 2—POTENTIAL URBAN AGGLOMERATIONS

Potential urban agglomeration	Census 2000 UAs contained within the potential agglomeration	2006–2008 ACS 3-year estimated population
New York-Philadelphia-Connecticut	New York-Newark, NY-NJ-CT; Philadelphia, PA-NJ-DE-MD; Allentown-Bethlehem, PA-NJ; Lancaster, PA; Pottstown, PA; Reading, PA; Trenton, NJ; Hightstown, NJ; Vineland, NJ; Poughkeepsie-Newburgh, NY; Bridgeport-Stamford, CT; Danbury, CT-NY; Hartford, CT; New Haven, CT; Norwich-New London, CT; Waterbury, CT; Springfield, MA-CT.	29,028,337
Los Angeles-Riverside-San Bernardino	Los Angeles-Long Beach-Santa Ana, CA; Riverside-San Bernardino, CA; Camarillo, CA; Hemet, CA; Oxnard, CA; Santa Barbara, CA; Santa Clarita, CA; Simi Valley, CA; Temecula-Murrieta, CA; Thousand Oaks, CA.	15,492,749
Chicago-Kenosha-Racine-Round Lake Beach	Chicago, IL-IN; Kenosha, WI; Round Lake Beach-McHenry-Grayslake, IL-WI; Racine, WI.	8,944,789
Boston-Providence-Worcester	Boston, MA; Providence, RI-MA; Worcester, MA-CT; Barnstable Town, MA; Leominster-Fitchburg, MA; New Bedford, MA; Dover-Rochester, NH; Manchester, NH; Nashua, NH; Portsmouth, NH.	6,692,295
Baltimore-Washington	Aberdeen, MD; Baltimore, MD; Washington, DC-VA-MD; St. Charles, MD	6,585,315
San Francisco-Oakland-San Jose	San Francisco-Oakland, CA; San Jose, CA; Antioch, CA; Concord, CA; Livermore, CA; Vallejo, CA.	5,870,212
Dallas-Fort Worth	Dallas-Fort Worth-Arlington, TX; Denton-Lewisville, TX; McKinney, TX	5,006,527
Houston-Texas City	Houston, TX; Texas City, TX; Galveston, TX; The Woodlands, TX	4,599,176
Detroit-Ann Arbor-Port Huron	Detroit, MI; Ann Arbor, MI; Port Huron, MI; South Lyon-Howell-Brighton, MI	4,326,040
Atlanta-Gainesville	Atlanta, GA; Gainesville, GA	4,196,670
San Juan-Aguadilla-Ponce	San Juan, PR; Aguadilla-Isabela-San Sebastián, PR; Arecibo, PR; Fajardo, PR; Florida-Barceloneta-Bajadero, PR; Guayama, PR; Juana Díaz, PR; Mayagüez, PR; Ponce, PR; San Germán-Cabo Rojo-Sabana Grande, PR; Yauco, PR.	3,591,491
Phoenix-Mesa-Avondale	Phoenix-Mesa, AZ; Avondale, AZ	3,328,183
San Diego-Mission Viejo	San Diego, CA; Mission Viejo, CA	3,273,255
Seattle-Bremerton-Marysville	Seattle, WA; Bremerton, WA; Marysville, WA	3,206,057
Cleveland-Akron-Canton-Lorain-Elyria	Cleveland, OH; Akron, OH; Canton, OH; Lorain-Elyria, OH	2,722,194
Tampa-St. Petersburg-Lakeland-Winter Haven	Tampa-St. Petersburg, FL; Lakeland, FL; Winter Haven, FL; Brooksville, FL.	2,719,812
Cincinnati-Dayton-Middletown	Cincinnati, OH-KY-IN; Dayton, OH; Middletown, OH; Springfield, OH	2,426,070
Denver-Boulder-Longmont	Denver-Aurora, CO; Boulder, CO; Longmont, CO; Lafayette-Louisville, CO	2,339,587
St. Louis-Alton	St. Louis, MO-IL; Alton, IL	2,184,037

TABLE 2—POTENTIAL URBAN AGGLOMERATIONS—Continued

Potential urban agglomeration	Census 2000 UAs contained within the potential agglomeration	2006–2008 ACS 3-year estimated population
Orlando-Ocala-Kissimmee	Orlando, FL; Ocala, FL; Kissimmee, FL; Lady Lake, FL; Leesburg-Eustis, FL.	1,814,061
Pittsburgh-Uniontown-Monessen	Pittsburgh, PA; Uniontown-Connellsville, PA; Monessen, PA	1,792,892
Kansas City-Lee's Summit	Kansas City, MO-KS; Lee's Summit, MO	1,468,106
Salt Lake City-Ogden-Layton	Salt Lake City, UT; Ogden-Layton, UT	1,439,004
Indianapolis-Anderson	Indianapolis, IN; Anderson, IN	1,367,392
Charlotte-Gastonia-Concord	Charlotte, NC-SC; Gastonia, NC; Concord, NC; Rock Hill, SC	1,282,839
Nashville-Murfreesboro	Nashville-Davidson, TN; Murfreesboro, TN	983,180
Raleigh-Durham	Raleigh, NC; Durham, NC	974,582
Palm Bay-Melbourne-Titusville-Vero Beach	Palm Bay-Melbourne, FL; Titusville, FL; Vero Beach-Sebastian, FL; Port St. Lucie, FL.	938,675
Oklahoma City-Norman	Oklahoma City, OK; Norman, OK	875,469
Honolulu-Kailua (Honolulu County)	Honolulu, HI; Kailua (Honolulu County), HI	854,430
McAllen-Harlingen	McAllen, TX; Harlingen, TX	753,816
Greensboro-High Point-Winston-Salem	Greensboro, NC; High Point, NC; Winston-Salem, NC	741,457
Sarasota-Bradenton-Punta Gorda	Sarasota-Bradenton, FL; North Port-Punta Gorda, FL	726,695
Bonita Springs-Naples-Cape Coral	Bonita Springs-Naples, FL; Cape Coral, FL	659,480
Harrisburg-York-Lebanon	Harrisburg, PA; York, PA; Lebanon, PA	651,160
Greenville-Spartanburg	Greenville, SC; Spartanburg, SC; Mauldin-Simpsonville, SC	568,737
Pensacola-Fort Walton Beach	Pensacola, FL-AL; Fort Walton Beach, FL	506,715
Stockton-Lodi-Manteca	Stockton, CA; Lodi, CA; Manteca, CA	501,544
Spokane-Coeur d'Alene	Spokane, WA-ID; Coeur d'Alene, ID	441,042
Boise City-Nampa	Boise City, ID; Nampa, ID	422,639
Modesto-Turlock	Modesto, CA; Turlock, CA	414,571
South Bend-Elkhart	South Bend, IN-MI; Elkhart, IN-MI	408,373
Salinas-Santa Cruz-Watsonville	Salinas, CA; Santa Cruz, CA; Watsonville, CA	388,071
Charleston-Huntington	Charleston, WV; Huntington, WV-KY-OH	354,568
Santa Rosa-Petaluma	Santa Rosa, CA; Petaluma, CA	351,752
Rockford-Beloit	Rockford, IL; Beloit, WI-IL	337,215
Atlantic City-Wildwood	Atlantic City, NJ; Wildwood-North Wildwood-Cape May, NJ	280,698
Appleton-Oshkosh	Appleton, WI; Oshkosh, WI	263,213
Beaumont-Port Arthur	Beaumont, TX; Port Arthur, TX	249,716
Macon-Warner Robins	Macon, GA; Warner Robins, GA	232,780
Kingsport-Johnson City	Kingsport, TN–VA; Johnson City, TN	208,241
Fairfield-Vacaville	Fairfield, CA; Vacaville, CA	207,859

Proposed Urban Area Criteria for the 2010 Census

The proposed criteria outlined herein apply to the United States,[6] Puerto Rico, and the Island Areas.[7] The Census Bureau proposes the following criteria and characteristics for use in identifying the areas that will qualify for designation as urbanized areas and urban clusters for use in tabulating data from the 2010 Census, the American Community Survey (ACS), the Puerto Rico Community Survey, and potentially other Census Bureau censuses and surveys.

A. 2010 Census Urban Area, Urbanized Area, and Urban Cluster Definitions

For the 2010 Census, an urban area will comprise a densely settled core of census tracts[8] and/or census blocks[9] that meet minimum population density requirements, along with adjacent territory containing non-residential urban land uses as well as territory with low population density included to link outlying densely settled territory with the densely settled core. To qualify as an urban area, the territory identified according to the proposed criteria mentioned above must encompass at least 2,500 people, at least 1,500 of which reside outside institutional group quarters. Urban areas that contain 50,000 or more people are designated as urbanized areas (UAs); urban areas that contain at least 2,500 and less than 50,000 people are designated as urban clusters (UCs). The term "urban area" refers to both UAs and UCs. The term "rural" encompasses all population, housing, and territory not included within an urban area.

As a result of the urban area delineation process, an incorporated place or census designated place (CDP) may be partly within and partly outside an urban area. Any place that is split by an urban area boundary is referred to as an extended place. Any census geographic areas, with the exception of census blocks, may be partly within and partly outside an urban area.

All proposed criteria based on land area, population, and population density, reflect the information contained in the Census Bureau's Master Address File/Topologically Integrated Geographic Encoding and Referencing (MAF/TIGER) Database (MTDB) at the time of the initial delineation. All calculations of

[6] For Census Bureau purposes, the United States includes the 50 States and the District of Columbia.

[7] For Census Bureau purposes, the Island Areas include American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the U.S. Virgin Islands, and the U.S. Minor Outlying Islands. The U.S. Minor Outlying Islands are an aggregation of nine U.S. territories: Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, the Midway Islands, Navassa Island, Palmyra Atoll, and Wake Island.

[8] A census tract is made up of from one to ten census block groups within a single county. A census block group is a collection of one to 999 census blocks within a single census tract.

[9] A census block is the smallest geographic area for which the Census Bureau tabulates data and is an area normally bounded by visible features, such as streets, rivers or streams, shorelines, and railroads, and by nonvisible features, such as the boundary of an incorporated place, MCD, county, or other 2010 Census tabulation entity.

population density include only land; the areas of water contained within census tracts and census blocks are not used to calculate population density.

B. Proposed UA and UC Delineation Criteria

The Census Bureau proposes to define urban areas primarily on the basis of residential population density measured at the census tract and census block levels of geography. Two population density thresholds are utilized in the delineation of urban areas: 1,000 ppsm and 500 ppsm. The higher threshold is consistent with final population density criteria used in the 1960 through 1990 urban area delineation processes; it is used to identify the starting point for delineation of individual, potential urban areas and ensures that each urban area contains a densely settled core area that is consistent with previous decades' delineations. The lower threshold was adopted for the Census 2000 process when the Census Bureau adopted an automated delineation methodology; it ensures that additional territory that may contain a mix of residential and non-residential urban uses can qualify for inclusion in an urban area.

1. Identification of Initial Urban Area Cores

The Census Bureau proposes to begin the delineation process by identifying and aggregating contiguous census tracts, each having a land area less than three square miles and a population density of at least 1,000 ppsm. If a qualifying census tract does not exist, then one or more contiguous census blocks that have a population density of at least 1,000 ppsm are identified and aggregated. This aggregation of continuous census tracts or census blocks, as appropriate, would be known as the "initial urban area core."

After the initial urban area core with a population density of 1,000 ppsm or more is identified, a census tract is included in the initial urban area core if it is adjacent to other qualifying territory and has a land area less than three square miles and a population density of at least 500 ppsm.

A census block [10] is included in the initial urban area core if it is adjacent to other qualifying territory and

a. Has a population density of at least 500 ppsm; or

b. At least one-third of the census block consists of territory with a level of imperviousness of at least twenty percent,[11] and is compact in nature as defined by a shape index. A census block is considered compact when the shape index is at least 0.185 using the following formula: $I = 4\pi A/P^2$ where I is the shape index, A is the area of the entity, and P is the perimeter of the entity.

The Census Bureau would apply proposed criteria 1.a and 1.b above until there are no blocks to add to the urban area.

2. Inclusion of Noncontiguous Territory Separated by Exempted Territory

The Census Bureau proposes to identify and exempt territory in which residential development is substantially constrained or not possible due to either topographic or land use conditions.[12] Such "exempted" territory offsets urban development due to particular land use, land cover, or topographic conditions. For the 2010 Census, the Census Bureau proposes the following to be exempted territory:

- Bodies of water; and
- Wetlands (belonging to one of eight wetlands class definitions [13]).

Noncontiguous qualifying territory would be added to a core when separated by exempted territory, provided that:

a. The road connection across the exempted territory (located on both sides of the road) is no greater than five miles; and

b. The road connection does not cross more than a total of 2.5 miles of territory not classified as exempted (those segments of the road connection where exempted territory is not on both sides of the road); and

c. The total length of the road connection (exempt distance and non-exempt distance) is no greater than five miles for a jump and no greater than 2.5 miles for a hop.

3. Inclusion of Noncontiguous Territory via Hops and Jumps

Noncontiguous territory that meets the proposed population density criteria specified in section B.1.a and b above, but is separated from an initial urban area core of 1,000 or more people, may be added via a "hop" along a road connection of no more than 0.5 miles. Multiple hops may be made along a single road connection, thus accounting for the nature of contemporary urban development which often encompasses alternating patterns of residential and non-residential uses.

After adding territory to an initial urban area core via hop connections, the Census Bureau will identify all cores that have a population of 1,500 or more and add other qualifying territory via a jump connection.[14] Jumps are used to connect densely settled noncontiguous territory separated from the core by territory with low population density measuring greater than 0.5 and no more than 2.5 road miles across. This process recognizes the existence of larger areas of non-residential urban uses or other territory with low population density that does not provide a substantial barrier to interaction between outlying territory with high population density and the main body of the urban area. Because it is possible that any given densely settled area could qualify for inclusion in multiple cores via a jump connection, the identification of jumps in an automated process starts with the initial urban area core that has the largest total population and continues in descending order based on the total population of each initial urban area core. Only one jump is permitted along any given road connection. This limitation, which has been in place since the inception of the urban area delineation process for the 1950 Census, prevents the artificial extension of urban areas over large distances that result in the inclusion of communities that are not commonly perceived as connected to the particular initial urban area core. Exempted territory is not taken into account when measuring road distances across hop and jump corridors.

In addition to the distance criteria listed above, a hop or a jump will qualify if:

a. The census tracts and blocks identified in the high density destination and along the hop or jump corridor have a combined overall

[10] Due to imposed restrictions on the selection of features that could be used as census block boundaries within military installations for the 2010 Census, blocks on military installations that have a population of 2,500 or more are treated as having a population density of 1,000 ppsm if the density is less than 1,000 ppsm. Census blocks that have a population greater than 1,000 and less than 2,500 are treated as having a population density of 500 ppsm.

[11] The Census Bureau has found in testing the NLCD that territory with an impervious percent less than twenty percent results in the inclusion of road and structure edges, and not the actual roads or buildings themselves.

[12] The land cover and land use types used to define exempted territory are limited to only those that are included in or can be derived from the Census Bureau's MTDB or the MRLC's 2001 NLCD nationally, consistently, and with some reasonable level of accuracy.

[13] For the MRLC's 2001 NLCD, wetlands are identified as belonging to one of eight wetlands class definitions including woody, palustrine forested, palustrine scrub/shrub, estuarine forested, estuarine scrub/shrub, emergent herbaceous, palustrine emergent (persistent), or estuarine emergent.

[14] All initial urban area cores with a population less than 1,500 are not selected to continue the delineation as separate urban areas; however, these cores still are eligible for inclusion in an urban area using subsequent proposed criteria and procedures.

population density of at least 500 ppsm, or

b. The high density destination to be added via the hop or jump has a total population of 1,000 or more.

No additional jumps may originate from a qualifying area after the first jump in that direction unless the territory being included as a result of the jump was an initial urban area core with a population of 50,000 or more.

4. Inclusion of Airports

After all territory has been added to the initial core via hop and jump connections, the Census Bureau will then add whole tabulation blocks that approximate the territory of major airports, provided at least one of the blocks that represent the airport is included within or adjacent to the initial core. An airport is identified as a "major airport" if it had an annual enplanement of at least 2,500 passengers in any year between 2000 and the last year of reference in the Federal Aviation Administration's (FAA) Air Carrier Activity Information System.

5. Inclusion of Enclaves

The Census Bureau will add enclaves within the urban area, provided that they are surrounded only by land, by territory that qualified for inclusion in the urban area based on the proposed population density criteria, and at least one of the following conditions is met:

a. The area of the enclave must be less than five square miles; or

b. All area of the enclave is surrounded by territory that qualified for inclusion in the initial core, and is more than a straight-line distance of 2.5 miles from a land block that is not part of the initial core; or

c. The area of the enclave is less than five square miles, is surrounded by both land that qualified for inclusion in the initial core and water, and the length of the line of adjacency with the water is less than the length of the line of adjacency with the land.

6. Inclusion of Indentations

The Census Bureau proposes to evaluate and include territory that forms an indentation within the urban area. Including such territory will produce a smoother and more manageable boundary for each urban area. It would also recognize that small sparsely settled areas that are wholly or partially enveloped by urban territory are more likely to be affected by and integrated with adjacent urban territory and may become more densely settled by future development.

To determine whether an indentation should be included in the urban area, the Census Bureau proposes to identify a "closure line," defined as a straight line no more than one mile in length, that extends from one point along the edge of the urban area across the mouth of the indentation to another point along the edge of the urban area.

A census block located wholly or partially within an indentation will be included in the urban area if at least 75 percent of the area of the block is inside the closure line. The total area of those blocks that meet or exceed the proposed 75 percent criterion is compared to the area of a circle, the diameter of which is the length of the closure qualification line. The territory within the indentation will be included in the urban area if its area is at least four times the area of the circle and less than five square miles.

If the collective area of the census blocks inside the closure line does not meet the criteria listed above, the Census Bureau will define successive closure lines within the indentation, starting at the mouth and working inward toward the base of the indentation, until the criteria for inclusion are met or it is determined that the indentation will not qualify for inclusion.

7. Splitting Large Agglomerations

The automated urban area delineation methodology that will be used for the 2010 Census may result in large urban agglomerations of continuously developed territory. If such results occur, the Census Bureau proposes splitting large agglomerations of 1,000,000 or more people along metropolitan statistical area boundaries to identify individual UAs. In New England, large agglomerations will be split based on the boundaries of metropolitan New England city and town areas (NECTAs). In situations where an incorporated place or a CDP crosses the metropolitan statistical area or metropolitan NECTA boundary, the boundary splitting the large agglomeration will be modified to follow the incorporated place or CDP boundary. The incorporated place or CDP will be assigned to the resulting UA that contains the largest proportion of the place's land area. Urban clusters would not be created as a result of splitting.

8. Assigning Urban Area Titles

A clear, unambiguous title based on commonly recognized place names helps provide context for data users, and ensures that the general location and setting of the urban area can be clearly identified and understood. The title of an urban area identifies the place(s) that is (are) most populated within the urban area. All population requirements for places and MCDs apply to the portion of the entity's population that is within the specific urban area being named. The Census Bureau proposes the following criteria to determine the title of a urban area:

a. The most populous incorporated place with a population of 10,000 or more within the urban area will be listed first in the urban area title.

b. If there is no incorporated place with a population of 10,000 or more, the urban area title will include the name of the most populous incorporated place or CDP having at least 2,500 people in the urban area.

Up to two additional places, in descending order of population size, may be included in the title of an urban area, provided that:

a. The place has 250,000 or more people in the urban area; or

b. The place has at least 2,500 people in the urban area, and that population is at least two-thirds of the urban area population of the most populous place in the urban area.

If the urban area does not contain a place of at least 2,500 people, the Census Bureau will use the following rules to identify an urban area title, applying each in order until a title is identified:

a. The governmental MCD having the largest total population in the urban area; or

b. A local name recognized for the area by the United States Geological Survey (USGS)' Geographic Names Information System (GNIS), with preference given to names recognized by the United States Postal Service (USPS).

The urban area title will include the USPS abbreviation of the name of each state or statistically equivalent entity into which the urban area extends. The order of the state names is the same as the order of the related place names in the urban area title.

If a single place or MCD qualifies as the title of more than one urban area, the largest urban area will use the name of the place or MCD. The smaller urban area will have a title consisting of the place or MCD name and the direction (North, South, East, or West) of the smaller urban area as it relates to the larger urban area.

If any title of an urban area duplicates the title of another urban area within the same state, or uses the name of an incorporated place, CDP, or MCD that is duplicated within a state, the name of the county that has most of the population of the largest place or MCD is appended, in parentheses, after the duplicate place or MCD name for each

urban area. If there is no incorporated place, CDP, or MCD name in the urban area title, the name of the county having the largest total population residing in the urban area will be appended to the title.

C. Definitions of Key Terms

Census Block: A geographic area bounded by visible and/or invisible features shown on a map prepared by the Census Bureau. A block is the smallest geographic entity for which the Census Bureau tabulates decennial census data.

Census Designated Place (CDP): A statistical geographic entity encompassing a concentration of population, housing, and commercial structures that is clearly identifiable by a single name, but is not within an incorporated place. CDPs are the statistical counterparts of incorporated places for distinct unincorporated communities.

Census Tract: A small, relatively permanent statistical geographic division of a county defined for the tabulation and publication of Census Bureau data. The primary goal of the census tract program is to provide a set of nationally consistent small, statistical geographic units, with stable boundaries that facilitate analysis of data across time.

Contiguous: Refers to two or more areas sharing common boundaries.

Core Based Statistical Area (CBSA): A statistical geographic entity defined by the U.S. Office of Management and Budget, consisting of the county or counties associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties containing the core. Metropolitan and micropolitan statistical areas are the two types of core based statistical areas.

Exempted Territory: Pre-existing landcover that offsets the pattern of urban development.

Group Quarters (GQs): A place where people live or stay, in a group living arrangement, that is owned or managed by an entity or organization providing housing and/or services for the residents. These services may include custodial or medical care, as well as other types of assistance, and residency is commonly restricted to those receiving these services. This is not a typical household-type living arrangement. People living in GQs are usually not related to each other. GQs include such facilities as college residence halls, residential treatment centers, skilled nursing facilities, group homes, military barracks, correctional facilities, and workers' dormitories.

Impervious Surface: Paved, man-made surfaces, such as roads and parking lots.

Incorporated Place: A type of governmental unit, incorporated under state law as a city, town (except in New England, New York, and Wisconsin), borough (except in Alaska and New York), or village, generally to provide specific governmental services for a concentration of people within legally prescribed boundaries.

Metropolitan Statistical Area: A core based statistical area associated with at least one urbanized area that has a population of at least 50,000. A metropolitan statistical area comprises a central county or counties containing an urbanized area, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured by commuting.

Micropolitan Statistical Area: A core based statistical area associated with at least one urban cluster that has a population of at least 10,000, but less than 50,000. A micropolitan statistical area comprises a central county or counties containing an urban cluster, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured by commuting.

Minor Civil Division (MCD): The primary governmental or administrative division of a county in 29 states and the Island Areas having legal boundaries, names, and descriptions. MCDs represent many different types of legal entities with a wide variety of characteristics, powers, and functions depending on the state and type of MCD. In some states, some or all of the incorporated places also constitute MCDs.

New England City and Town Area (NECTA): A statistical geographic entity that is delineated by the U.S. Office of Management and Budget using cities and towns in the New England states as building blocks, and that is conceptually similar to the metropolitan and micropolitan statistical areas.

Noncontiguous: Refers to two or more areas that do not share common boundaries, such that the areas are separated by intervening territory.

Rural: Territory not defined as urban.

Topologically Integrated Geographic Encoding and Referencing (TIGER): Database developed by the Census Bureau to support its mapping needs for the decennial census and other Census Bureau programs. The topological structure of the TIGER database defines the location and relationship of boundaries, streets, rivers, railroads, and other features to each other and to the numerous geographic areas for which the Census Bureau tabulates data from its censuses and surveys.

Urban: Generally, densely developed territory, encompassing residential, commercial, and other non-residential urban land uses within which social and economic interactions occur.

Urban Area: The generic term used to refer collectively to urbanized areas and urban clusters.

Urban Cluster (UC): A statistical geographic entity consisting of a densely settled core created from census tracts or blocks and adjacent densely settled territory that together have at least 2,500 people but fewer than 50,000 people.

Urbanized Area (UA): A statistical geographic entity consisting of a densely settled core created from census tracts or blocks and adjacent densely settled territory that together have a minimum population of 50,000 people.

Executive Order 12866

This notice has been determined to be not significant under Executive Order 12866.

Paperwork Reduction Act

This notice does not contain a collection of information subject to the requirements of the Paperwork Reduction Act, 44 United States Code, Chapter 35.

Dated: August 17, 2010.

Robert M. Groves,

Director, Bureau of the Census.

[FR Doc. 2010–20808 Filed 8–23–10; 8:45 am]

BILLING CODE 3510–07–P

Federal Register

Tuesday,
August 24, 2010

Part V

Federal Communications Commission

47 CFR Parts 1, 74, and 101

Use of Microwave for Wireless Backhaul; Provision for Additional Flexibility To Broadcast Auxiliary Service and Operational Fixed Microwave Licensees; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 74, and 101

[WT Docket Nos. 10–153; 09–106; 07–121; FCC 10–146]

Use of Microwave for Wireless Backhaul; Provision for Additional Flexibility To Broadcast Auxiliary Service and Operational Fixed Microwave Licensees

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission commences a proceeding to remove regulatory barriers to the use of spectrum for wireless backhaul and other point-to-point and point-to-multipoint communications. This proceeding will surface ways to increase efficient use of spectrum for backhaul, especially by updating regulatory classifications that may not have kept pace with the evolution of converged digital technologies. Providing for the more flexible use of microwave frequencies for backhaul may help promote access to backhaul solutions that are critical to the deployment of wireless broadband and other services. Our proposed rule changes may be particularly beneficial to rural areas, where wireline alternatives may not exist. Our proposed rules should increase opportunities for all users of point-to-point and point-to-multipoint services, while protecting established license holders who are already using these bands. As an initial matter, we believe 750 megahertz in the 13 gigahertz range and below can be made flexibly usable for broadband backhaul.

DATES: Submit comments on or before October 25, 2010. Submit reply comments on or before November 22, 2010.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. You may submit comments, identified by WT Docket No. 10–153, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *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) 418–0530 or TTY: (202) 418–0432.

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: For further information contact Lynn Ratnavale at (202) 418–1514 or Charles Oliver at (202) 418–1325, Broadband Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Lynn.Ratnavale@fcc.gov* or *Charles.Oliver@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking and Notice of Inquiry,* FCC 10–146, adopted on August 5, 2010, and released on August 5, 2010. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, facsimile (202) 488–5563, or via e-mail at *fcc@bcpiweb.com.* The complete text is also available on the Commission's Web site at *http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db0805/FCC-10-146A1.doc.* This full text may also be downloaded at: *http://wireless.fcc.gov/releases.html.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365, or via e-mail to *bmillin@fcc.gov.*

Summary

Notice of Proposed Rulemaking

Permitting Greater Sharing Between FS Operations in Certain BAS and CARS Frequencies

1. One way to potentially increase the availability of microwave spectrum would be to allow FS operations to share spectrum in several bands at 13 GHz and below that are currently assigned to BAS and CARS, but not FS. First, we propose to permit FS operations in the 6875–7125 MHz band, which is adjacent to existing FS operations in the 6525–6875 MHz band and well suited for backhaul and other microwave applications. In particular, we seek comment on sharing between mobile (temporary fixed) operations and fixed operations in the 6875–7125 MHz band where frequency coordination is not as formalized. In light of the additional sharing proposed by this rulemaking, we also seek comment on whether we should make the identification of receive-only sites associated with TV pickup stations mandatory in the 6875–7125 MHz band.

2. Second, we propose to introduce FS systems into the 12700–13200 MHz band. This band is well suited for short to medium length backhaul microwave applications and in fact prior to 1988 was available to certain relocated FS systems. We seek comment on whether introduction of FS operations in this band, with the additional latitude proposed in this proceeding, will have an adverse impact on cable system operations and whether it will have an effect on future use of the spectrum by cable system operators.

3. Both the 6875–7125 MHz and 12700–13200 MHz bands are currently assigned to television pickup, television studio-transmitter links, television relay stations, television translator relay stations, and CARS. We emphasize that we are not proposing to modify existing licenses and that any new licenses in this band will need to be frequency coordinated with existing licensees. We believe these uses would be compatible with FS operations with use of frequency coordination. The frequency coordination process has been highly successful in allowing maximum utilization of shared bands and eliminating potential interference problems. We therefore propose to require frequency coordination for new FS, BAS, and CARS stations in the 6875–7125 MHz and 12700–13200 MHz bands in accordance with our existing frequency coordination procedures. Commenters that believe that relying on our existing frequency coordination processes would not adequately address all necessary requirements should propose modifications to that process or alternative processes.

4. We seek comment on the best approach to channelization for the various bands under consideration. We note that existing operations in the 6875–7125 MHz and 12700–13200 MHz bands both use 25 megahertz bandwidth channels. We note that this channelization scheme has been in existence for over 40 years. Existing BAS operations in the 12700–13200 MHz band also use 25 MHz bandwidth channels, while CARS operations in the band use 25 MHz, 12.5 MHz and 6 MHz channels. We seek comment on a channelization scheme that would likewise provide applicants with a variety of channel widths to maximize flexibility and utilization of the 6875–

7125 MHz and 12700–13200 MHz bands. Consistent with our recent action allowing 30 megahertz channels in the Upper 6 GHz Band, we seek comment on alternative channelization schemes. In addition, we propose to facilitate use of the 6875–7125 MHz and 12700–13200 MHz bands by BAS operators by making additional channel bandwidths available for their use. Such action would provide BAS licensees with additional flexibility and provide additional opportunities for using modern digital equipment.

5. With respect to the remaining proposed technical rules for FS operation, we propose to apply the same technical parameters that currently apply to the Upper 6 GHz band to the adjacent 6875–7125 MHz band, because those bands are contiguous and should be able to use similar equipment. We believe that applying the rules currently applicable to the Upper 6 GHz Band to the 6875–7125 MHz band will facilitate equipment development and provide consistency to FS licensees. The specific rules that we propose are: (1) Applying a maximum frequency tolerance of 0.005 percent; (2) applying a maximum transmitter power of +55 dBw; (3) applying the antenna standards currently applicable to Upper 6 GHz Band stations authorized after June 1, 1997 to the 6875–7125 MHz band; (4) applying the capacity and loading requirements contained in § 101.141(a)(3) of the Commission's rules to this band; and, (5) confirming that the 17 kilometer minimum path length requirement of § 101.143 of the Commission's rules would apply in the 6875–7125 MHz band. We propose to retain the rules that are already applicable to the 12700–13000 MHz band, with one exception. There is no minimum payload capacity applicable to the 12700–13200 MHz band. We propose to apply the minimum payload capacity and loading requirements that are currently applicable to the 11 GHz band to the 12700–13200 MHz band. We seek comment on these proposals and any possible alternatives to them. We also seek comment on any special technical rules that might be necessary in that band.

Eliminating Final Link Rule

6. While broadcasters are allowed to obtain private fixed service licenses under part 101 of the Commission's Rules, § 101.603(a)(7) prohibits broadcasters from using part 101 stations as the final radiofrequency (RF) link in the chain of distribution of the program material to broadcast stations. In light of recent technological and regulatory developments, we believe that the "final link" rule may no longer serve a useful purpose and, in fact, may inhibit the full use of part 101 spectrum. As broadcasters and other microwave users move to digital-based systems, we question whether it makes sense to maintain regulatory restrictions based on the type of content that the digital data transmitted by the system represents. As BAS and CARS move to digital and the technical rules have converged with those in part 101, it has become difficult to distinguish video content from any other digital content or to distinguish a microwave link used for BAS and CARS from those licensed under part 101.

7. Retaining the "final link" rule appears to be spectrally inefficient and places an unnecessary burden on broadcasters. Retaining the "final link" rule could force broadcasters to build unnecessarily redundant systems in the same locations: One system using reserved BAS frequencies for the sole purpose of delivering programming to a transmitter site and a second system using FS frequencies for other purposes. Especially in view of the increased sharing of BAS bands with FS stations we propose above, we believe it is appropriate to provide broadcasters with additional flexibility to use the FS bands.

8. We do not believe that eliminating the final link rule will crowd other FS licensees out of the band. Other rules require all FS licensees, including broadcasters, to build out their spectrum promptly and to comply with minimum payload capacities. These requirements serve to ensure productive use of the spectrum and to prevent noneconomic overuse.

9. Accordingly, we seek comment on eliminating the "final link" rule. In considering this proposal, we encourage broadcasters to provide specific data on the efficiencies and cost savings that could result from eliminating this rule. FS licensees who oppose this change should identify the harms they believe would be caused by eliminating this rule and explain why they believe other rules are insufficient to prevent those harms. We also seek comment on whether there are alternatives that could facilitate broadcaster access to FS spectrum while retaining that prohibition under certain circumstances.

Permitting Adaptive Modulation

10. The part 101 rules contain a minimum payload capacity rule intended to ensure that FS links are operated efficiently. We propose to allow temporary operations below the minimum capacity under certain circumstances, which will enable FS links—particularly long links in rural areas—to maintain critical communications during periods of fading.

11. We propose changes to our rules to allow FS licensees to maintain communications when adverse propagation characteristics would otherwise force communications to be terminated. Specifically, we propose to amend our rules to allow licensees to temporarily drop below minimum payload capacity requirements specified by the rules in certain limited circumstances. These proposed rule changes have the potential to reduce operational costs and increase reliability, which could be particularly important in facilitating the use of wireless backhaul in rural areas.

12. Section 101.141(a)(3) of the Commission's rules establishes minimum payload capacities (in terms of megabits per second) for various channel sizes in certain part 101 bands. The underlying purpose of the rule is to promote efficient frequency use. Although the Commission has never quantified the time period over which licensees must comply with those standards, the industry has generally construed the payload requirements as applying whenever the link is in service.

13. On May 8, 2009, Alcatel-Lucent, Dragonwave, Inc. Ericsson, Inc., Exalt Communications, Fixed Wireless Communications Coalition (FWCC), Harris Stratex Networks and Motorola, Inc. ("Petitioners") filed a request for interpretation of § 101.141(a)(3) of the Commission's rules to permit data rates to drop for brief periods below the minimum payload capacity specified in the rules, instead of temporarily having a link go completely out of service, so long as the values mandated by the rules were maintained both in normal operation and on average.

14. On May 14, 2010, FWCC followed up its original request for interpretation with a request for waiver of § 101.141(a)(3) so that it can utilize adaptive modulation to average bit rates over time to combat fading. FWCC acknowledges the Commission's indication in the National Broadband Plan that it intends to open a rulemaking with regards to adaptive modulation; however, FWCC argues that it urgently needs relief with respect to adaptive modulation and does not want to wait for a rulemaking cycle to be completed.

15. We agree with Verizon that a rulemaking is necessary to implement the policy interpretation sought in the FWCC request and we therefore deny

the FWCC request for declaratory ruling in this instance because the requested interpretation is inconsistent with the plain language of the current rule. The current rule specifies a "minimum" payload capacity, which commenters admit has been interpreted to mean that it must be complied with at all times when the system is in operation. Such an interpretation is consistent with the use of the word "minimum." FWCC's proposed interpretation deviates from the commonly understood meaning of the rule. Furthermore, the fact that licensees had interpreted the rule as establishing a benchmark that must be complied with at all times is further evidence that it would not be appropriate to change the meaning of an established rule under the guise of a declaratory ruling. We also note that the comments raise various policy issues that are best addressed through the rulemaking process.

16. Nonetheless, we believe that it is in the public interest to commence a rulemaking proceeding to amend our rules to facilitate the use of adaptive modulation by allowing licensees to maintain communications in the face of adverse propagation characteristics. Adaptive modulation has the potential to reduce operational costs and facilitate the use of wireless backhaul in rural areas. While our current rules allow the use of adaptive modulation, they would require all modulation modes to comply with the minimum payload capacities contained in the rules at all times. Allowing carriers to operate below the current efficiency standards for short periods when it is necessary to maintain an operational link, without a need for waiver, could enable carriers to save on costs and enhance reliability of microwave links. Accordingly, we seek comment in the context of this *NPRM* on revising § 101.141 of the Commission's rules to allow greater use of adaptive modulation by FS licensees.

17. Adaptive modulation can allow communications to be maintained during adverse propagation conditions. Given the critical backhaul and public safety applications of FS stations, we find this benefit to be significant. By allowing this level of flexibility in our efficiency standards we hope to provide carriers with a way to lower their costs yet still use the spectrum efficiently.

18. We are concerned, however, that the proposal to allow compliance with the efficiency standards "on average" and "during normal operation" is too vague and open-ended. Commenters have noted that it is standard engineering practice to design microwave links to have 99.995 percent or higher link availability. Under those circumstances, we believe the standard proposed in the FWCC request would give licensees too much latitude to deploy inefficient systems that would be inconsistent with good engineering practices. To the extent the underlying concern behind this proposal is that the requirements of the rule are too strict and inhibit full use of the spectrum, we believe the better approach would be to review those standards and amend them, if appropriate. Moreover, using an "on average" standard would make enforcement of the minimum payload capacity rule more difficult. We also tentatively conclude that the equipment restrictions proposed by Verizon would not be in the public interest because, as noted by HSX, such restrictions could increase equipment prices for carriers and consumers.

19. We tentatively conclude to adopt a more carefully tailored approach by amending § 101.141 of the Commission's rules to state that the minimum payload capacity requirements must be met at all times, except during anomalous propagation conditions, when lower capacities may be utilized in order to maintain communications. This approach will allow licensees to take advantage of the benefits of adaptive modulation without unduly undercutting the efficiency purpose that led to initial adoption of the minimum efficiency requirement. We seek comment on this proposal, as well as alternatives. We also seek comment on what might constitute anomalous signal fading. In that regard, we also propose to adopt AT&T's suggestion to require licensees that wish to be able to temporarily use modulations below the minimum payload capacity in § 101.141 of the Commission's rules to state that fact in their prior coordination notices. We seek comment on whether, how, and to what extent this information should be logged and made part of the station records under § 101.217 to facilitate enforcement. We also seek comment on related issues, including whether the rules should specify a minimum amount of time a link is operational or a minimum efficiency standard below which an FS station may not fall even when using adaptive modulation.

20. We deny FWCC's waiver request. Given the concerns we have regarding FWCC's proposal to use an "on average" standard, FWCC has not shown that it would be in the public interest to allow operation under such circumstances. Furthermore, FWCC's claims that there is an urgent need for relief are conclusory and lack any specificity. We therefore conclude that the better course is to proceed through our normal rulemaking process and determine the best means of allowing licensees to take advantage of adaptive modulation.

Permitting Auxiliary Fixed Stations

21. We seek comment on a proposal to permit substantially spatial reuse of scarce microwave spectrum, which may permit more efficient use of the spectrum thereby potentially reducing the cost of using FS spectrum for backhaul and other important purposes. Specifically, we propose to allow FS licensees to operate "auxiliary stations" in conjunction with existing microwave links, subject to conditions designed to enable the use of such stations to augment capacity while safeguarding existing users in the band. We seek comment on permitting FS licensees to coordinate and deploy multiple links—a primary link and "auxiliary" links.

22. The Commission's current rules define a fixed station as "[a] station operating at a fixed location," and require a license for each station. In the part 101 Operational Fixed Services, the rules require evaluation of proposed point-to-point fixed microwave stations on a site-by-site, path-by-path basis, and do not provide exceptions based on the aggregation of multiple sites and paths. Each license application must include "all technical information required by the application form and any additional information necessary to fully describe the proposed facilities and to demonstrate compliance with all technical requirements of the rules governing the radio service involved * * *." This construct is different from services based on geographic area licensing, where a licensee, subject to certain exceptions, is allowed to place transmitters throughout its service area without individual Commission approval once it has obtained its geographic area license, subject to compliance with applicable service rules.

23. On February 23, 2007, Wireless Strategies, Inc. (WSI) filed a petition asking the Commission to issue a declaratory ruling "confirming that a Fixed Service licensee is permitted to simultaneously coordinate multiple links whose transmitter elements collectively comply with the Commission's antenna standards and frequency coordination procedures." Comment on WSI's petition was sought by public notice, and 27 parties filed comments, reply comments and *ex parte* statements.

24. In its original proposal, WSI proposed that it would be unnecessary to separately coordinate auxiliary elements within the side lobes of the main station because "the antenna

characteristics provided by the applicant to the coordinator, in addition to describing the main lobe, also incorporate the properties of the multiple distributed elements to be used for communication with other locations." WSI referred to that concept as "concurrent coordination." In response to arguments that coordination of the auxiliary elements is necessary, WSI modified its proposal. Specifically, WSI suggests that, once a "main link" is successfully coordinated and licensed, an auxiliary element would only be added (1) following regular frequency coordination and filing of an application for major modification of the license of the associated location whose frequency it would reuse, and (2) on a secondary basis to any future coordinated paths.

25. Initially, we determine that the WSI proposal is not consistent with our rules as currently drafted, and we therefore deny the request for declaratory ruling. WSI's proposal to consider the performance of a system on an aggregate basis is not consistent with the plain wording of our rules for two reasons. First, the rules require evaluation of proposed point-to-point fixed microwave stations on a site-by-site, path-by-path basis, and do not provide exceptions based on the aggregation of multiple sites and paths. Second, WSI's proposal is inconsistent with the antenna standards rule, § 101.115 of the Commission's rules, because it proposes the use of antennas that do not meet those standards.

26. While we find that the concept proffered by WSI is not consistent with the current rules, we do find it worthy of further consideration. Because we cannot authorize this operation as a declaratory ruling, we seek comment in this *NPRM* on whether we should make necessary changes to our part 101 rules to afford licensees the opportunity to operate in this manner. We find that it is in the public interest to initiate a rulemaking proceeding on our own motion to consider changes to our part 101 rules to allow operation in the manner contemplated by WSI. A rulemaking proceeding will allow us to gather information on the proposed types of operations, discuss specific rule changes, and consider further the arguments for and against the operations that WSI contemplates.

27. We seek comment on the potential benefits of permitting auxiliary stations under our part 101 rules—the uses they may support, the efficiencies that may be achieved—as well as on the potential harms. Reserving judgment on the ultimate balancing of those benefits and harms, we observe that a series of changes to our part 101 rules would be necessary in order to effectuate a part 101 regime including auxiliary stations. Specifically, we seek comment on the following elements of such a regime:

- Each auxiliary station must operate on the same frequencies as the main licensed link.
- Auxiliary stations must not cause any incremental interference to other primary links, *i.e.,* they must not cause any more interference to them than the main link would cause. This result can, possibly, be achieved by alternating transmissions between the primary station and the auxiliary stations on a time-division multiplexed basis or by any other method that achieves the required result.
- Auxiliary stations will be secondary in status and have no right to claim protection from interference from any primary stations, including stations in other services, such as BAS, CARS, and satellite stations, other than interference that violates the protection rights of the main link. Otherwise, auxiliary stations will have a right to claim protection only from later-deployed auxiliary stations.
- Auxiliary stations would have to be coordinated in advance with other licensees and applicants pursuant to the frequency coordination process specified in § 101.103 of the Commission's rules.
- After coordination, the licensee of the main link would file applications to make major modifications to the main link license to add auxiliary stations. In those bands where conditional authority is available, applicants could operate their auxiliary stations as soon as they complete the frequency coordination process and file their application with the Commission, subject to the usual conditions and exceptions to conditional authority. Alternatively, we seek comment on whether, consistent with the procedures set out in § 101.31 of our rules for temporary fixed links, we could allow main link licensees to file blanket applications to operate temporary auxiliary stations at multiple locations within specified geographic areas surrounding the associated main links.
- Until we gain further experience with system operation under these new rules, we further propose to require that auxiliary stations be restricted from communicating directly with each other, *i.e.,* that they be allowed to communicate directly only with the primary link's transmitter or receiver. We propose this restriction because it would reduce the chance of interference.
- Auxiliary stations would not be subject to the antenna standards or minimum path length requirements that apply to main links. Eliminating the beamwidth requirement will enable licensees to use smaller, less expensive antennas that put less of a load on support structures and thereby reduce the cost of those structures. The main link, however, would still have to comply with those requirements.
- Main links would remain subject to existing loading and path length requirements, but auxiliary stations would be exempt from the loading and path length requirements. Alternatively, in determining compliance with the loading requirements, licensees would be allowed to aggregate loading on the main link and auxiliary stations. We seek comment on both alternatives. Parties supporting the second alternative should explain how to avoid double counting traffic between a main link and an auxiliary link that also traverses the main link.
- Like primary stations, auxiliary stations would be required to obtain the necessary approvals for FAA tower clearance and to comply with environmental requirements covering non-ionizing radiation hazards, zoning, the National Environmental Act of 1969 and the National Historical Act of 1966, as applicable.

28. We believe these proposed rule changes could facilitate the provision of advanced backhaul services in the FS bands while providing protection to existing users in the band. We seek comment on these proposals, as well as alternatives.

29. We note that FS and satellite users raised concerns about the proposal in the record on the WSI Petition, arguing that it is inconsistent with the frequency coordination and antenna standards rules. Our main concerns are avoiding interference to existing operations in the bands, maintaining the reliability and integrity of existing systems, and avoiding a situation where spectrum becomes unavailable to FS applicants and other users that share spectrum with FS. In order to compare the relative benefits of and risks of allowing auxiliary stations, we request additional information from commenters.

30. Initially, we seek more specific information on the types of operations auxiliary stations could be used for. Information that would be useful would include: (1) An estimate of how many systems parties contemplate operating with auxiliary stations, (2) information on whether such systems would typically be deployed in urban or rural areas, (3) the types of uses to which such systems would be put, (4) the contemplated distances between the auxiliary stations and the main link, and

(5) the relative amount of traffic anticipated to be carried on the main link versus the auxiliary links.

31. We also seek comment on why the contemplated operations could not be accommodated in existing part 101 services and bands that allow point-to-multipoint operation, such as the Local Multipoint Distribution Service, the 24 GHz Service, and the operations in the 38.6–40.0 GHz band. Those bands feature geographic area licensing that would appear to be well suited for the type of operations involving multiple stations, whether "auxiliary" or primary.

32. We note that the examples WSI provides propose use of the Lower 6 GHz Band (5925 MHz–6425 MHz). While the Commission authorized 30 megahertz bandwidth links in the Upper 6GHz Band in the *6/23 GHz Report and Order,* we anticipate that there will be considerable demand for those frequencies. We seek comment on whether there is sufficient capacity in those bands to accommodate many operations of the type contemplated by WSI, in addition to the existing uses in the band. We are particularly interested in the experiences of parties who have coordinated links in that band.

33. We seek comment on whether our proposal would strike the appropriate balance between auxiliary stations and other operations, particularly primary microwave links. We propose requiring frequency coordination and adding auxiliary sites to the license through our normal application process and seek comment on whether those requirements would be sufficient protection. Furthermore, given that auxiliary stations would be secondary to main links and could not be used to prevent coordination of main links, it appears unlikely that they could be used to establish pseudo-geographic service areas. We seek comment on concerns raised by some commenters that auxiliary links could give applicants an incentive to propose main links that would allegedly specify excessive power, and would allegedly be designed to maximize interference and the preclusive effect on other nearby operations. We seek comment on the applicability of § 101.103(d)(1) of the Commission's rules, which requires applicants to avoid interference in excess of permissible levels to other users and requires applicants to make "every reasonable effort" to avoid blocking the growth of prior coordinated systems, to main links associated with auxiliary stations.

34. Finally, we seek comment on whether we should establish restrictions on the locations of auxiliary stations. One option would be to confine auxiliary stations to an area within a defined field strength level of the main link. Another option would be to provide that an auxiliary station could not generate field strength that exceeds the primary station's field strength beyond the perimeter where the primary station generates the field strength discussed above. We emphasize that compliance with such restrictions would not absolve auxiliary stations from the further requirement that they not cause incremental interference to other primary links. We invite comment on the appropriate metrics to use for defining the relevant field strength perimeters, as well as alternative means of establishing limitations on the locations of auxiliary stations.

Notice of Inquiry

35. This Notice of Inquiry is intended to generate a record about other potential changes to part 101 rules that could potentially reduce wireless backhaul costs and increase investment in broadband deployment. In the first part, we ask about the possibility of relaxing efficiency standards in rural areas, where links may be longer and the density of deployment lower than in urban areas. In the second part, we inquire as to whether changes in the part 101 rules to permit smaller antennas could similarly reduce costs and stimulate investment. We invite commenters to offer specific proposals for rule changes on these issues, and encourage a full discussion of the advantages and disadvantages of rule changes.

Modification of Efficiency Standards in Rural Areas

36. We seek comment on whether lowering the current efficiency standards in rural areas would lower costs associated with providing backhaul service. Under our current rules, rural providers must maintain the same capacity requirements also maintained by carriers in more densely populated metropolitan areas. Lower traffic volume on the rural networks and greater distances between microwave links may make maintenance of these minimum capacity requirements financially prohibitive in some instances. To the extent wireless carriers cannot obtain rural backhaul facilities at reasonable rates, lowering the current efficiency standards in rural areas could reduce the costs associated with wireless backhaul. We therefore seek additional comment on whether relaxing the current efficiency standards in rural areas would benefit rural licensees without diminishing the availability of already increasingly scarce backhaul spectrum.

37. Section 101.141(a)(3) of the Commission's rules establishes minimum payload capacities (in terms of megabits per second) and minimum traffic loading payload (as a percentage of payload capacity) for various channel sizes in certain part 101 bands. The underlying purpose of the rule is to promote efficient frequency use. The requirements set forth in the rule apply equally to stations in urban areas and to stations in rural areas. The Wireless Telecommunications Bureau has historically granted waivers to licensees in rural and remote areas where operation of microwave facilities at the required efficiency standards would cause financial hardship to the extent that the underlying purpose of the rule would be frustrated. We ask whether this waiver policy should be reflected in our rules so that applicants could obtain facilities for backhaul in rural areas without the cost and delay inherent in seeking a waiver of our rules.

38. To the extent commenters support lowering the efficiency standards in rural areas, we seek specific proposals to modify the efficiency standards in § 101.141(a)(3) of the Commission's rules. Proponents of changes to the standards should explain how changes would provide more flexibility and facilitate deployment of backhaul and other facilities in rural areas. Commenters should also address the impact such changes would have on existing licensees, including licensees in other services that share spectrum with FS. We ask whether any changes would be consistent with the underlying purpose of § 101.141(a)(3), which is to promote efficient utilization of the spectrum.

39. In connection with this inquiry, we seek comment on the definition of "rural" that might be used to determine which geographic areas would be defined as rural under a revised rule relaxing efficiency standards in rural areas. In the Commission's 2004 Report and Order addressing the ways to facilitate and enhance the provision of spectrum-based service in rural areas the Commission provided a baseline definition of "rural areas" as, "those counties (or equivalent) with a population density of 100 persons per square mile or less, based upon the most recently available Census data." The Commission first used this definition as a proxy definition in its annual *CMRS Competition Report* for purposes of analyzing the average number of mobile telephony competitors in rural versus non-rural counties. At the time that the Commission adopted this definition, it

was determined that such a specific definition was necessary to establish continuity so that the Commission would have a basis for comparison of the effects of its "rural area" policies over time. It was determined in that same proceeding that the definition would be treated as a presumption to be applied for current and future Commission wireless radio service rules, policies and analyses for which the term "rural area" has not been expressly defined. In light of this established presumption, we seek comment on whether this definition is suitable to determine areas which should be considered rural for purposes of microwave efficiency standards in this band. We also seek comment on potential alternative definitions and any supporting reasons for why a specific definition should be utilized.

Review of Part 101 Antenna Standards

40. We seek comment on whether to review the antenna standards in any particular band to allow smaller antennas, to identify opportunities to facilitate increased deployment of FS facilities without subjecting other licensees to increased interference. The National Broadband Plan noted that it was important to ensure that the Commission's antenna standards are up to date "in order to maximize the cost-effectiveness of microwave services." Smaller antennas may be cheaper, easier to install, and generate fewer objections than antennas specified by the current requirements. We ask whether smaller antennas can be accommodated in any FS band without causing interference to other users in the band.

41. Section 101.115(b) of the Commission's rules establishes directional antenna standards designed to maximize the use of microwave spectrum while avoiding interference between operators. More specifically, the Commission's rules set forth certain requirements, specifications, and conditions pursuant to which FS stations may use antennas that comply with either the more stringent performance standard in Category A (also known as Standard A) or the less stringent performance standard in Category B (also known as Standard B). In general, the Commission's rules require a Category B user to upgrade if the antenna causes interference problems that would be resolved by the use of a Category A antenna. The rule on its face does not mandate a specific size of antenna. Rather, it specifies certain technical parameters—maximum beamwidth, minimum antenna gain, and minimum radiation suppression—that, depending on the state of technology at any point in time, directly affect the size of a compliant antenna. The Commission adopts antenna specifications based on the technical sophistication of the communications equipment and the needs of the various users of the band at the time. Indeed, the Commission adopted similar technical specifications that effectively limited the size of antennas used in other bands, including those used by certain types of satellites. Periodically, the Commission has since reconsidered some of those antenna specifications in light of the technological evolution of communications equipment.

42. Smaller antennas can have several advantages for carriers and consumers. In the *11 GHz Report and Order,* the Commission noted that smaller antennas:

> Cost less to manufacture and distribute, are less expensive to install because they weigh less and need less structural support, and cost less to maintain because they are less subject to wind load and other destructive forces. In addition, proponents of the rule change contend that the modest weight of small antennas makes them practical for installation at sites incapable of supporting large dishes, including many rooftops, electrical transmission towers, water towers, monopoles and other radio towers. Proponents also state that 0.61 meter antennas raise fewer aesthetic objections, thereby permitting easier compliance with local zoning and homeowner association rules and generating fewer objections.

43. On the other hand, smaller antennas have increased potential to cause interference because smaller antennas "result in more radiofrequency energy being transmitted in directions away from the actual point-to-point link."

44. In light of the sharp increase in demand for FS facilities for backhaul and other purposes, we believe it is appropriate to inquire whether we should review our antenna standards in any particular band. Our goal in this inquiry would be to identify opportunities to facilitate increased deployment of FS facilities without subjecting other licensees to increased interference. Parties that believe that a review of antenna standards is appropriate should: (1) Identify specific FS bands where they believe the antenna standards should be reviewed, (2) offer specific proposals for new standards, (3) describe the technological or other changes that they believe support new antenna standards, (4) describe how the new antenna standards would facilitate deployment in that band, (5) discuss the impact such new antenna standards would have on other licensees in the band, including both FS licensees and other services that share the band, (6) discuss whether the proposed standards should apply to only rural areas or all geographical areas. Other parties are encouraged to provide their evaluation of proposed changes.

Increasing Flexibility Generally

45. We also seek comment on whether we should examine any additional modifications to the part 101 rules, or other policies or regulations, to promote flexible, efficient and cost-effective provisions of wireless backhaul service. For example, are there any additional measures that could be taken to promote additional sharing with satellite, broadcast and other services? We also seek comment on any additional safeguards that may be needed to adequately protect the interests of existing licensees. Additionally, we seek comment on whether there are any changes we could make to our frequency coordination or application processes that could make it easier for applicants to access backhaul spectrum. We also ask commenters to identify any of our current rules or processes that could act as an unintended barrier to obtaining backhaul spectrum.

Procedural Matters

Ex Parte Rules—Permit-But-Disclose Proceeding

46. This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed pursuant to the Commission's rules.

Comment Period and Procedures

47. Pursuant to §§ 1.415 and 1.419 of the FCC's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The FCC's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/or* the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
- *For ECFS filers,* if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must

transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Comments shall be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

• *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 we continue 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. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location 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.

• *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).

• *Availability of Documents:* The public may view the documents filed in this proceeding during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, and on the Commission's Internet Home Page: *http://www.fcc.gov*. Copies of comments and reply comments are also available through the Commission's duplicating contractor: Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, 1–800–378–3160.

Paperwork Reduction Analysis

48. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4) requirements.

Initial Regulatory Flexibility Analysis

49. 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 this *Notice of Proposed Rulemaking (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 specified in the *NPRM* for comments. The Commission will send a copy of this *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register.**

A. Need for, and Objectives of, the Proposed Rules

50. In this *NPRM,* we propose four changes to our rules involving microwave stations. First, we propose allowing fixed service stations to operate in the 6875–7125 MHz and 12700–13200 MHz bands. Second, we propose to eliminate the prohibition on broadcasters using part 101 stations as the final radiofrequency (RF) link in the chain of distribution of the program material to broadcast stations. Third, we propose to amend our minimum payload capacity rule to facilitate the use of adaptive modulation to allow licensees to maintain communications by briefly reducing the rate at which they send data. Fourth, we propose to allow part 101 licensees to add auxiliary stations in order to allow substantially greater reuse of microwave spectrum and substantially reduce the cost of using FS spectrum for backhaul and other important purposes.

51. With respect to the first proposal, we anticipate that demand for fixed service spectrum will increase substantially as it is increasingly used for wireless backhaul and other important purposes. The 6875–7125 MHz and 12700–13200 MHz bands are currently assigned to television pickup, television studio-transmitter links, television relay stations, television translator relay stations, and mobile only CARS. Based upon our experience in other bands, we believe assigning this band to the fixed service would be compatible with these other services using the frequency coordination procedures in § 101.103 of the Commission's rules. Assigning this spectrum to the fixed service would help provide additional spectrum that could be used for wireless backhaul and other critical applications.

52. Second, § 101.603(a)(7) of the Commission's rules, commonly known as the "final link" rule, prohibits broadcasters from using part 101 stations as the final radiofrequency (RF) link in the chain of distribution of the program material to broadcast stations. The rule ensures that private operational fixed stations are used for private, internal purposes and prevents broadcasters from causing congestion when part 74 Broadcast Auxiliary Service (BAS) frequencies are available. In light of recent technological and regulatory developments, we believe the "final link" rule may no longer serve its intended purpose and may in fact inhibit the full use of part 101 spectrum. As broadcasters and other microwave users move to digital-based systems, we question whether it makes sense to maintain regulatory restrictions based on the type of content that the digital data represents. Based on the record developed in waiver requests granted by the Wireless Telecommunications Bureau, it appears that there are an increasing number of markets where Broadcast Auxiliary Service (BAS) spectrum is scarce. Furthermore, the rule may impose additional costs by requiring broadcasters to build two different systems: One system to carry program material to the transmitter site, and a separate system to handle other data. In light of the extensive sharing between BAS and FS of the same bands, we believe it is appropriate to provide broadcasters with additional flexibility to use the FS bands. We therefore propose to eliminate this rule.

53. Our third proposal is to amend out part 101 technical rules to facilitate the use of adaptive modulation. Section 101.141(a)(3) of the Commission's rules establishes minimum payload capacities (in terms of megabits per second) for various channel sizes in certain part 101 bands. The underlying purpose of the rule is to promote efficient frequency use. Although the Commission has never quantified the time period over which licensees must comply with those standards, the industry has generally construed the payload requirements as applying whenever the link is in service. Fixed service links, especially long links, are subject to atmospheric fading: A temporary drop in received power caused by changes in propagation conditions. Fading leads to an increase in bit errors, and sometimes to a complete loss of communications. One way to combat fading is by briefly reducing the data rate, which requires a temporary change in the type of modulation, a process called "adaptive modulation." The use of adaptive modulation may reduce the minimum payload capacity below the value specified in the rule for a short time, although this still represents an increase over the otherwise zero level during the fade. Adaptive modulation has public interest benefits of allowing communications to be maintained during adverse propagation conditions. Given the critical backhaul and public safety applications of fixed service stations, we find this benefit to be significant. By allowing this level of flexibility in our efficiency standards we hope to provide carriers with a way to lower their costs yet still use the spectrum efficiently. We therefore propose to amend our rules to state that the minimum payload capacity requirements must be complied with at all times, except during anomalous propagation conditions, when lower capacities may be utilized in order to maintain communications. That approach would allow licensees to take advantage of the benefits of adaptive modulation while ensuring efficient use of the spectrum.

54. Finally, we seek comment on allowing substantially greater reuse of microwave spectrum and substantially reduce the cost of using fixed spectrum for backhaul and other important purposes by allowing licensees to place auxiliary antennas that the licensee of each primary FS link be allowed to deploy as many auxiliary stations as it wishes under the following conditions:

- Each auxiliary station must operate on the same frequencies as the main licensed link.
- Auxiliary stations must not cause any incremental interference to other primary links, *i.e.,* they must not cause any more interference to them than the main link would cause. This result can, possibly, be achieved by alternating transmissions between the primary station and the auxiliary stations on a time-division multiplexed basis or by any other method that achieves the required result.
- Auxiliary stations will be secondary in status and have no right to claim protection from interference from any primary stations, including stations in other services, such as BAS, CARS, and satellite stations, other than interference that violates the protection rights of the main link. Otherwise, auxiliary stations will have a right to claim protection only from later-deployed auxiliary stations.
- Auxiliary stations would have to be coordinated in advance with other licensees and applicants pursuant to the frequency coordination process specified in § 101.103 of the Commission's rules.
- After coordination, the licensee of the main link would file applications to make major modifications to the main link license to add auxiliary stations. In those bands where conditional authority is available, applicants could operate their auxiliary stations as soon as they complete the frequency coordination process and file their application with the Commission, subject to the usual conditions and exceptions to conditional authority. Alternatively, we seek comment on whether, consistent with the procedures set out in § 101.31 of our rules for temporary fixed links, we could allow main link licensees to file blanket applications to operate temporary auxiliary stations at multiple locations within specified geographic areas surrounding the associated main links.
- Until we gain further experience with system operation under these new rules, we further propose to require that auxiliary stations be restricted from communicating directly with each other, *i.e.,* that they be allowed to communicate directly only with the primary link's transmitter or receiver. We propose this restriction because it would reduce the chance of interference.
- Auxiliary stations would not be subject to the antenna standards or minimum path length requirements that apply to main links. Eliminating the beamwidth requirement will enable licensees to use smaller, less expensive antennas that put less of a load on support structures and thereby reduce the cost of those structures. The main link, however, would still have to comply with those requirements.
- Main links would remain subject to existing loading and path length requirements, but auxiliary stations would be exempt from the loading and path length requirements. Alternatively, in determining compliance with the loading requirements, licensees would be allowed to aggregate loading on the main link and auxiliary stations. We seek comment on both alternatives. Parties supporting the second alternative should explain how to avoid double counting traffic between a main link and an auxiliary link that also traverses the main link.
- Like primary stations, auxiliary stations would be required to obtain the necessary approvals for FAA tower clearance and to comply with environmental requirements covering non-ionizing radiation hazards, zoning, the National Environmental Act of 1969 and the National Historical Act of 1966, as applicable.

B. Legal Basis

55. The proposed action is authorized pursuant to sections 1, 2, 4(i), 7, 10, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332 and 333 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 157, 160, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, and 333.

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

56. 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 and policies, 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.

57. Our proposed action, if implemented, may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 27.2 million small businesses, according to the SBA. In addition, a "small organization" is

generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2002, there were approximately 1.6 million small organizations. Finally, the term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

58. *Wireless Telecommunications Carriers (except satellite).* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 31,428 common carrier fixed licensees and 79,732 private and public safety operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of the IRFA, we will use the SBA definition that applies to Wireless Telecommunications Carriers (except satellite)—*i.e.,* an entity with no more than 1,500 persons. 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 category definitions, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), preliminary data for 2007, *i.e.,* data based on the superseded SBA classification, show that there were 11,927 firms operating that year. While the Census Bureau has not released data on such establishments broken down by number of employees, we note that the Census Bureau lists total employment for all firms in that sector at 281,262. Since all firms with fewer than 1,500 employees are considered small, given the total employment in the sector, we estimate that the vast majority of wireless firms are small. We estimate that virtually all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition.

59. *Radio Broadcasting.* A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS number. The SBA has established a small business size standard for this category, which is: Firms having $7 million or less in annual receipts. According to BIA Advisory Services, LLC, MEDIA Access Pro Database on March 17, 2009, 10,884 (95%) of 11,404 commercial radio stations have revenue of $6 million or less. Therefore, the majority of such entities are small entities. We note, however, that many radio stations are affiliated with much larger corporations having much higher revenue. Our estimate, therefore, likely overstates the number of small entities that might be affected by any ultimate changes to the rules and forms.

60. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than $14.0 million in annual receipts. Business concerns included in this industry are those "primarily engaged in broadcasting images together with sound." The Commission has estimated the number of licensed commercial television stations to be 1,392. According to Commission staff review of the BIA/Kelsey, MAPro Television Database ("BIA") as of April 7, 2010, about 1,015 of an estimated 1,380 commercial television stations (or about 74 percent) have revenues of $14 million or less and, thus, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 390. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

61. In addition, an element of the definition of "small business" is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also, as noted, an additional element of the definition of "small business" is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

62. This *Notice of Proposed Rulemaking* imposes no new reporting or recordkeeping requirements.

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

63. As noted above, this *NPRM* proposes rules to (1) allow fixed service stations to operate in the 6875–7125 MHz band, (2) eliminate the prohibition on broadcasters using part 101 stations as the final radiofrequency (RF) link in the chain of distribution of the program material to broadcast stations, (3) amend our minimum payload capacity rule to facilitate the use of adaptive modulation to allow licensees to maintain communications by briefly reducing the rate at which they send data, and (4) allow part 101 licensees to add auxiliary stations. These actions would provide additional options to all licensees, including small entity licensees. Such action will serve the public interest by making additional spectrum available for fixed service users, providing additional flexibility for broadcasters to use microwave spectrum, allowing communications to be maintained during adverse propagation conditions, facilitating the efficient use of the 6 GHz and 23 GHz bands. The rules could therefore open up economic opportunities to a variety of spectrum users, including small businesses.

64. Generally, the alternative approach would be to maintain the existing rules. If the rules were not changed, the 6875–7125 MHz and 12700–13200 MHz bands would remain unavailable for fixed service use. Given the increasing demand for part 101 spectrum for backhaul and other uses, not making that spectrum available may

make it increasingly difficult to meet demand for microwave facilities. If the prohibition on broadcasters using part 101 stations as the final radiofrequency (RF) link in the chain of distribution of the program material to broadcast stations is not eliminated, broadcasters will be limited to using Broadcast Auxiliary Service spectrum for that purpose, and may have to build two separate microwave systems using different frequencies, such an alternative would be inadequate to meet the demands of licensees and therefore less than ideal. If no BAS spectrum is available, broadcasters will have to pay to prepare a request for waiver to access part 101 spectrum and await action on that waiver request before they can begin operation. Such expense and delay may be particularly harmful to small businesses.

65. With respect to our proposal to amend our minimum capacity payload rule to facilitate adaptive modulation, if our rules are not amended to facilitate the use of adaptive modulation, licensees will be unable to fully use technology to maintain critical communications during signal fades. Under the proposal made in the *NPRM,* the minimum payload capacity requirements must be met at all times, except during anomalous propagation conditions, when lower capacities may be utilized in order to maintain communications.

66. An alternative to the adaptive modulation proposal made in the *NPRM* would be to allow compliance with the efficiency standards "on average" and "during normal operation." We believe that standard would give licensees too much latitude to deploy inefficient systems that would be inconsistent with good engineering practices.

67. Finally, while herein we propose to authorize the use of auxiliary stations, we are open to alternatives such as authorizing auxiliary stations in a more limited fashion or not at all, however, if we do not authorize auxiliary stations in some fashion, we may prevent licensees from fully utilizing their spectrum for backhaul and other purposes.

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

68. None.

Ordering Clauses

69. Accordingly, it is ordered, pursuant to sections 1, 2, 4(i), 7, 10, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332 and 333 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 157, 160, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, 333, that this *Notice of Proposed Rulemaking and Notice of Inquiry* is hereby adopted.

70. It is further ordered that notice is hereby given of the proposed regulatory changes described in this *NPRM,* and that comment is sought on these proposals.

71. It is further ordered, pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and § 1.2 of the Commission's rules, 47 CFR 1.2, that the Request for Interpretation of § 101.141 (a)(3) of the Commission's rules to Permit the Use of Adaptive Modulation Systems filed by Alcatel-Lucent, Dragonwave, Inc. Ericsson, Inc., Exalt Communications, the Fixed Wireless Communications Coalition, Harris Stratex Networks and Motorola, Inc. on May 8, 2009 is denied.

72. It is further ordered, pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and § 1.2 of the Commission's rules, 47 CFR 1.2, that the Request for Declaratory Ruling filed by Wireless Strategies, Inc. on February 23, 2007 is denied.

73. It is further ordered, pursuant to pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i), and §§ 1.3 and 1.925 of the Commission's rules, that the Request for Waiver of § 101.141(a)(3) filed by the Fixed Wireless Communications Coalition on May 14, 2010 is denied.

74. It is further ordered that WT Docket Nos. 07–121 and 09–106 are terminated.

75. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *NPRM,* 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, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Parts 74 and 101

Communications equipment, Radio, Reporting and recordkeeping requirements.

Marlene H. Dortch,

Secretary, Federal Communications Commission.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 74, 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. Amend § 1.929 by revising paragraphs (d)(1)(ix) and (d)(1)(x) and adding (d)(1)(xi) to read as follows:

§ 1.929 Classification of filings as major or minor.

* * * * *

(d) * * *

(1) * * *

(ix) Any change in transmit antenna azimuth greater than 1 degree, except as specified in paragraph (d)(3) of this section;

(x) Any change which together with all minor modifications or amendments since the last major modification or amendment produces a cumulative effect exceeding any of the above major criteria; or

(xi) Any addition of or change to auxiliary stations pursuant to § 101.58 of this chapter.

* * * * *

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

3. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, 336(f), 336(h) and 554.

4. Amend § 74.602 by revising paragraph (a) introductory text and by adding paragraphs (j) and (k) to read as follows:

§ 74.602 Frequency assignment.

(a) The following frequencies are available for assignment to television pickup, television STL, television relay and television translator relay stations. The band segments 17,700–18,580 and 19,260–19,700 MHz are available for broadcast auxiliary stations as described in paragraph (g) of this section. The band segment 6425–6525 MHz is available for broadcast auxiliary stations as described in paragraph (i) of this section. The band segment 6875–7125 MHz is available for broadcast auxiliary stations as described in this paragraph and in paragraph (j) of this section. The band segment 12700–13200 MHz is available for broadcast auxiliary stations as described in this paragraph and in paragraph (k) of this section. Broadcast

network-entities may also use the 1990–2110, 6425–6525 and 6875–7125 MHz bands for mobile television pickup only.

* * * * *

(j) *6875 to 7125 MHz.* These frequencies are available for assignment to television STL, television relay stations and television translator relay stations as described in paragraphs (a) and (j) of this section. This band is co-equally shared with stations licensed pursuant to parts 78 and 101 of the Commission's rules. The following channel plans apply:

(1) 400 kHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6875.2	7000.2
6875.6	7000.6
6876.0	7001.0
6876.4	7001.4
6876.8	7001.8
6877.2	7002.2
6877.6	7002.6
6878.0	7003.0
6878.4	7003.4
6878.8	7003.8
6879.2	7004.2
6879.6	7004.6
6880.0	7005.0
6880.4	7005.4
6880.8	7005.8
6881.2	7006.2
6881.6	7006.6
6882.0	7007.0
6882.4	7007.4
6882.8	7007.8
6883.2	7008.2
6883.6	7008.6
6884.0	7009.0
6884.4	7009.4
6884.8	7009.8
6885.2	7010.2
6885.6	7010.6
6886.0	7011.0
6886.4	7011.4
6886.8	7011.8
6887.2	7012.2
6887.6	7012.6
6888.0	7013.0
6888.4	7013.4
6888.8	7013.8
6889.2	7014.2
6889.6	7014.6
6890.0	7015.0
6890.4	7015.4
6890.8	7015.8
6891.2	7016.2
6891.6	7016.6
6892.0	7017.0
6892.4	7017.4
6892.8	7017.8
6893.2	7018.2
6893.6	7018.6
6894.0	7019.0
6894.4	7019.4
6894.8	7019.8
6895.2	7020.2
6895.6	7020.6
6896.0	7021.0
6896.4	7021.4
6896.8	7021.8
6897.2	7022.2
6897.6	7022.6
6898.0	7023.0
6898.4	7023.4
6898.8	7023.8
6899.2	7024.2
6899.6	7024.6
6900.0	7025.0
6900.4	7025.4
6900.8	7025.8
6901.2	7026.2
6901.6	7026.6
6902.0	7027.0
6902.4	7027.4
6902.8	7027.8
6903.2	7028.2
6903.6	7028.6
6904.0	7029.0
6904.4	7029.4
6904.8	7029.8
6905.2	7030.2
6905.6	7030.6
6906.0	7031.0
6906.4	7031.4
6906.8	7031.8
6907.2	7032.2
6907.6	7032.6
6908.0	7033.0
6908.4	7033.4
6908.8	7033.8
6909.2	7034.2
6909.6	7034.6
6910.0	7035.0
6910.4	7035.4
6910.8	7035.8
6911.2	7036.2
6911.6	7036.6
6912.0	7037.0
6912.4	7037.4
6912.8	7037.8
6913.2	7038.2
6913.6	7038.6
6914.0	7039.0
6914.4	7039.4
6914.8	7039.8
6915.2	7040.2
6915.6	7040.6
6916.0	7041.0
6916.4	7041.4
6916.8	7041.8
6917.2	7042.2
6917.6	7042.6
6918.0	7043.0
6918.4	7043.4
6918.8	7043.8
6919.2	7044.2
6919.6	7044.6
6920.0	7045.0
6920.4	7045.4
6920.8	7045.8
6921.2	7046.2
6921.6	7046.6
6922.0	7047.0
6922.4	7047.4
6922.8	7047.8
6923.2	7048.2
6923.6	7048.6
6924.0	7049.0
6924.4	7049.4
6924.8	7049.8
6925.2	7050.2
6925.6	7050.6
6926.0	7051.0
6926.4	7051.4
6926.8	7051.8
6927.2	7052.2
6927.6	7052.6
6928.0	7053.0
6928.4	7053.4
6928.8	7053.8
6929.2	7054.2
6929.6	7054.6
6930.0	7055.0
6930.4	7055.4
6930.8	7055.8
6931.2	7056.2
6931.6	7056.6
6932.0	7057.0
6932.4	7057.4
6932.8	7057.8
6933.2	7058.2
6933.6	7058.6
6934.0	7059.0
6934.4	7059.4
6934.8	7059.8
6935.2	7060.2
6935.6	7060.6
6936.0	7061.0
6936.4	7061.4
6936.8	7061.8
6937.2	7062.2
6937.6	7062.6
6938.0	7063.0
6938.4	7063.4
6938.8	7063.8
6939.2	7064.2
6939.6	7064.6
6940.0	7065.0
6940.4	7065.4
6940.8	7065.8
6941.2	7066.2
6941.6	7066.6
6942.0	7067.0
6942.4	7067.4
6942.8	7067.8
6943.2	7068.2
6943.6	7068.6
6944.0	7069.0
6944.4	7069.4
6944.8	7069.8
6945.2	7070.2
6945.6	7070.6
6946.0	7071.0
6946.4	7071.4
6946.8	7071.8
6947.2	7072.2
6947.6	7072.6
6948.0	7073.0
6948.4	7073.4
6948.8	7073.8
6949.2	7074.2
6949.6	7074.6
6950.0	7075.0
6950.4	7075.4
6950.8	7075.8
6951.2	7076.2
6951.6	7076.6
6952.0	7077.0
6952.4	7077.4
6952.8	7077.8
6953.2	7078.2
6953.6	7078.6
6954.0	7079.0
6954.4	7079.4

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6954.8	7079.8
6955.2	7080.2
6955.6	7080.6
6956.0	7081.0
6956.4	7081.4
6956.8	7081.8
6957.2	7082.2
6957.6	7082.6
6958.0	7083.0
6958.4	7083.4
6958.8	7083.8
6959.2	7084.2
6959.6	7084.6
6960.0	7085.0
6960.4	7085.4
6960.8	7085.8
6961.2	7086.2
6961.6	7086.6
6962.0	7087.0
6962.4	7087.4
6962.8	7087.8
6963.2	7088.2
6963.6	7088.6
6964.0	7089.0
6964.4	7089.4
6964.8	7089.8
6965.2	7090.2
6965.6	7090.6
6966.0	7091.0
6966.4	7091.4
6966.8	7091.8
6967.2	7092.2
6967.6	7092.6
6968.0	7093.0
6968.4	7093.4
6968.8	7093.8
6969.2	7094.2
6969.6	7094.6
6970.0	7095.0
6970.4	7095.4
6970.8	7095.8
6971.2	7096.2
6971.6	7096.6
6972.0	7097.0
6972.4	7097.4
6972.8	7097.8
6973.2	7098.2
6973.6	7098.6
6974.0	7099.0
6974.4	7099.4
6974.8	7099.8
6975.2	7100.2
6975.6	7100.6
6976.0	7101.0
6976.4	7101.4
6976.8	7101.8
6977.2	7102.2
6977.6	7102.6
6978.0	7103.0
6978.4	7103.4
6978.8	7103.8
6979.2	7104.2
6979.6	7104.6
6980.0	7105.0
6980.4	7105.4
6980.8	7105.8
6981.2	7106.2
6981.6	7106.6
6982.0	7107.0
6982.4	7107.4
6982.8	7107.8
6983.2	7108.2
6983.6	7108.6
6984.0	7109.0
6984.4	7109.4
6984.8	7109.8
6985.2	7110.2
6985.6	7110.6
6986.0	7111.0
6986.4	7111.4
6986.8	7111.8
6987.2	7112.2
6987.6	7112.6
6988.0	7113.0
6988.4	7113.4
6988.8	7113.8
6989.2	7114.2
6989.6	7114.6
6990.0	7115.0
6990.4	7115.4
6990.8	7115.8
6991.2	7116.2
6991.6	7116.6
6992.0	7117.0
6992.4	7117.4
6992.8	7117.8
6993.2	7118.2
6993.6	7118.6
6994.0	7119.0
6994.4	7119.4
6994.8	7119.8
6995.2	7120.2
6995.6	7120.6
6996.0	7121.0
6996.4	7121.4
6996.8	7121.8
6997.2	7122.2
6997.6	7122.6
6998.0	7123.0
6998.4	7123.4
6998.8	7123.8
6999.2	7124.2
6999.6	7124.6

(2) 800 kHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6875.4	7000.4
6876.2	7001.2
6877.0	7002.0
6877.8	7002.8
6878.6	7003.6
6879.4	7004.4
6880.2	7005.2
6881.0	7006.0
6881.8	7006.8
6882.6	7007.6
6883.4	7008.4
6884.2	7009.2
6885.0	7010.0
6885.8	7010.8
6886.6	7011.6
6887.4	7012.4
6888.2	7013.2
6889.0	7014.0
6889.8	7014.8
6890.6	7015.6
6891.4	7016.4
6892.2	7017.2
6893.0	7018.0
6893.8	7018.8
6894.6	7019.6
6895.4	7020.4
6896.2	7021.2
6897.0	7022.0
6897.8	7022.8
6898.6	7023.6
6899.4	7024.4
6900.2	7025.2
6901.0	7026.0
6901.8	7026.8
6902.6	7027.6
6903.4	7028.4
6904.2	7029.2
6905.0	7030.0
6905.8	7030.8
6906.6	7031.6
6907.4	7032.4
6908.2	7033.2
6909.0	7034.0
6909.8	7034.8
6910.6	7035.6
6911.4	7036.4
6912.2	7037.2
6913.0	7038.0
6913.8	7038.8
6914.6	7039.6
6915.4	7040.4
6916.2	7041.2
6917.0	7042.0
6917.8	7042.8
6918.6	7043.6
6919.4	7044.4
6920.2	7045.2
6921.0	7046.0
6921.8	7046.8
6922.6	7047.6
6923.4	7048.4
6924.2	7049.2
6925.0	7050.0
6925.8	7050.8
6926.6	7051.6
6927.4	7052.4
6928.2	7053.2
6929.0	7054.0
6929.8	7054.8
6930.6	7055.6
6931.4	7056.4
6932.2	7057.2
6933.0	7058.0
6933.8	7058.8
6934.6	7059.6
6935.4	7060.4
6936.2	7061.2
6937.0	7062.0
6937.8	7062.8
6938.6	7063.6
6939.4	7064.4
6940.2	7065.2
6941.0	7066.0
6941.8	7066.8
6942.6	7067.6
6943.4	7068.4
6944.2	7069.2
6945.0	7070.0
6945.8	7070.8
6946.6	7071.6
6947.4	7072.4
6948.2	7073.2
6949.0	7074.0
6949.8	7074.8
6950.6	7075.6
6951.4	7076.4

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6952.2	7077.2
6953.0	7078.0
6953.8	7078.8
6954.6	7079.6
6955.4	7080.4
6956.2	7081.2
6957.0	7082.0
6957.8	7082.8
6958.6	7083.6
6959.4	7084.4
6960.2	7085.2
6961.0	7086.0
6961.8	7086.8
6962.6	7087.6
6963.4	7088.4
6964.2	7089.2
6965.0	7090.0
6965.8	7090.8
6966.6	7091.6
6967.4	7092.4
6968.2	7093.2
6969.0	7094.0
6969.8	7094.8
6970.6	7095.6
6971.4	7096.4
6972.2	7097.2
6973.0	7098.0
6973.8	7098.8
6974.6	7099.6
6975.4	7100.4
6976.2	7101.2
6977.0	7102.0
6977.8	7102.8
6978.6	7103.6
6979.4	7104.4
6980.2	7105.2
6981.0	7106.0
6981.8	7106.8
6982.6	7107.6
6983.4	7108.4
6984.2	7109.2
6985.0	7110.0
6985.8	7110.8
6986.6	7111.6
6987.4	7112.4
6988.2	7113.2
6989.0	7114.0
6989.8	7114.8
6990.6	7115.6
6991.4	7116.4
6992.2	7117.2
6993.0	7118.0
6993.8	7118.8
6994.6	7119.6
6995.4	7120.4
6996.2	7121.2
6997.0	7122.0
6997.8	7122.8
6998.6	7123.6
6999.4	7124.4

(3) 1.25 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6875.625	7000.625
6876.875	7001.875
6878.125	7003.125
6879.375	7004.375
6880.625	7005.625
6881.875	7006.875
6883.125	7008.125
6884.375	7009.375
6885.625	7010.625
6886.875	7011.875
6888.125	7013.125
6889.375	7014.375
6890.625	7015.625
6891.875	7016.875
6893.125	7018.125
6894.375	7019.375
6895.625	7020.625
6896.875	7021.875
6898.125	7023.125
6899.375	7024.375
6900.625	7025.625
6901.875	7026.875
6903.125	7028.125
6904.375	7029.375
6905.625	7030.625
6906.875	7031.875
6908.125	7033.125
6909.375	7034.375
6910.625	7035.625
6911.875	7036.875
6913.125	7038.125
6914.375	7039.375
6915.625	7040.625
6916.875	7041.875
6918.125	7043.125
6919.375	7044.375
6920.625	7045.625
6921.875	7046.875
6923.125	7048.125
6924.375	7049.375
6925.625	7050.625
6926.875	7051.875
6928.125	7053.125
6929.375	7054.375
6930.625	7055.625
6931.875	7056.875
6933.125	7058.125
6934.375	7059.375
6935.625	7060.625
6936.875	7061.875
6938.125	7063.125
6939.375	7064.375
6940.625	7065.625
6941.875	7066.875
6943.125	7069.125
6944.375	7069.375
6945.625	7070.625
6946.875	7071.875
6948.125	7073.125
6949.375	7074.375
6950.625	7075.625
6951.875	7076.875
6953.125	7078.125
6954.375	7079.375
6955.625	7080.625
6956.875	7081.875
6958.125	7083.125
6959.375	7084.375
6960.625	7085.625
6961.875	7086.875
6963.125	7088.125
6964.375	7089.375
6965.625	7090.625
6966.875	7091.875
6968.125	7093.125
6969.375	7094.375
6970.625	7095.625
6971.875	7096.875
6973.125	7098.125
6974.375	7099.375
6975.625	7100.625
6976.875	7101.875
6978.125	7103.125
6979.375	7104.375
6980.625	7105.625
6981.875	7106.875
6983.125	7108.125
6984.375	7109.375
6985.625	7110.625
6986.875	7111.875
6988.125	7113.125
6989.375	7114.375
6990.625	7115.625
6991.875	7116.875
6993.125	7118.125
6994.375	7119.375
6995.625	7120.625
6996.875	7121.875
6998.125	7123.125
6999.375	7124.375

(4) 2.5 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6876.25	7001.25
6878.75	7003.75
6881.25	7006.25
6883.75	7008.75
6886.25	7011.25
6888.75	7013.75
6891.25	7016.25
6893.75	7018.75
6896.25	7021.25
6898.75	7023.75
6901.25	7026.25
6903.75	7028.75
6906.25	7031.25
6908.75	7033.75
6911.25	7036.25
6913.75	7038.75
6916.25	7041.25
6918.75	7043.75
6921.25	7046.25
6923.75	7048.75
6926.25	7051.25
6928.75	7053.75
6931.25	7056.25
6933.75	7058.75
6936.25	7061.25
6938.75	7063.75
6941.25	7066.25
6943.75	7068.75
6946.25	7071.25
6948.75	7073.75
6951.25	7076.25
6953.75	7078.75
6956.25	7081.25
6958.75	7083.75
6961.25	7086.25
6963.75	7088.75
6966.25	7091.25
6968.75	7093.75
6971.25	7096.25
6973.75	7098.75
6976.25	7101.25
6978.75	7103.75

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6981.25	7106.25
6983.75	7108.75
6986.25	7111.25
6988.75	7113.75
6991.25	7116.25
6993.75	7118.75
6996.25	7121.25
6998.75	7123.75

(5) 3.75 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6876.875	7001.875
6880.625	7005.625
6884.375	7009.375
6888.125	7013.125
6891.875	7016.875
6895.625	7020.625
6899.375	7024.375
6903.125	7028.125
6906.875	7031.875
6910.625	7035.625
6914.375	7039.375
6918.125	7043.125
6921.875	7046.875
6925.625	7050.625
6929.375	7054.375
6933.125	7058.125
6936.875	7061.875
6940.625	7065.625
6944.375	7069.375
6948.125	7073.125
6951.875	7076.875
6955.625	7080.625
6959.375	7084.375
6963.125	7088.125
6966.875	7091.875
6970.625	7095.625
6974.375	7099.375
6978.125	7103.125
6981.875	7106.875
6985.625	7110.625
6989.375	7114.375
6993.125	7118.125
6996.875	7121.875

(6) 5 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6877.5	7002.5
6882.5	7007.5
6887.5	7012.5
6892.5	7017.5
6897.5	7022.5
6902.5	7027.5
6907.5	7032.5
6912.5	7037.5
6917.5	7042.5
6922.5	7047.5
6927.5	7052.5
6932.5	7057.5
6937.5	7062.5
6942.5	7067.5
6947.5	7072.5
6952.5	7077.5
6957.5	7082.5
6962.5	7087.5
6967.5	7092.5
6972.5	7097.5
6977.5	7102.5
6982.5	7107.5
6987.5	7112.5
6992.5	7117.5
6997.5	7122.5

(7) 10 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6880	7005
6890	7015
6900	7025
6910	7035
6920	7045
6930	7055
6940	7065
6950	7075
6960	7085
6970	7095
6980	7105
6990	7115

(8) 30 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6890	7015
6920	7045
6950	7075
6980	7105

(k) *12700 to 13200 MHz.* 30 MHz authorized bandwidth.

(1) 1.25 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12700.625	12950.625
12701.875	12951.875
12703.125	12953.125
12704.375	12954.375
12705.625	12955.625
12706.875	12956.875
12708.125	12958.125
12709.375	12959.375
12710.625	12960.625
12711.875	12961.875
12713.125	12963.125
12714.375	12964.375
12715.625	12965.625
12716.875	12966.875
12718.125	12968.125
12719.375	12969.375
12720.625	12970.625
12721.875	12971.875
12723.125	12973.125
12724.375	12974.375
12725.625	12975.625
12726.875	12976.875
12728.125	12978.125
12729.375	12979.375
12730.625	12980.625
12731.875	12981.875
12733.125	12983.125
12734.375	12984.375
12735.625	12985.625
12736.875	12986.875
12738.125	12988.125
12739.375	12989.375
12740.625	12990.625
12741.875	12991.875
12743.125	12993.125
12744.375	12994.375
12745.625	12995.625
12746.875	12996.875
12748.125	12998.125
12749.375	12999.375
12750.625	13000.625
12751.875	13001.875
12753.125	13003.125
12754.375	13004.375
12755.625	13005.625
12756.875	13006.875
12758.125	13008.125
12759.375	13009.375
12760.625	13010.625
12761.875	13011.875
12763.125	13013.125
12764.375	13014.375
12765.625	13015.625
12766.875	13016.875
12768.125	13018.125
12769.375	13019.375
12770.625	13020.625
12771.875	13021.875
12773.125	13023.125
12774.375	13024.375
12775.625	13025.625
12776.875	13026.875
12778.125	13028.125
12779.375	13029.375
12780.625	13030.625
12781.875	13031.875
12783.125	13033.125
12784.375	13034.375
12785.625	13035.625
12786.875	13036.875
12788.125	13038.125
12789.375	13039.375
12790.625	13040.625
12791.875	13041.875
12793.125	13043.125
12794.375	13044.375
12795.625	13045.625
12796.875	13046.875
12798.125	13048.125
12799.375	13049.375
12800.625	13050.625
12801.875	13051.875
12803.125	13053.125
12804.375	13054.375
12805.625	13055.625
12806.875	13056.875
12808.125	13058.125
12809.375	13059.375
12810.625	13060.625
12811.875	13061.875
12813.125	13063.125
12814.375	13064.375
12815.625	13065.625
12816.875	13066.875
12818.125	13068.125
12819.375	13069.375
12820.625	13070.625

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12821.875	13071.875
12823.125	13073.125
12824.375	13074.375
12825.625	13075.625
12826.875	13076.875
12828.125	13078.125
12829.375	13079.375
12830.625	13080.625
12831.875	13081.875
12833.125	13083.125
12834.375	13084.375
12835.625	13085.625
12836.875	13086.875
12838.125	13088.125
12839.375	13089.375
12840.625	13090.625
12841.875	13091.875
12843.125	13093.125
12844.375	13094.375
12845.625	13095.625
12846.875	13096.875
12848.125	13098.125
12849.375	13099.375
12850.625	13100.625
12851.875	13101.875
12853.125	13103.125
12854.375	13104.375
12855.625	13105.625
12856.875	13106.875
12858.125	13108.125
12859.375	13109.375
12860.625	13110.625
12861.875	13111.875
12863.125	13113.125
12864.375	13114.375
12865.625	13115.625
12866.875	13116.875
12868.125	13118.125
12869.375	13119.375
12870.625	13120.625
12871.875	13121.875
12873.125	13123.125
12874.375	13124.375
12875.625	13125.625
12876.875	13126.875
12878.125	13128.125
12879.375	13129.375
12880.625	13130.625
12881.875	13131.875
12883.125	13133.125
12884.375	13134.375
12885.625	13135.625
12886.875	13136.875
12888.125	13138.125
12889.375	13139.375
12890.625	13140.625
12891.875	13141.875
12893.125	13143.125
12894.375	13144.375
12895.625	13145.625
12896.875	13146.875
12898.125	13148.125
12899.375	13149.375
12900.625	13150.625
12901.875	13151.875
12903.125	13153.125
12904.375	13154.375
12905.625	13155.625
12906.875	13156.875
12908.125	13158.125
12909.375	13159.375
12910.625	13160.625
12911.875	13161.875
12913.125	13163.125
12914.375	13164.375
12915.625	13165.625
12916.875	13166.875
12918.125	13168.125
12919.375	13169.375
12920.625	13170.625
12921.875	13171.875
12923.125	13173.125
12924.375	13174.375
12925.625	13175.625
12926.875	13176.875
12928.125	13178.125
12929.375	13179.375
12930.625	13180.625
12931.875	13181.875
12933.125	13183.125
12934.375	13184.375
12935.625	13185.625
12936.875	13186.875
12938.125	13188.125
12939.375	13189.375
12940.625	13190.625
12941.875	13191.875
12943.125	13193.125
12944.375	13194.375
12945.625	13195.625
12946.875	13196.875
12948.125	13198.125
12949.375	13199.375

(2) 2.5 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12701.25	12951.25
12703.75	12953.75
12706.25	12956.25
12708.75	12958.75
12711.25	12961.25
12713.75	12963.75
12716.25	12966.25
12718.75	12968.75
12721.25	12971.25
12723.75	12973.75
12726.25	12976.25
12728.75	12978.75
12731.25	12981.25
12733.75	12983.75
12736.25	12986.25
12738.75	12988.75
12741.25	12991.25
12743.75	12993.75
12746.25	12996.25
12748.75	12998.75
12751.25	13001.25
12753.75	13003.75
12756.25	13006.25
12758.75	13008.75
12761.25	13011.25
12763.75	13013.75
12766.25	13016.25
12768.75	13018.75
12771.25	13021.25
12773.75	13023.75
12776.25	13026.25
12778.75	13028.75
12781.25	13031.25
12783.75	13033.75
12786.25	13036.25
12788.75	13038.75
12791.25	13041.25
12793.75	13043.75
12796.25	13046.25
12798.75	13048.75
12801.25	13051.25
12803.75	13053.75
12806.25	13056.25
12808.75	13058.75
12811.25	13061.25
12813.75	13063.75
12816.25	13066.25
12818.75	13068.75
12821.25	13071.25
12823.75	13073.75
12826.25	13076.25
12828.75	13078.75
12831.25	13081.25
12833.75	13083.75
12836.25	13086.25
12838.75	13088.75
12841.25	13091.25
12843.75	13093.75
12846.25	13096.25
12848.75	13098.75
12851.25	13101.25
12853.75	13103.75
12856.25	13106.25
12858.75	13108.75
12861.25	13111.25
12863.75	13113.75
12866.25	13116.25
12868.75	13118.75
12871.25	13121.25
12873.75	13123.75
12876.25	13126.25
12878.75	13128.75
12881.25	13131.25
12883.75	13133.75
12886.25	13136.25
12888.75	13138.75
12891.25	13141.25
12893.75	13143.75
12896.25	13146.25
12898.75	13148.75
12901.25	13151.25
12903.75	13153.75
12906.25	13156.25
12908.75	13158.75
12911.25	13161.25
12913.75	13163.75
12916.25	13166.25
12918.75	13168.75
12921.25	13171.25
12923.75	13173.75
12926.25	13176.25
12928.75	13178.75
12931.25	13181.25
12933.75	13183.75
12936.25	13186.25
12938.75	13188.75
12941.25	13191.25
12943.75	13193.75
12946.25	13196.25
12948.75	13198.75

(3) 3.75 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12701.875	12951.875
12705.625	12955.625
12709.375	12959.375
12713.125	12963.125
12716.875	12966.875
12720.625	12970.625
12724.375	12974.375
12728.125	12978.125
12731.875	12981.875
12735.625	12985.625
12739.375	12989.375
12743.125	12993.125
12746.875	12996.875
12750.625	13000.625
12754.375	13004.375
12758.125	13008.125
12761.875	13011.875
12765.625	13015.625
12769.375	13019.375
12773.125	13023.125
12776.875	13026.875
12780.625	13030.625
12784.375	13034.375
12788.125	13038.125
12791.875	13041.875
12795.625	13045.625
12799.375	13049.375
12803.125	13053.125
12806.875	13056.875
12810.625	13060.625
12814.375	13064.375
12818.125	13068.125
12821.875	13071.875
12825.625	13075.625
12829.375	13079.375
12833.125	13083.125
12836.875	13086.875
12840.625	13090.625
12844.375	13094.375
12848.125	13098.125
12851.875	13101.875
12855.625	13105.625
12859.375	13109.375
12863.125	13113.125
12866.875	13116.875
12870.625	13120.625
12874.375	13124.375
12878.125	13128.125
12881.875	13131.875
12885.625	13135.625
12889.375	13139.375
12893.125	13143.125
12896.875	13146.875
12900.625	13150.625
12904.375	13154.375
12908.125	13158.125
12911.875	13161.875
12915.625	13165.625
12919.375	13169.375
12923.125	13173.125
12926.875	13176.875
12930.625	13180.625
12934.375	13184.375
12938.125	13188.125
12941.875	13191.875
12945.625	13195.625

(4) 5 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12702.5	12952.5
12707.5	12957.5
12712.5	12962.5
12717.5	12967.5
12722.5	12972.5
12727.5	12977.5
12732.5	12982.5
12737.5	12987.5
12742.5	12992.5
12747.5	12997.5
12752.5	13002.5
12757.5	13007.5
12762.5	13012.5
12767.5	13017.5
12772.5	13022.5
12777.5	13027.5
12782.5	13032.5
12787.5	13037.5
12792.5	13042.5
12797.5	13047.5
12802.5	13052.5
12807.5	13057.5
12812.5	13062.5
12817.5	13067.5
12822.5	13072.5
12827.5	13077.5
12832.5	13082.5
12837.5	13087.5
12842.5	13092.5
12847.5	13097.5
12852.5	13102.5
12857.5	13107.5
12862.5	13112.5
12867.5	13117.5
12872.5	13122.5
12877.5	13127.5
12882.5	13132.5
12887.5	13137.5
12892.5	13142.5
12897.5	13147.5
12902.5	13152.5
12907.5	13157.5
12912.5	13162.5
12917.5	13167.5
12922.5	13172.5
12927.5	13177.5
12932.5	13182.5
12937.5	13187.5
12942.5	13192.5
12947.5	13197.5

(5) 10 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12705	12955
12715	12965
12725	12975
12735	12985
12745	12995
12755	13005
12765	13015
12775	13025
12785	13035
12795	13045
12805	13055
12815	13065
12825	13075
12835	13085
12845	13095
12855	13105
12865	13115
12875	13125
12885	13135
12895	13145
12905	13155
12915	13165
12925	13175
12935	13185
12945	13195

(6) 30 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12715	12965
12745	12995
12775	13025
12805	13055
12835	13085
12865	13115
12895	13145
12925	13175

PART 101—FIXED MICROWAVE SERVICES

5. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

6. Amend § 101.31 by revising paragraph (b)(1) introductory text to read as follows:

§ 101.31 Temporary and conditional authorizations.

* * * * *

(b) *Conditional authorization.* (1) An applicant for a new point-to-point microwave radio station(s) or a modification of an existing station(s) in the 952.95–956.15, 956.55–959.75, 3,700–4,200; 5,925–6,425; 6,525–6,875; 6,875–7,125; 10,550–10,680; 10,700–11,700; 11,700–12,200; 12,700–13,200; 13,200–13,250; 17,700–19,700; and 21,800–22,000 MHz, and 23,000–23,200 MHz bands (*see* § 101.147(s) for specific service usage) may operate the proposed station(s) during the pendency of its applications(s) upon the filing of a properly completed formal application(s) that complies with subpart B of part 101 if the applicant certifies that the following conditions are satisfied:

* * * * *

7. Add § 101.58 to read as follows:

§ 101.58 Auxiliary stations.

(a) Stations in the Private Operational Fixed Point-to-Point Microwave Service licensed under subpart H of this chapter and the Common Carrier Fixed Point-to-Point Microwave Service licensed under

subpart I of this chapter may add auxiliary stations to their authorizations in accordance with this section.

(b) Each auxiliary station must operate on the same frequencies as the main licensed link. Auxiliary stations may communicate directly only with the primary link's receiver.

(c) Auxiliary stations may not cause any increase in interference to other licensed services, *i.e.,* less than the interference that would be predicted to exist from its own main link. A licensee or prior applicant with auxiliary stations may object to a prior coordination notice based on interference only if such interference would be predicted to exist to the other service based solely on the operation of the main link.

(d) Auxiliary stations shall not be required to comply with the provisions of §§ 101.115, 101.141 and 101.143.

(e) Licensees seeking to add auxiliary stations shall prior coordinate such stations pursuant to the frequency coordination procedures of § 101.103.

(f) For each auxiliary station, an application shall be filed on Form 601 to modify the license to add the auxiliary station. Such application shall contain the information required in § 101.21. Auxiliary stations shall be eligible for conditional authorization pursuant to § 101.31(b) if they comply with the requirements of that section.

8. Amend § 101.101 by adding the entry "6875–7125" to the table to read as follows:

§ 101.101 Frequency availability.

Frequency band (MHz)	Radio service				
	Common carrier (Part 101)	Private radio (Part 101)	Broadcast auxiliary (Part 74)	Other (Parts 15, 21, 22, 24, 25, 74, 78, & 100)	Notes
*	*	*	*	*	*
6875–7125	CC	OFS	TV BAS	CARS.	
*	*	*	*	*	*

* * * * *

9. Amend § 101.103 by revising paragraph (d)(2)(ii) to read as follows:

§ 101.103 Frequency coordination procedures.

* * * * *

(d) * * *

(2) * * *

(ii) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

Applicant's name and address.

Transmitting station name.

Transmitting station coordinates.

Frequencies and polarizations to be added, changed or deleted.

Transmitting equipment type, its stability, actual output power, emission designator, and type of modulation(s) (loading). Notification shall indicate if modulations not compliant with the standards contained in § 101.141(a)(3) of the Commission's rules will be used.

Transmitting antenna type(s), model, gain and, if required, a radiation pattern provided or certified by the manufacturer.

Transmitting antenna center line height(s) above ground level and ground elevation above mean sea level.

Receiving station name.

Receiving station coordinates.

Receiving antenna type(s), model, gain, and, if required, a radiation pattern provided or certified by the manufacturer.

Receiving antenna center line height(s) above ground level and ground elevation above mean sea level.

Path azimuth and distance.

Estimated transmitter transmission line loss expressed in dB.

Estimated receiver transmission line loss expressed in dB.

For a system utilizing ATPC, maximum transmit power, coordinated transmit power, and nominal transmit power.

Note to paragraph (d)(2)(ii): The position location of antenna sites shall be determined to an accuracy of no less than ±1 second in the horizontal dimensions (latitude and longitude) and ±1 meter in the vertical dimension (ground elevation) with respect to the National Spatial Reference System.

* * * * *

10. Amend § 101.107(a) in the table by adding the entry "6,875 to 7,125 [1]" to read as follows:

§ 101.107 Frequency tolerance.

(a) * * *

Frequency (MHz)	Frequency tolerance (percent)
*	*
6,875 to 7,125 [1]	0.005
*	*

* * * * *

11. Amend § 101.109(c) in the table by adding the entry "6,875 to 7,125" to read as follows:

§ 101.109 Bandwidth.

* * * * *

(c) * * *

Frequency band (MHz)	Maximum authorized bandwidth
*	*
6,875 to 7,125	30 MHz [1]
*	*

* * * * *

12. Amend § 101.113(a) in the table by adding the entry "6,875–7,125" to read as follows:

§ 101.113 Transmitter power limitations.

(a) * * *

Frequency band (MHz)	Maximum allowable EIRP [1,2]	
	Fixed [1,2] (dBW)	Mobile (dBW)
* * * * *		
6,875–7,125	+55	

Frequency band (MHz)	Maximum allowable EIRP [1,2]	
	Fixed [1,2] (dBW)	Mobile (dBW)
* * * * *		

* * * * *

13. Amend § 101.115(b)(2) in the table by adding the entry "6,875–7,125" to read as follows:

§ 101.115 Directional antennas.

* * * * *

(b) * * *

ANTENNA STANDARDS

Frequency (MHz)	Category	Maximum beamwidth to 3 dB points [1] (included angle in degrees)	Minimum antenna gain (dBi)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels						
				5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
*		*		*	*	*		*	*	
6,875 to 7,125	A	2.2	38	25	29	33	36	42	55	55
	B	2.2	38	21	25	29	32	35	39	45
*		*		*	*	*		*	*	

* * * * *

14. Amend § 101.141 by revising paragraph (a)(3) introductory text to read as follows:

§ 101.141 Microwave modulation.

(a) * * *

(3) The following capacity and loading requirements must be met for equipment applied for, authorized, and placed in service after June 1, 1997 in 3700–4200 MHz (4 GHz), 5925–6425, 6525–6875 MHz, and 6875–7125 MHz (6 GHz), 10,550–10,680 MHz (10 GHz), and 10,700–11700 MHz (11 GHz) bands, except during anomalous signal fading. During anomalous signal fading, licensees may adjust to a modulation specified in their authorization if such modulation is necessary to allow licensees to maintain communications, even if the modulation will not comply with the capacity and loading requirements specified in this paragraph.

* * * * *

15. Amend § 101.147 by adding the entry "6,875–7,125 MHz (10)" to the list in paragraph (a), redesignating paragraph (l) as paragraph (k), adding a new paragraph (l), and revising paragraphs (p) and (q) to read as follows:

§ 101.147 Frequency assignments.

(a) * * *

6,875–7,125 MHz (10)

* * * * *

(l) *6,875 to 7,125 MHz.* 30 MHz authorized bandwidth.

(1) 400 kHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)	Transmit (receive) (MHz)	Receive (transmit) (MHz)
6875.2	7000.2	6893.2	7018.2
6875.6	7000.6	6893.6	7018.6
6876.0	7001.0	6894.0	7019.0
6876.4	7001.4	6894.4	7019.4
6876.8	7001.8	6894.8	7019.8
6877.2	7002.2	6895.2	7020.2
6877.6	7002.6	6895.6	7020.6
6878.0	7003.0	6896.0	7021.0
6878.4	7003.4	6896.4	7021.4
6878.8	7003.8	6896.8	7021.8
6879.2	7004.2	6897.2	7022.2
6879.6	7004.6	6897.6	7022.6
6880.0	7005.0	6898.0	7023.0
6880.4	7005.4	6898.4	7023.4
6880.8	7005.8	6898.8	7023.8
6881.2	7006.2	6899.2	7024.2
6881.6	7006.6	6899.6	7024.6
6882.0	7007.0	6900.0	7025.0
6882.4	7007.4	6900.4	7025.4
6882.8	7007.8	6900.8	7025.8
6883.2	7008.2	6901.2	7026.2
6883.6	7008.6	6901.6	7026.6
6884.0	7009.0	6902.0	7027.0
6884.4	7009.4	6902.4	7027.4
6884.8	7009.8	6902.8	7027.8
6885.2	7010.2	6903.2	7028.2
6885.6	7010.6	6903.6	7028.6
6886.0	7011.0	6904.0	7029.0
6886.4	7011.4	6904.4	7029.4
6886.8	7011.8	6904.8	7029.8
6887.2	7012.2	6905.2	7030.2
6887.6	7012.6	6905.6	7030.6
6888.0	7013.0	6906.0	7031.0
6888.4	7013.4	6906.4	7031.4
6888.8	7013.8	6906.8	7031.8
6889.2	7014.2	6907.2	7032.2
6889.6	7014.6	6907.6	7032.6
6890.0	7015.0	6908.0	7033.0
6890.4	7015.4	6908.4	7033.4
6890.8	7015.8	6908.8	7033.8
6891.2	7016.2	6909.2	7034.2
6891.6	7016.6	6909.6	7034.6
6892.0	7017.0	6910.0	7035.0
6892.4	7017.4	6910.4	7035.4
6892.8	7017.8	6910.8	7035.8

Transmit (receive) (MHz)	Receive (transmit) (MHz)	Transmit (receive) (MHz)	Receive (transmit) (MHz)	Transmit (receive) (MHz)	Receive (transmit) (MHz)
6911.2	7036.2	6940.0	7065.0	6968.8	7093.8
6911.6	7036.6	6940.4	7065.4	6969.2	7094.2
6912.0	7037.0	6940.8	7065.8	6969.6	7094.6
6912.4	7037.4	6941.2	7066.2	6970.0	7095.0
6912.8	7037.8	6941.6	7066.6	6970.4	7095.4
6913.2	7038.2	6942.0	7067.0	6970.8	7095.8
6913.6	7038.6	6942.4	7067.4	6971.2	7096.2
6914.0	7039.0	6942.8	7067.8	6971.6	7096.6
6914.4	7039.4	6943.2	7068.2	6972.0	7097.0
6914.8	7039.8	6943.6	7068.6	6972.4	7097.4
6915.2	7040.2	6944.0	7069.0	6972.8	7097.8
6915.6	7040.6	6944.4	7069.4	6973.2	7098.2
6916.0	7041.0	6944.8	7069.8	6973.6	7098.6
6916.4	7041.4	6945.2	7070.2	6974.0	7099.0
6916.8	7041.8	6945.6	7070.6	6974.4	7099.4
6917.2	7042.2	6946.0	7071.0	6974.8	7099.8
6917.6	7042.6	6946.4	7071.4	6975.2	7100.2
6918.0	7043.0	6946.8	7071.8	6975.6	7100.6
6918.4	7043.4	6947.2	7072.2	6976.0	7101.0
6918.8	7043.8	6947.6	7072.6	6976.4	7101.4
6919.2	7044.2	6948.0	7073.0	6976.8	7101.8
6919.6	7044.6	6948.4	7073.4	6977.2	7102.2
6920.0	7045.0	6948.8	7073.8	6977.6	7102.6
6920.4	7045.4	6949.2	7074.2	6978.0	7103.0
6920.8	7045.8	6949.6	7074.6	6978.4	7103.4
6921.2	7046.2	6950.0	7075.0	6978.8	7103.8
6921.6	7046.6	6950.4	7075.4	6979.2	7104.2
6922.0	7047.0	6950.8	7075.8	6979.6	7104.6
6922.4	7047.4	6951.2	7076.2	6980.0	7105.0
6922.8	7047.8	6951.6	7076.6	6980.4	7105.4
6923.2	7048.2	6952.0	7077.0	6980.8	7105.8
6923.6	7048.6	6952.4	7077.4	6981.2	7106.2
6924.0	7049.0	6952.8	7077.8	6981.6	7106.6
6924.4	7049.4	6953.2	7078.2	6982.0	7107.0
6924.8	7049.8	6953.6	7078.6	6982.4	7107.4
6925.2	7050.2	6954.0	7079.0	6982.8	7107.8
6925.6	7050.6	6954.4	7079.4	6983.2	7108.2
6926.0	7051.0	6954.8	7079.8	6983.6	7108.6
6926.4	7051.4	6955.2	7080.2	6984.0	7109.0
6926.8	7051.8	6955.6	7080.6	6984.4	7109.4
6927.2	7052.2	6956.0	7081.0	6984.8	7109.8
6927.6	7052.6	6956.4	7081.4	6985.2	7110.2
6928.0	7053.0	6956.8	7081.8	6985.6	7110.6
6928.4	7053.4	6957.2	7082.2	6986.0	7111.0
6928.8	7053.8	6957.6	7082.6	6986.4	7111.4
6929.2	7054.2	6958.0	7083.0	6986.8	7111.8
6929.6	7054.6	6958.4	7083.4	6987.2	7112.2
6930.0	7055.0	6958.8	7083.8	6987.6	7112.6
6930.4	7055.4	6959.2	7084.2	6988.0	7113.0
6930.8	7055.8	6959.6	7084.6	6988.4	7113.4
6931.2	7056.2	6960.0	7085.0	6988.8	7113.8
6931.6	7056.6	6960.4	7085.4	6989.2	7114.2
6932.0	7057.0	6960.8	7085.8	6989.6	7114.6
6932.4	7057.4	6961.2	7086.2	6990.0	7115.0
6932.8	7057.8	6961.6	7086.6	6990.4	7115.4
6933.2	7058.2	6962.0	7087.0	6990.8	7115.8
6933.6	7058.6	6962.4	7087.4	6991.2	7116.2
6934.0	7059.0	6962.8	7087.8	6991.6	7116.6
6934.4	7059.4	6963.2	7088.2	6992.0	7117.0
6934.8	7059.8	6963.6	7088.6	6992.4	7117.4
6935.2	7060.2	6964.0	7089.0	6992.8	7117.8
6935.6	7060.6	6964.4	7089.4	6993.2	7118.2
6936.0	7061.0	6964.8	7089.8	6993.6	7118.6
6936.4	7061.4	6965.2	7090.2	6994.0	7119.0
6936.8	7061.8	6965.6	7090.6	6994.4	7119.4
6937.2	7062.2	6966.0	7091.0	6994.8	7119.8
6937.6	7062.6	6966.4	7091.4	6995.2	7120.2
6938.0	7063.0	6966.8	7091.8	6995.6	7120.6
6938.4	7063.4	6967.2	7092.2	6996.0	7121.0
6938.8	7063.8	6967.6	7092.6	6996.4	7121.4
6939.2	7064.2	6968.0	7093.0	6996.8	7121.8
6939.6	7064.6	6968.4	7093.4	6997.2	7122.2

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6997.6	7122.6
6998.0	7123.0
6998.4	7123.4
6998.8	7123.8
6999.2	7124.2
6999.6	7124.6

(2) 800 kHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6875.4	7000.4
6876.2	7001.2
6877.0	7002.0
6877.8	7002.8
6878.6	7003.6
6879.4	7004.4
6880.2	7005.2
6881.0	7006.0
6881.8	7006.8
6882.6	7007.6
6883.4	7008.4
6884.2	7009.2
6885.0	7010.0
6885.8	7010.8
6886.6	7011.6
6887.4	7012.4
6888.2	7013.2
6889.0	7014.0
6889.8	7014.8
6890.6	7015.6
6891.4	7016.4
6892.2	7017.2
6893.0	7018.0
6893.8	7018.8
6894.6	7019.6
6895.4	7020.4
6896.2	7021.2
6897.0	7022.0
6897.8	7022.8
6898.6	7023.6
6899.4	7024.4
6900.2	7025.2
6901.0	7026.0
6901.8	7026.8
6902.6	7027.6
6903.4	7028.4
6904.2	7029.2
6905.0	7030.0
6905.8	7030.8
6906.6	7031.6
6907.4	7032.4
6908.2	7033.2
6909.0	7034.0
6909.8	7034.8
6910.6	7035.6
6911.4	7036.4
6912.2	7037.2
6913.0	7038.0
6913.8	7038.8
6914.6	7039.6
6915.4	7040.4
6916.2	7041.2
6917.0	7042.0
6917.8	7042.8
6918.6	7043.6
6919.4	7044.4
6920.2	7045.2
6921.0	7046.0
6921.8	7046.8

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6922.6	7047.6
6923.4	7048.4
6924.2	7049.2
6925.0	7050.0
6925.8	7050.8
6926.6	7051.6
6927.4	7052.4
6928.2	7053.2
6929.0	7054.0
6929.8	7054.8
6930.6	7055.6
6931.4	7056.4
6932.2	7057.2
6933.0	7058.0
6933.8	7058.8
6934.6	7059.6
6935.4	7060.4
6936.2	7061.2
6937.0	7062.0
6937.8	7062.8
6938.6	7063.6
6939.4	7064.4
6940.2	7065.2
6941.0	7066.0
6941.8	7066.8
6942.6	7067.6
6943.4	7068.4
6944.2	7069.2
6945.0	7070.0
6945.8	7070.8
6946.6	7071.6
6947.4	7072.4
6948.2	7073.2
6949.0	7074.0
6949.8	7074.8
6950.6	7075.6
6951.4	7076.4
6952.2	7077.2
6953.0	7078.0
6953.8	7078.8
6954.6	7079.6
6955.4	7080.4
6956.2	7081.2
6957.0	7082.0
6957.8	7082.8
6958.6	7083.6
6959.4	7084.4
6960.2	7085.2
6961.0	7086.0
6961.8	7086.8
6962.6	7087.6
6963.4	7088.4
6964.2	7089.2
6965.0	7090.0
6965.8	7090.8
6966.6	7091.6
6967.4	7092.4
6968.2	7093.2
6969.0	7094.0
6969.8	7094.8
6970.6	7095.6
6971.4	7096.4
6972.2	7097.2
6973.0	7098.0
6973.8	7098.8
6974.6	7099.6
6975.4	7100.4
6976.2	7101.2
6977.0	7102.0
6977.8	7102.8
6978.6	7103.6
6979.4	7104.4

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6980.2	7105.2
6981.0	7106.0
6981.8	7106.8
6982.6	7107.6
6983.4	7108.4
6984.2	7109.2
6985.0	7110.0
6985.8	7110.8
6986.6	7111.6
6987.4	7112.4
6988.2	7113.2
6989.0	7114.0
6989.8	7114.8
6990.6	7115.6
6991.4	7116.4
6992.2	7117.2
6993.0	7118.0
6993.8	7118.8
6994.6	7119.6
6995.4	7120.4
6996.2	7121.2
6997.0	7122.0
6997.8	7122.8
6998.6	7123.6
6999.4	7124.4

(3) 1.25 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6875.625	7000.625
6876.875	7001.875
6878.125	7003.125
6879.375	7004.375
6880.625	7005.625
6881.875	7006.875
6883.125	7008.125
6884.375	7009.375
6885.625	7010.625
6886.875	7011.875
6888.125	7013.125
6889.375	7014.375
6890.625	7015.625
6891.875	7016.875
6893.125	7018.125
6894.375	7019.375
6895.625	7020.625
6896.875	7021.875
6898.125	7023.125
6899.375	7024.375
6900.625	7025.625
6901.875	7026.875
6903.125	7028.125
6904.375	7029.375
6905.625	7030.625
6906.875	7031.875
6908.125	7033.125
6909.375	7034.375
6910.625	7035.625
6911.875	7036.875
6913.125	7038.125
6914.375	7039.375
6915.625	7040.625
6916.875	7041.875
6918.125	7043.125
6919.375	7044.375
6920.625	7045.625
6921.875	7046.875
6923.125	7048.125
6924.375	7049.375

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6925.625	7050.625
6926.875	7051.875
6928.125	7053.125
6929.375	7054.375
6930.625	7055.625
6931.875	7056.875
6933.125	7058.125
6934.375	7059.375
6935.625	7060.625
6936.875	7061.875
6938.125	7063.125
6939.375	7064.375
6940.625	7065.625
6941.875	7066.875
6943.125	7069.125
6944.375	7069.375
6945.625	7070.625
6946.875	7071.875
6948.125	7073.125
6949.375	7074.375
6950.625	7075.625
6951.875	7076.875
6953.125	7078.125
6954.375	7079.375
6955.625	7080.625
6956.875	7081.875
6958.125	7083.125
6959.375	7084.375
6960.625	7085.625
6961.875	7086.875
6963.125	7088.125
6964.375	7089.375
6965.625	7090.625
6966.875	7091.875
6968.125	7093.125
6969.375	7094.375
6970.625	7095.625
6971.875	7096.875
6973.125	7098.125
6974.375	7099.375
6975.625	7100.625
6976.875	7101.875
6978.125	7103.125
6979.375	7104.375
6980.625	7105.625
6981.875	7106.875
6983.125	7108.125
6984.375	7109.375
6985.625	7110.625
6986.875	7111.875
6988.125	7113.125
6989.375	7114.375
6990.625	7115.625
6991.875	7116.875
6993.125	7118.125
6994.375	7119.375
6995.625	7120.625
6996.875	7121.875
6998.125	7123.125
6999.375	7124.375

(4) 2.5 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6876.25	7001.25
6878.75	7003.75
6881.25	7006.25
6883.75	7008.75
6886.25	7011.25
6888.75	7013.75
6891.25	7016.25
6893.75	7018.75
6896.25	7021.25
6898.75	7023.75
6901.25	7026.25
6903.75	7028.75
6906.25	7031.25
6908.75	7033.75
6911.25	7036.25
6913.75	7038.75
6916.25	7041.25
6918.75	7043.75
6921.25	7046.25
6923.75	7048.75
6926.25	7051.25
6928.75	7053.75
6931.25	7056.25
6933.75	7058.75
6936.25	7061.25
6938.75	7063.75
6941.25	7066.25
6943.75	7068.75
6946.25	7071.25
6948.75	7073.75
6951.25	7076.25
6953.75	7078.75
6956.25	7081.25
6958.75	7083.75
6961.25	7086.25
6963.75	7088.75
6966.25	7091.25
6968.75	7093.75
6971.25	7096.25
6973.75	7098.75
6976.25	7101.25
6978.75	7103.75
6981.25	7106.25
6983.75	7108.75
6986.25	7111.25
6988.75	7113.75
6991.25	7116.25
6993.75	7118.75
6996.25	7121.25
6998.75	7123.75

(5) 3.75 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6876.875	7001.875
6880.625	7005.625
6884.375	7009.375
6888.125	7013.125
6891.875	7016.875
6895.625	7020.625
6899.375	7024.375
6903.125	7028.125
6906.875	7031.875
6910.625	7035.625
6914.375	7039.375
6918.125	7043.125
6921.875	7046.875
6925.625	7050.625
6929.375	7054.375
6933.125	7058.125
6936.875	7061.875
6940.625	7065.625
6944.375	7069.375
6948.125	7073.125
6951.875	7076.875
6955.625	7080.625
6959.375	7084.375
6963.125	7088.125
6966.875	7091.875
6970.625	7095.625
6974.375	7099.375
6978.125	7103.125
6981.875	7106.875
6985.625	7110.625
6989.375	7114.375
6993.125	7118.125
6996.875	7121.875

(6) 5 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6877.5	7002.5
6882.5	7007.5
6887.5	7012.5
6892.5	7017.5
6897.5	7022.5
6902.5	7027.5
6907.5	7032.5
6912.5	7037.5
6917.5	7042.5
6922.5	7047.5
6927.5	7052.5
6932.5	7057.5
6937.5	7062.5
6942.5	7067.5
6947.5	7072.5
6952.5	7077.5
6957.5	7082.5
6962.5	7087.5
6967.5	7092.5
6972.5	7097.5
6977.5	7102.5
6982.5	7107.5
6987.5	7112.5
6992.5	7117.5
6997.5	7122.5

(7) 10 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6880	7005
6890	7015
6900	7025
6910	7035
6920	7045
6930	7055
6940	7065
6950	7075
6960	7085
6970	7095
6980	7105
6990	7115

(8) 30 MHz bandwidth channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6890	7015

Transmit (receive) (MHz)	Receive (transmit) (MHz)
6920	7045
6950	7075
6980	7105

* * * * *

(p) *12,000–12,700 MHz.* (1) The Commission has allocated the 12.2–12.7 GHz band for use by the Direct Broadcast Satellite Service (DBS), the Multichannel Video Distribution and Data Service (MVDDS), and the Non-Geostationary Satellite Orbit Fixed Satellite Service (NGSO FSS). MVDDS shall be licensed on a non-harmful interference co-primary basis to existing DBS operations and on a co-primary basis with NGSO FSS stations in this band. MVDDS use can be on a common carrier and/or non-common carrier basis and can use channels of any desired bandwidth up to the maximum of 500 MHz provided the EIRP does not exceed 14 dBm per 24 megahertz. Private operational fixed point-to-point microwave stations authorized after September 9, 1983, are licensed on a non-harmful interference basis to DBS and are required to make any and all adjustments necessary to prevent harmful interference to operating domestic DBS receivers. Incumbent public safety licensees shall be afforded protection from MVDDS and NGSO FSS licensees, however all other private operational fixed licensees shall be secondary to DBS, MVDDS and NGSO FSS licensees. As of May 23, 2002, the Commission no longer accepts applications for new licenses for point-to-point private operational fixed stations in this band, however, incumbent licensees and previously filed applicants may file applications for minor modifications and amendments (as defined in § 1.929 of this chapter) thereto, renewals, transfer of control, or assignment of license. Notwithstanding any other provisions, no private operational fixed point-to-point microwave stations are permitted to cause harmful interference to broadcasting-satellite stations of other countries operating in accordance with the Region 2 plan for the Broadcasting-Satellite Service established at the 1983 WARC.

(2) *Special provisions for incumbent low power, limited coverage systems in the band segments 12.2–12.7 GHz.* (i) As of May 23, 2002, the Commission no longer accepts applications for new stations in this service and incumbent stations may remain in service provided they do not cause harmful interference to any other primary services licensed in this band as described in paragraph (p) of this section. However, incumbent licensees and previously filed applicants may file applications for minor modifications and amendments (as defined in § 1.929 of this chapter) thereto, renewals, transfer of control, or assignment of license.

(ii) Prior to December 8, 2000, notwithstanding any contrary provisions in this part, the frequency pairs 12.220/12.460 GHz, 12.260/12.500 GHz, 12.300/12.540 GHz and 12.340/12.580 GHz, were authorized for low power, limited coverage systems subject to the following provisions:

(A) Maximum equivalent isotropically radiated power (EIRP) shall be 55 dBm;

(B) The rated transmitter output power shall not exceed 0.5 watts;

(C) Frequency tolerance shall be maintained to within 0.01 percent of the assigned frequency;

(D) Maximum beamwidth shall not exceed 4°. However, the sidelobe suppression criteria contained in § 101.115 shall not apply, except that a minimum front-to-back ratio of 38 dB shall apply;

(E) Upon showing of need, a maximum bandwidth of 12 MHz may be authorized per frequency assigned;

(F) Radio systems authorized under the provisions of this section shall have no more than three hops in tandem, except upon showing of need, but in any event the maximum tandem length shall not exceed 40 km (25 miles);

(G) Interfering signals at the receiver antenna terminals of stations authorized under this section shall not exceed −90 dBm and −70 dBm respectively, for co-channel and adjacent channel interfering signals, and

(H) Stations authorized under the provisions of this section shall provide the protection from interference specified in § 101.105 to stations operating in accordance with the provisions of this part.

(q) *12700 to 13200 MHz.* 30 MHz maximum authorized bandwidth.

(1) 1.25 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12700.625	12950.625
12701.875	12951.875
12703.125	12953.125
12704.375	12954.375
12705.625	12955.625
12706.875	12956.875
12708.125	12958.125
12709.375	12959.375
12710.625	12960.625
12711.875	12961.875
12713.125	12963.125
12714.375	12964.375
12715.625	12965.625
12716.875	12966.875
12718.125	12968.125
12719.375	12969.375
12720.625	12970.625
12721.875	12971.875
12723.125	12973.125
12724.375	12974.375
12725.625	12975.625
12726.875	12976.875
12728.125	12978.125
12729.375	12979.375
12730.625	12980.625
12731.875	12981.875
12733.125	12983.125
12734.375	12984.375
12735.625	12985.625
12736.875	12986.875
12738.125	12988.125
12739.375	12989.375
12740.625	12990.625
12741.875	12991.875
12743.125	12993.125
12744.375	12994.375
12745.625	12995.625
12746.875	12996.875
12748.125	12998.125
12749.375	12999.375
12750.625	13000.625
12751.875	13001.875
12753.125	13003.125
12754.375	13004.375
12755.625	13005.625
12756.875	13006.875
12758.125	13008.125
12759.375	13009.375
12760.625	13010.625
12761.875	13011.875
12763.125	13013.125
12764.375	13014.375
12765.625	13015.625
12766.875	13016.875
12768.125	13018.125
12769.375	13019.375
12770.625	13020.625
12771.875	13021.875
12773.125	13023.125
12774.375	13024.375
12775.625	13025.625
12776.875	13026.875
12778.125	13028.125
12779.375	13029.375
12780.625	13030.625
12781.875	13031.875
12783.125	13033.125
12784.375	13034.375
12785.625	13035.625
12786.875	13036.875
12788.125	13038.125
12789.375	13039.375
12790.625	13040.625
12791.875	13041.875
12793.125	13043.125
12794.375	13044.375
12795.625	13045.625
12796.875	13046.875
12798.125	13048.125
12799.375	13049.375
12800.625	13050.625
12801.875	13051.875
12803.125	13053.125
12804.375	13054.375
12805.625	13055.625

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12806.875	13056.875
12808.125	13058.125
12809.375	13059.375
12810.625	13060.625
12811.875	13061.875
12813.125	13063.125
12814.375	13064.375
12815.625	13065.625
12816.875	13066.875
12818.125	13068.125
12819.375	13069.375
12820.625	13070.625
12821.875	13071.875
12823.125	13073.125
12824.375	13074.375
12825.625	13075.625
12826.875	13076.875
12828.125	13078.125
12829.375	13079.375
12830.625	13080.625
12831.875	13081.875
12833.125	13083.125
12834.375	13084.375
12835.625	13085.625
12836.875	13086.875
12838.125	13088.125
12839.375	13089.375
12840.625	13090.625
12841.875	13091.875
12843.125	13093.125
12844.375	13094.375
12845.625	13095.625
12846.875	13096.875
12848.125	13098.125
12849.375	13099.375
12850.625	13100.625
12851.875	13101.875
12853.125	13103.125
12854.375	13104.375
12855.625	13105.625
12856.875	13106.875
12858.125	13108.125
12859.375	13109.375
12860.625	13110.625
12861.875	13111.875
12863.125	13113.125
12864.375	13114.375
12865.625	13115.625
12866.875	13116.875
12868.125	13118.125
12869.375	13119.375
12870.625	13120.625
12871.875	13121.875
12873.125	13123.125
12874.375	13124.375
12875.625	13125.625
12876.875	13126.875
12878.125	13128.125
12879.375	13129.375
12880.625	13130.625
12881.875	13131.875
12883.125	13133.125
12884.375	13134.375
12885.625	13135.625
12886.875	13136.875
12888.125	13138.125
12889.375	13139.375
12890.625	13140.625
12891.875	13141.875
12893.125	13143.125
12894.375	13144.375
12895.625	13145.625
12896.875	13146.875
12898.125	13148.125
12899.375	13149.375
12900.625	13150.625
12901.875	13151.875
12903.125	13153.125
12904.375	13154.375
12905.625	13155.625
12906.875	13156.875
12908.125	13158.125
12909.375	13159.375
12910.625	13160.625
12911.875	13161.875
12913.125	13163.125
12914.375	13164.375
12915.625	13165.625
12916.875	13166.875
12918.125	13168.125
12919.375	13169.375
12920.625	13170.625
12921.875	13171.875
12923.125	13173.125
12924.375	13174.375
12925.625	13175.625
12926.875	13176.875
12928.125	13178.125
12929.375	13179.375
12930.625	13180.625
12931.875	13181.875
12933.125	13183.125
12934.375	13184.375
12935.625	13185.625
12936.875	13186.875
12938.125	13188.125
12939.375	13189.375
12940.625	13190.625
12941.875	13191.875
12943.125	13193.125
12944.375	13194.375
12945.625	13195.625
12946.875	13196.875
12948.125	13198.125
12949.375	13199.375

(2) 2.5 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12701.25	12951.25
12703.75	12953.75
12706.25	12956.25
12708.75	12958.75
12711.25	12961.25
12713.75	12963.75
12716.25	12966.25
12718.75	12968.75
12721.25	12971.25
12723.75	12973.75
12726.25	12976.25
12728.75	12978.75
12731.25	12981.25
12733.75	12983.75
12736.25	12986.25
12738.75	12988.75
12741.25	12991.25
12743.75	12993.75
12746.25	12996.25
12748.75	12998.75
12751.25	13001.25
12753.75	13003.75
12756.25	13006.25
12758.75	13008.75
12761.25	13011.25
12763.75	13013.75
12766.25	13016.25
12768.75	13018.75
12771.25	13021.25
12773.75	13023.75
12776.25	13026.25
12778.75	13028.75
12781.25	13031.25
12783.75	13033.75
12786.25	13036.25
12788.75	13038.75
12791.25	13041.25
12793.75	13043.75
12796.25	13046.25
12798.75	13048.75
12801.25	13051.25
12803.75	13053.75
12806.25	13056.25
12808.75	13058.75
12811.25	13061.25
12813.75	13063.75
12816.25	13066.25
12818.75	13068.75
12821.25	13071.25
12823.75	13073.75
12826.25	13076.25
12828.75	13078.75
12831.25	13081.25
12833.75	13083.75
12836.25	13086.25
12838.75	13088.75
12841.25	13091.25
12843.75	13093.75
12846.25	13096.25
12848.75	13098.75
12851.25	13101.25
12853.75	13103.75
12856.25	13106.25
12858.75	13108.75
12861.25	13111.25
12863.75	13113.75
12866.25	13116.25
12868.75	13118.75
12871.25	13121.25
12873.75	13123.75
12876.25	13126.25
12878.75	13128.75
12881.25	13131.25
12883.75	13133.75
12886.25	13136.25
12888.75	13138.75
12891.25	13141.25
12893.75	13143.75
12896.25	13146.25
12898.75	13148.75
12901.25	13151.25
12903.75	13153.75
12906.25	13156.25
12908.75	13158.75
12911.25	13161.25
12913.75	13163.75
12916.25	13166.25
12918.75	13168.75
12921.25	13171.25
12923.75	13173.75
12926.25	13176.25
12928.75	13178.75
12931.25	13181.25
12933.75	13183.75

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12936.25	13186.25
12938.75	13188.75
12941.25	13191.25
12943.75	13193.75
12946.25	13196.25
12948.75	13198.75

(3) 3.75 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12701.875	12951.875
12705.625	12955.625
12709.375	12959.375
12713.125	12963.125
12716.875	12966.875
12720.625	12970.625
12724.375	12974.375
12728.125	12978.125
12731.875	12981.875
12735.625	12985.625
12739.375	12989.375
12743.125	12993.125
12746.875	12996.875
12750.625	13000.625
12754.375	13004.375
12758.125	13008.125
12761.875	13011.875
12765.625	13015.625
12769.375	13019.375
12773.125	13023.125
12776.875	13026.875
12780.625	13030.625
12784.375	13034.375
12788.125	13038.125
12791.875	13041.875
12795.625	13045.625
12799.375	13049.375
12803.125	13053.125
12806.875	13056.875
12810.625	13060.625
12814.375	13064.375
12818.125	13068.125
12821.875	13071.875
12825.625	13075.625
12829.375	13079.375
12833.125	13083.125
12836.875	13086.875
12840.625	13090.625
12844.375	13094.375
12848.125	13098.125
12851.875	13101.875
12855.625	13105.625
12859.375	13109.375
12863.125	13113.125
12866.875	13116.875
12870.625	13120.625
12874.375	13124.375
12878.125	13128.125
12881.875	13131.875
12885.625	13135.625
12889.375	13139.375
12893.125	13143.125
12896.875	13146.875
12900.625	13150.625
12904.375	13154.375
12908.125	13158.125
12911.875	13161.875
12915.625	13165.625
12919.375	13169.375
12923.125	13173.125
12926.875	13176.875
12930.625	13180.625
12934.375	13184.375
12938.125	13188.125
12941.875	13191.875
12945.625	13195.625

(4) 5 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12702.5	12952.5
12707.5	12957.5
12712.5	12962.5
12717.5	12967.5
12722.5	12972.5
12727.5	12977.5
12732.5	12982.5
12737.5	12987.5
12742.5	12992.5
12747.5	12997.5
12752.5	13002.5
12757.5	13007.5
12762.5	13012.5
12767.5	13017.5
12772.5	13022.5
12777.5	13027.5
12782.5	13032.5
12787.5	13037.5
12792.5	13042.5
12797.5	13047.5
12802.5	13052.5
12807.5	13057.5
12812.5	13062.5
12817.5	13067.5
12822.5	13072.5
12827.5	13077.5
12832.5	13082.5
12837.5	13087.5
12842.5	13092.5
12847.5	13097.5
12852.5	13102.5
12857.5	13107.5
12862.5	13112.5
12867.5	13117.5
12872.5	13122.5
12877.5	13127.5
12882.5	13132.5
12887.5	13137.5
12892.5	13142.5
12897.5	13147.5
12902.5	13152.5
12907.5	13157.5
12912.5	13162.5
12917.5	13167.5
12922.5	13172.5
12927.5	13177.5
12932.5	13182.5
12937.5	13187.5
12942.5	13192.5
12947.5	13197.5

(5) 10 MHz Bandwidth Channels:

Transmit (receive) (MHz)	Receive (transmit) (MHz)
12705	12955
12715	12965
12725	12975
12735	12985
12745	12995
12755	13005
12765	13015
12775	13025
12785	13035
12795	13045
12805	13055
12815	13065
12825	13075
12835	13085
12845	13095
12855	13105
12865	13115
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[FR Doc. 2010–20785 Filed 8–23–10; 8:45 am]

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H.R. 511/P.L. 111–231
To authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village. (Aug. 16, 2010; 124 Stat. 2489)

H.R. 2097/P.L. 111–232
Star-Spangled Banner Commemorative Coin Act (Aug. 16, 2010; 124 Stat. 2490)

H.R. 3509/P.L. 111–233
Agricultural Credit Act of 2010 (Aug. 16, 2010; 124 Stat. 2493)

H.R. 4275/P.L. 111–234
To designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia, as the "John C. Godbold Federal Building". (Aug. 16, 2010; 124 Stat. 2494)

H.R. 5278/P.L. 111–235
To designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the "President Ronald W. Reagan Post Office Building". (Aug. 16, 2010; 124 Stat. 2495)

H.R. 5395/P.L. 111–236
To designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the "Paula Hawkins Post Office Building". (Aug. 16, 2010; 124 Stat. 2496)

H.R. 5552/P.L. 111–237
Firearms Excise Tax Improvement Act of 2010 (Aug. 16, 2010; 124 Stat. 2497)

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